

## **Meeting Minutes of the Board of Zoning Appeals Tuesday, January 10, 2017**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, January 10, 2017 at 5:15 P.M. with the following members in attendance: Joshua Lonon, Don Bramblett, Anne Poliakoff, Jim Badger, and Ryan Gaylord. Marshall Irby and Reed Teague were absent. Representing the Planning Department were Natalia Rosario, Planner III, and Julie Roland, Administrative Assistant.

### ***Roll Call***

Mr. Lonon, the Chair, stated that public notice of this meeting was given twenty-four (24) hours in advance, limited to a request for pre-litigation/mediation or an appeal to the Circuit Court, to be filed within thirty (30) days after the decision of this Board in accordance with Section 603.6 of the City of Spartanburg Zoning Ordinance.

Roll call was taken – Five members were present, constituting a quorum.

### ***Approval of Agenda for the January 10, 2017 Meeting***

Mr. Bramblett moved approval of the Agenda for the January 10, 2017 meeting, and he was seconded by Mrs. Poliakoff. The motion was unanimously approved by a vote of 5 to 0.

### ***Disposition of the minutes from the November 8, 2016 meeting of the Spartanburg Board of Zoning Appeals***

Mrs. Poliakoff moved approval of the November 8, 2016 Meeting minutes, with second by Mr. Badger. The motion was approved by a vote of 5 to 0.

### ***Old Business***

Mr. Lonon said there was one item of old business regarding Variance Request #16-02-04 submitted by Mr. Taylor Hall regarding the meeting on November 8, 2016, and at the time the application was tabled by the Board Members; and it was his understanding there had been no response from the petitioner regarding getting together with surrounding property owners in order to submit something more suitable. Mr. Lonon moved to remove the case from the table; and he was seconded by Mr. Gaylord. The motion was approved by a vote of 4-0-1, with Mr. Bramblett abstaining since he was not at the November 8, 2016 meeting.

### ***New Business:***

**VAR 16 2-06 - Request for Variance from Habes (Jeff) Wardat, Owner, Sunny Supermart, dba Old School Bar & Lounge, Owner. The Applicant is asking for a maximum encroachment of approximately eleven (11') foot reduction into the required twenty-five (25') foot front setback on the property at 108 Westview Boulevard to allow the construction of a front porch and roof over the front of the building. (Note: Work has already been done). The property is further identified as Parcel 292.00 on Spartanburg County Tax Map Sheet 7-15-08.**

Mr. Lonon introduced the case to the Board Members.

Ms. Rosario, Planner III, came forward and was sworn; and she submitted the meeting packets the Board Members had previously received including the report and slides, into Evidence, as Exhibit A. She explained the structure was put into place a little bit before it was noticed by the Building Department; and before the Building Department could issue their final approval on the permit that had now been pulled; it needed the Board's approval. Slides were shown of the location map, aerial view of the property, a slide of what it looked like prior to the work being done, and a current slide of the property.

Mr. Jeff Wardat of 201 Westminster Drive came forward and was sworn; and he informed the Board Members he had been in Spartanburg for fourteen years, and he had five businesses in operation in Spartanburg. The proposed business used to be known as Deal's Market, and he used to own the former Spice of Life Restaurant, as well as others he mentioned; and he had never before violated any Building Codes. He referenced a slide of the property and he explained before he had built the deck and roof on the structure, when it rained the water would gush from one corner of the building and flood into the

grocery store area. He explained he was not aware that he was violating any codes, and it was just to fix the water problem. He informed the Board Members he maintained what is in fact a portion of public right-of-way in front of the parcel, along Westview Boulevard, including paving improvements, paying for a Duke owned streetlight, and maintenance of a storm drain. He said Buddy Bush and his group, and Planning Staff had been very helpful. Mr. Wardat explained he had hired an Engineering Group to check the work and it had passed all of the safety requirements, and Chris Lewis with the City Building Department had checked the structure as well.

Board Questions:

- Mr. Bramblett asked about the open lot to the left of the building; and did they allow parking there.
- Mr. Wardat said it was his property; and they are not supposed to have parking there. It was where people pick up the trash. He said there was a liquor store there, as well as a club open on the weekend. If it is flooded he does allow people to park on the side.
- Mr. Bramblett asked what time the grocery store closed.
- Mr. Wardat said it closed at 8:00 P.M.
- Mr. Bramblett asked if the parking was a problem at the store portion.
- Mr. Wardat explained at the beginning of the month was the busiest time for the grocery store.
- Mr. Bramblett asked if he also had parking on John B. White Sr. Boulevard.
- Mr. Wardat said he did; but that parking was not an issue. He explained the whole building was in violation since he had originally purchased the property.
- Mr. Badger asked if the posts were wood.
- Mr. Wardat explained they were concrete.
- Mr. Badger asked if the parking had the blocks so no one could run into the posts.
- Mr. Wardat explained they did what they had to do to make it safe for the public.
- Mr. Lonon said the work was done without any notice, review or approval from the City.
- Mr. Wardat said the person he hired to do the work had assured him he would pull a permit. He said he traveled a lot and had relied on this person to do the work.

Ms. Rosario came forward again and showed more slides in order to better illustrate the request; and she went over the Mandatory Written Findings for the Board to consider when reviewing a variance request and Staff's Analysis of Required Findings as follows:

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property – The property at 108 Westview Boulevard is subject to unexpected lot line restrictions, as the right-of-way on the street is technically 80' wide, although the road was never widened to this extent, leaving an approximately 18'-21' of paved right-of-way in front of the property that essentially functions as part of the parking lot. From Staff's experience, this is an unusual width for right-of-ways in the City, as they are generally 50' wide. This is the case for most of the properties on Westview Boulevard as well.
- 2) These conditions do not generally apply to other property in the vicinity – This condition does apply to other properties immediately adjacent and along Westview Boulevard, although this is one of the only commercially zoned properties on the street. Elliott Street to the north has a ROW width of 32.5' and Crescent Avenue to the South has a ROW width of approximately 40'.
- 3) Because of these conditions, the application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property – Application of the Ordinance to this piece of property would not allow for construction of a deck or extended roof on the property. While this would not restrict the owner from utilizing the property as a grocery store, as it

has functioned for many years, it would leave him to find another way to prevent water from entering the structure during inclement weather.

- 4) The authorization of a variance will not be of substantial detriment to adjacent property or to the general public good, and the character of the district will not be harmed by the granting of the variance – The property has had a deck (albeit smaller, around 8' long) at this location for many years, which was existing non-conforming. The Planning Department has received no complaints or concerns regarding the now covered deck, and it has been in place in its current form since at least late summer of 2016. Staff is of the opinion that the authorization of this variance and the deck in question is not a substantial detriment to adjacent property or to the public good, and that the character of the district has not been harmed, or altered, by its construction.
- 5) Orientation and spacing of improvements or structures – Because of the unorthodox right-of-way and pavement width on Westview Boulevard, the addition of the structure does not in fact cause any obvious issues with spacing and orientation. Simply by looking at the property, the deck does not appear out of place, and is far enough away from the street to avoid safety issues with traffic visibility.

### **STAFF'S RECOMMENDATION**

After review of the guidelines established in Zoning Ordinance Section 603.3, Staff finds that the proposed variance will not adversely affect the adjacent and surrounding property owners. Consequently, staff recommends Approval of VAR#16-02-00006.

### **Board Questions:**

- Mr. Badger asked if there was anything that would be put into the record regarding if someone was to buy the property at some point down the road, and wanted to tear the building down regarding that the setback would not go away.
- Ms. Rosario explained if someone was to redevelop the property they would have to submit a site plan for review; unless they wanted to come back before this Board regarding a variance.
- Mr. Wardat said he intended to purchase more surrounding property, and his plan was to demolish the building within a couple of years.
- Mr. Badger asked Mr. Wardat when he redeveloped the property would he go back to the original setbacks.
- Mr. Wardat said he would not sale the property, but he would need to follow and respect the City regulations.
- Mr. Bramblett said even if it was sold that whomever purchased it would need to hire an Engineering firm to submit a new plan for approval.

Mr. Lonon opened the public hearing and asked anyone who wished to speak in favor of the request to come forward. No one came forward. Mr. Lonon asked anyone who wished to speak against the request to come forward. No one came forward. Mr. Lonon closed the public hearing.

### **Board Discussion/Deliberation:**

Mr. Gaylord moved to approve the application as presented to support the findings of the City; and he was seconded by Mrs. Poliakoff. The motion was approved by a vote of 5 to 0.

**SE 16 2-07 - Request for Variance from City of Spartanburg, Owner. The Applicant is asking for a Special Exception in order to permit the use of 650 Howard Street as a cultural or community facility in the DT-4 zoning district as specified in the Urban Code, Section 3.1.4: Use Standards by Zone, as called for in the Northside Transformation Plan. The property is further identified as Parcel 001.00 on Spartanburg County Tax Map Sheet 7-12-05.**

Mr. Lonon introduced the case to the Board Members.

Board Member Ryan Gaylord informed the Chair and the rest of the Board Members he needed to recuse himself from voting on this item due to a possible conflict of interest; and he left the Council Chambers before this item of business was discussed.

Ms. Rosario, Planner III came forward and was sworn; and she submitted the meeting packets the Board Members had previously received including the report and slides, into Evidence, as Exhibit A. She informed the Board Members the City had recently purchased the parcel which currently occupied the Oakview Apartments that was slated for demolition very soon. As part of the Northside Transformation Plan the City made a commitment to acquire the Oakview Parcel in order to replace the T. K. Gregg Community Center, which will serve the neighborhood and serve as one end anchor for the Butterfly Creek Linear Park, as well as supplementing the recreational aspects of the neighboring Cleveland Academy of Leadership. She explained to the Board Members the Northside underwent a rezoning process in 2016, in order to enable zoning requirements and restrictions to coincide with the residential uses, with some mixed-use aspects, such as outdoor recreation facilities, institutional uses, and some limited utility. Other uses permitted by special exception include indoor recreational facilities, assembly and meeting facilities, and cultural or community facilities, all of which are slated for the future T.K. Gregg Community Center. She referenced and explained a slide of the location map. She explained at this time she did not have a solid site and building plan as of yet. She referenced a slide and explained what was tentatively scheduled for the Northside Transformation Plan.

Ms. Rosario went over the report the Board Members previously received included the Mandatory Written Findings for the Board to consider when reviewing a Special Exception Request and Staff's Analysis of Required Findings as follows:

1. Traffic impact – According to the ITE Trip Generation Handbook, 7<sup>th</sup> Edition, a recreational community center of approximately 26,000 square feet will generate approximately 70 trips, 37 entering and 33 exiting during the peak hours of 7 – 9 a.m. on a weekday. It will generate approximately 62 trips, 25 entering and 37 exiting during the evening weekday peak hours of 4 – 6 p.m. Saturdays will likely see higher activity, around 237 trips total, with around 118-119 visitors (entering and exiting). Sundays will see a dip in activity with around 80 trips total, accounting for 40 visitors (entering and exiting). This level activity is likely higher than the average activity at Oakview, which was a multifamily residential property, however, the proposal to place T.K. Gregg at this location was the result of a series of public charrettes and the Northside visioning process, in which residents shared their ideas and desires for the area. The T.K. Gregg Community Center is one of the central change factors considered in the final plan.
2. Vehicle and pedestrian safety – While a site plan has not been submitted/presented as of yet, it is being designed by McMillan Pazdan Smith Architecture, and will emphasize safety and connectivity to the surrounding area, keeping in mind the elementary school, church, and residential areas immediately adjacent to it. The site will conform to all local and state traffic standards.
3. Potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property – No negative impacts due to noise, lights, fumes, or obstruction of air flow on adjoining property will be allowed. The site must conform to all City of Spartanburg development standards.
4. Adverse impact of proposed use on the surrounding area including the aesthetic character of the area – The use of the property for the T.K. Gregg Community Center will have a positive impact on the aesthetic character of the area, as it will serve as the terminus for the daylighted creek park, and will be a major public infrastructure investment in the neighborhood.
5. Orientation and spacing of improvements or structures -
6. Compliance with the comprehensive plan – City Staff considers the Northside Transformation plan to supersede the 2004 Comprehensive Plan in the area to which it applies. To that end, the use of this property as the T K Gregg Community Center will be in line with the applicable community driven plan.

Staff's Recommendation:

After review of the guidelines established in Zoning Ordinance Section 603.5, staff finds that the proposed special exception will not adversely affect the adjacent and surrounding property owners. Consequently, staff recommends approval of SE1600200007.

Board Questions:

- Mr. Badger referenced one of the slides depicting where the new community center would be, and asked whether or not they would do away with Aden Street.
- Ms. Rosario explained all she had at the moment was a conceptual drawing and things may change some. The only thing that would not change for certain was the site for the T. K. Gregg Community Center.
- Mr. Lonon asked if the property would continue to be owned by the City.
- Ms. Rosario said it would.
- Mrs. Poliakoff felt it was important to note under Finding No. 1, regarding this item under Traffic Impact was the fact that this was part of the Northside Visioning Process that most of them supported; and it was the result of a lot of public meetings regarding the same. She said she supported the request.

Mr. Lonon opened the public hearing and asked anyone who wished to speak in favor of the request to come forward. No one came forward. He asked if anyone would like to speak against the request. No one came forward. Mr. Lonon closed the public hearing.

Board Deliberation:

- Mr. Bramblett felt it would be a very good project for the City of Spartanburg.

Mr. Lonon moved to approve the request and adopt the Findings of the City; and he was seconded by Mr. Bramblett. The motion was approved by a vote of 4-0-1, with Mr. Gaylord not in the chambers.

For the record Mr. Gaylord re-entered the Council Chambers after the vote.

**Approval of Proposed 2017 Board of Zoning Appeals Meeting Schedule**

Mr. Gaylord moved that the 2017 Meeting Schedule be approved; and he was seconded by Mr. Badger. The motion was unanimously approved by a vote of 5 to 0.

**Staff Announcements**

- Ms. Rosario said there would probably be a case for the February 14, 2017 meeting.

There being no further business the meeting adjourned at 6:03 P.M.

  
Joshua Lonon, Chair Dana Bramblett

-Edited by Julie Roland, Administrative Assistant