**DRAFT**

**Smithfield Board of Adjustment**

**Minutes**

**Thursday, February 27, 2014**

**6:30 P.M., Town Hall, Conference Room**

**Members Present: Members Absent:**

John Parrish, Chairman

Stephen Upton

Paul Worley

Eddie Foy

Mark Lane

Sarah Edwards

**Staff Present:**

Mark Helmer, Senior Planner

Veronica Hardaway, Administrative Support Specialist

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM JANUARY 31, 2013.**

Paul Worley made a motion, seconded by Stephen Upton to approve the minutes as written. Unanimous.

**Public Hearings:**

After all persons giving testimony were duly sworn, John Parrish opened the public hearing.

**BA-14-01 William Gainey:**

Mr. Helmer stated the applicant is requesting a variance to Article 18, Off-Street Parking and Loading Requirements to allow required on-site parking to be accessed directly from, and within 5 feet of, a public right-of-way. The property considered for approval is located on the west side of the intersection of East Dundee Street and South Bright Leaf Boulevard and further identified as Johnston County Tax ID# 15045016.

Mr. Helmer stated a zoning permit cannot be obtained at this site without the applicant first constructing on-site parking and loading facilities. The applicant has submitted a site plan showing four standard 9ft x 19ft parking spaces that are accessed directly from East Dundee Street and will cause automobiles to back into the public right-of-way. This parking configuration is less than ideal and does not meet minimum parking standards found in the Town of Smithfield Unified Development Ordinance. Other on-site parking will be used for handicap parking and will allow for an automobile to turn around so as not to back out onto the North Carolina State maintained US Highway 301 South.

Mr. Helmer stated it is staff’s belief that granting the variance will allow the applicant to construct on-site parking thus allowing staff to issue a land use permit and, not issuing a variance will cause the applicant to make no reasonable use of his property. Therefore, planning staff recommends approval of the variance request to allow required on-site parking to be accessed directly from, and within 5 feet of a public right-of-way.

John Parrish asked for questions or comments from the Board.

Mr. Helmer requested the Board of Adjustments to review the petition and make a decision in accordance with the finding of fact for a variance request to the minimum parking standards to allow required on-site parking to be accessed directly from, and within 5 feet of a public right-of-way.

John Parrish asked if there was any opposition to the request.

Mr. Helmer stated there were none.

Mr. Parrish asked the Board if they had any questions or comments.

Eddie Foy stated there are cars parked within the right-of-way across the street.

Mr. Helmer stated the building across the street has pavement on the right-of-way. The applicant will need to construct a pavement area prior to receiving their permit.

Stephen Upton asked if customers could come in through Dundee Street and drive around the building to exit onto US 301.

Mr. Helmer stated because of the large building it would be impossible to get a driveway around the building.

Mr. Parrish asked if the Board had any questions for the applicant. There were none.

Paul Worley made a motion, seconded by Stephen Upton to move to the Findings of Fact for a Variance. Unanimous.

**1) If the applicant complies strictly with the provisions of the Ordinance, he can make no reasonable use of his property;**

Section 18-2A of the Town Ordinance states that “all parking areas shall be designed so that ingress to and egress from such area shall be established and maintained so that all vehicular traffic shall enter and leave the lot by forward motion of the vehicle”. Section 18-2A also states that no parking will be located within five feet of a right-of-way line. In order to render the property usable, a variance from the ordinance is required. As a commercial property, a specific number of parking spaces must be provided per the Planning Department. If parking spaces are not provided a zoning permit will not be released and reasonable use of the property will exist. ***All members stated true.***

**2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;**

The hardship encountered affects applicant property. The property has been commercial for over 40 years and has operated multiple businesses. It is a matter of the property being too small to install the required number of spaces according to the current Town Ordinance. According to previous Town requirements, the parcel was sufficient for a commercial business. ***All members stated true.***

**3) The hardship relates to the applicant’s land, rather than personal circumstances;**

The hardship relates to the property; more specifically the parcel size. ***All members stated true.***

**4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;**

The hardship is unique. The adjoining properties are residential and do not require forward motion of the vehicle for ingress and egress. ***All members stated true.***

**5) The hardship is not the result of the applicant’s own actions; and**

The hardship is not a result of personal actions. The parcel has been its current size for many decades as indicated by the deed search. ***All members stated true.***

**6) The variance will neither result in the extension of a nonconforming situation in violation of Article 8 nor authorize the initiation of a nonconforming use of land.**

The requested variance will not result in the extension of a nonconforming situation in violation of Article 8. The property was last used as a commercial business before the current Town ordinance was implemented. The property is zoned commercial and will be used solely for that purpose and will not result in a nonconforming use of land. ***All members stated true.***

After reviewing the Findings of Fact, Eddie Foy made a motion, seconded by Stephen Upton to approve the request for a Variance. Unanimous.

**Old Business:**

Mr. Helmer stated the General Legislature had changed the language for findings that will reflect at the next meeting.

After discussion, it was the consensus of the Board to keep the meeting time at 6:30pm.

Mr. Helmer thanked all who participated in the training session that was held.

**New Business:**

There was none.

**Adjournment:**

Being nothing further, Eddie Foy made a motion, seconded by Paul Worley to adjourn.

Submitted this 27th day of February, 2014.

Veronica Hardaway

Administrative Support Specialist

Planning Department