

DRAFT
Smithfield Board of Adjustment
Minutes
Thursday, April 27, 2017
6:30 P.M., Town Hall, Council Chambers

Members Present:

Paul Worley, Chairman
Stephen Upton, Vice Chairman
Eddie Foy
Sarah Edwards
Michael Johnson
Mark Lane

Members Absent:

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Assistant

CALL TO ORDER

APPROVAL OF MINUTES FROM October 27, 2016.

Eddie Foy made a motion, seconded by Mark Lane to approve the minutes as written. Unanimous.

Public Hearings:

After all persons giving testimony were duly sworn, Vice Chairman Stephen Upton opened the public hearing.

BA-17-01 American Properties Holdings, LLC:

Mr. Helmer stated The applicant received administrative site plan approval on February 9, 2015 for the construction of a new tunnel car wash on the existing American Pride Car Wash site located on the 1200 block of North Brightleaf Boulevard. The approved site plan shows the self-vacuum area being constructed to minimum parking standards to include 9 foot by 19 foot parking spaces and 24 foot drive isle. The applicant submitted a revised plan showing 12 foot by 18 foot parking stalls and 30 foot drive aisle. The proposed increase in dimension of the parking and drive aisle caused the tunnel to be shifted to the southwest approximately 3 feet. The Town of Smithfield Board of Adjustment, on May 26, 2016, granted a 3 foot variance to the 15 foot side yard setback. On April 7, 2017, the applicant submitted a revised site plan showing a larger building and a need for an additional 3 feet of encroachment into the side yard building setback. This shift represents a total of 6 feet of encroachment into the required 15 foot side

yard setback. The remaining 9 feet of open space adjacent to the property line will adequate to meet the required 8 foot landscape transition yard.

The property is currently zoned B-3 (Highway Entrance Business). In accordance with Town of Smithfield Unified Development Ordinance, Article 12, Table of Area, Yard and Height Requirements, Developments within the B-3(Highway Entrance Business) zoning district must provide a 15 side yard setback. The size increase and shift in the tunnel location has triggered the need for a 6 foot variance to the required 15 foot side yard setback.

Mr. Helmer requested The Town of Smithfield Board of Adjustment to review the petition and make a decision on the variance request to allow for an additional 3 foot reduction and a total of a 6 foot reduction to the 15 foot side yard setback for the construction of an automated tunnel car wash facility.

Stephen Upton asked for questions or comments from the Board.

Eddie Foy asked if there was any opposition to the proposed variance.

Mr. Helmer stated there was none he was aware of.

After all testimony was received, Vice-Chairman Stephen Upton closed the public hearing.

Mark Lane made a motion, seconded Eddie Foy to recommend approval variance request to allow for an additional 3 foot reduction and a total of a 6 foot reduction to the 15 foot side yard setback for the construction of an automated tunnel car wash facility.

Stephen Upton stated that the motion read by Mark Lane incorporates the Finding of Fact which we do not have to go through being that the applicant and the finding of fact in the same motion is granted.

Article 5, Section 5-2 of the Town of Smithfield Unified Development Ordinance requires applications for a variance to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of application.

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

Unnecessary hardship would result from the strict application of the ordinance because without the requested variance to the maximum building height, the applicant could not achieve the needed intensity of use proposed. *All members stated true.*

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as**

hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. The Outlet Center Drive and surrounding area is close to being built out. This site is one of the last properties to be developed on Equity Drive. As property values in the area continue to rise, it is reasonable to expect intensity of uses and building height to follow. ***All members stated true.***

- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**

The hardship did not result from actions taken by the applicant or the property owner. The applicant's need of a variance to the maximum building height is being driven by, what time has shown to be, lots that are too small for hotels. ***All members stated true.***

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The requested variance is consistent with the spirit, purpose, and intent of the ordinance which attempts to be fair in its administration of the site development regulations. Granting this variance will achieve justice and allow for improvements to the property until such time that adjustments to the Town of Smithfield development regulations can be made to reflect current development trends. ***All members stated true.***

Based upon satisfactory compliance with the above four stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative.

Old Business:

New Business:

Adjournment:

Being nothing further, Mark Lane made a motion, seconded by Eddie Foy to adjourn.

Submitted this 28th day of April, 2017.

Julie Edmonds
Administrative Assistant
Town of Smithfield Planning Department

