

**Draft
Smithfield
Board of Adjustment Minutes
Thursday, July 28, 2022
6:00 P.M.,
Town Hall, Conference Room**

Members Present:

Stephen Upton, Chairman
Mark Lane, Vice Chairman
Sarah Edwards
Richard Upton
Jeremy Pearce
Keith Dimsdale
Monique Austin

Members Absent:

Staff Present:

Mark Helmer, Senior Planner

Staff Absent:

Julie Edmonds, Administrative Support Specialist

CALL TO ORDER

Approval of minutes from April 28, 2022

Jeremy Pearce made a motion, seconded by Richard Upton to approve the minutes as written.
Unanimously Approved

Open Public Hearing

Monique Austin made a motion, seconded by Sarah Edwards to open the public hearing.

BA-22-03 DNB Ventures, LLC: The applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 8, Section 8.9, B-3 Highway Entrance Business District to allow for a 2.5-foot reduction to the required 15-foot side yard width for the construction of a free-standing building to be located within a B-3 (Business) zoning district. The property considered for a variance is located on the southwest side of the intersection on Dail Street and North Brightleaf Boulevard and further identified as Johnston County Tax ID# 15007006.

Mark Helmer stated DNB Ventures, LLC, is requesting a 2.5' variance from the side yard building setback on the property located at 928 N. Brightleaf Boulevard to redevelop the property with a new commercial building. The UDO allows for a 50% reduction to the 35-foot corner side yard when existing lots are nonconforming due to substandard lot widths. This reduction has been applied to the proposed project. This reduction will create a 17.5-foot building setback along Dail Street. The site plan, with the exception of the western side yard setback, shows all other development standards can and will be met to include parking, landscaping, curb, gutters and sidewalks.

The proposed structure will be located approximately 12.5 feet from the western most property line. The adjacent property has an existing building, that at its closest point, is 10 feet from the

property line. In total there will be a minimum of 22.5 feet between buildings. Granting a 2.5-foot variance to the required side yard building setback will not be a detriment to the health, welfare and safety of adjacent properties nor the public at large. The proposed building will be within 12.5 feet of a side property line and therefor will require a 2.5-foot variance to the Town of Smithfield Unified Development Ordinance, Article 8, Section 8.9 B-3 Highway Entrance Business, 8.9.1 Dimensional Requirements, (D) Side Yard Setback of 15 feet.

STAFF FINDING OF FACT:

In order to approve a variance, the Board of Adjustments shall find all of the following provisions can be met (Staff's finding are in bold/ italic):

4 .10 .2 .2 .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. **Without the variance, the site cannot be redeveloped with a functional modern building with required parking.**

4 .10 .2 .2 .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 corner property was created prior to current zoning and the corner side-yard setback requirement. The corner side-yard setback severely impacts the redevelopment potential of this narrow lot. Reduction to the western side yard setback must be considered since no further reduction to the corner side yard is recommended due to the proposed buildings already close proximity to the public right-of- w ay of Dail Street.***

4.10.2.2.3. 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 property and structures existed prior to current zoning which has created the hardship.***

4.10.2.2.4. *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 variance is consistent with the spirit, purpose, and intent of the Ordinance and is the least amount of variance needed for a viable site plan.*

Planning Staff recommends the Board of Adjustment approve the variance, BA-22-03, based on the finding of fact.

Planning Staff recommends approval of 2.5-foot variance to the Town of Smithfield Unified Development Ordinance, Article 8, Section 8.9 B-3 Highway Entrance Business, 8.9.1 Dimensional Requirements, (D) Side Yard Setback of 15 feet with the following recommended motion:

“Move to approve variance BA-22-03 based on the finding of fact for variances.

Mark Lane made a motion to adjourn, seconded by Keith Dimsdale. Unanimously Approved

Julie Edmonds

A handwritten signature in black ink that reads "Julie Edmonds". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

Administrative Support Specialist
Town of Smithfield Planning Department