

**ZONING BOARD OF APPEALS MEETING  
CITY HALL CONFERENCE ROOM  
THURSDAY, OCTOBER 25, 2007  
5:30 P.M.**

Present: Kevin Wheeler, David Nye, Jim Young, Phil Maney  
Absent: Scott Sayer  
Staff: Karen Godin Scott, Planning Director; Barbara Tessier, Secretary  
Others: Joseph Kapshuck, Georgia Kapshuck, Robbie McClam, Carlisle Dawsey, Pedro Irigoyen, Jim Mahaffrey, Jean Mahaffrey, Debbie Jenkins, and Mr. and Mrs. Smith

**I. CALL TO ORDER**

Young, acting as Chairman, called the meeting to order at 5:45 p.m.

**II. APPROVAL OF MINUTES**

Nye made a motion, seconded by Maney, to approve the September 27, 2007 minutes, with the amendment that Young was also absent at that meeting. The vote in favor was unanimous. The motion carried.

**III. VARIANCE REQUESTS**

**Wheeler asked the Chairman to allow the Board to hear Agenda Item C first. There was no opposition to hearing it first.**

**C. Pedro Irigoyen, applicant, requests a variance from Article 5, Section 5.1000, Minimum Frontage. The applicant is seeking relief to alter the lot line between existing lots of record located at 1507 Green Street.**

Godin Scott gave the background on this request. She said there was one existing lot of record with one existing home on it owned by the applicant and the estate of his wife. The second piece of property is a vacant lot right next door. She said it was a legal nonconforming lot of record in the name of the applicant only. Because the two parcels are not owned in the exact same names, even though one is undersized, the smaller lot is a lot of record and is buildable. She said that lot, however, was quite small with 40' of frontage and 5,884 square feet. The applicant wants to slide the lot line toward the single family house so that the existing single family house will sit on a lot that is larger than the minimum lot size in the R-1 zone, which is 9,500 square feet, but only have 65' of frontage, which is slightly less than what the City requires. That would make the vacant lot 10,960 square feet with 75' of frontage. She said essentially the existing lot of record which is buildable as it is would be made larger and making

the lot with the existing house a little smaller. She said the square footage would be met for both properties, but the one piece would have slightly less frontage than required. She said this would not be creating any new buildable lots.

Maney said that in essence, they would have a variance that one lot would be 10' shy of the minimum frontage. Godin Scott said that was correct. Maney asked if there had been any community input. Godin Scott said there had not been any input from the community.

Wheeler asked why the lot line shown to be as a combination plat. Godin Scott said the lot with the house had originally been two lots that had been combined to make one conforming lot. After they combined the two lots, the third lot became available. She said it was an old plat.

Maney asked if the City had another descent other than the 10' of frontage. Godin Scott said everything else met the City's requirements.

Nye said there appeared to be a secondary structure on the property. Godin Scott said it was to be removed on the recording of the lot.

Young asked Irigoyen if he had anything he wanted to say. He said he did not. He said Godin Scott had gotten everything right.

Maney made a motion, seconded by Wheelers, to approve the variance from Article 5, Section 5.1000 Minimum Frontage. The vote in favor was unanimous. The motion carried.

**A. Robert McClam, applicant, requests a variance from Article 5, Section 5.1000, Setbacks and Article 11, Section 1060 Landscape Buffer Types. The applicant is seeking relief to construct a new commercial building at the corner of Church Street and Forest View Road.**

Godin Scott said this was lot zoned Highway Commercial (HC) at the corner of Church Street and Forest View Road. She said it was currently a vacant lot. The applicant is proposing to build a Doctors Care medical building. She said there were a few different things going on with the lots.

She said she would start with the setbacks. The front setback requirement is 25' and the rear setback is 30'. The building footprint does not fit within that setback area. The applicants are proposing a 25' setback in the front, which is 5' shy of the required setback, and 11' setback in the rear, which is a 13'8" difference in the rear. She said the side setbacks can be met.

She said the second issue is that this Highway Commercial lot is adjacent to and across the street from Low Density Residential zoning (R-1). When a Highway Commercial property abuts a Low Density Residential property, it needs to have a Type B landscape buffer, which is a 15' wide buffer with one shade tree, one ornamental tree and 7 tall shrubs and a 7' high solid wood fence across the rear of the property on the residential side. She said you have to come in 15' from the back, put in the fence and install all the landscaping on the residential side. The

applicant's request is to put the solid wood fence along the actual rear property line along the entire rear and add the landscaping on the inside of the fence rather than on the residential side.

The last issue is that the way our buffering requirements are written, a right-of-way does not impede contiguity of parcels, which essentially means that if you are across the street from a Low Density Residential parcel, you have to meet the same landscape buffering requirements as though you were touching it without a street in the middle. She said the same landscaping as described above would need to be required along Forest View Road. The applicant is proposing to be 10' off the lot line and just do the landscaping without the fence with the curb cut on Forest View.

Godin Scott said that several calls had come in from residents and some of them were present at the meeting. She said she would let them summarize their concerns themselves.

Young asked McClam if he would like to present some testimony to the Board. McClam said he would and he was sworn in.

He said they had built several Doctors Care using the same prototype as the proposed building. He said the Doctors Care currently on Main Street is antiquated and does not have enough parking, and their lease has run out and they are interested in a new location. He said he had attempted to contact the residents in the area and he had gotten feedback from some of them. He said they placed the building in an area that they hoped would maximize the potential and get them some parking as well and also provide two ways of ingress and egress off the lot. The property itself is rather unique. He said it was very shallow along the public space and as a result, the setback of 30' takes a large chunk, and when they combine that with the fact that it adjoins a residential property. He said the result is then that they have less than 50% of the site actually available for building. He said it was a rather restrictive sort of thing. He said they also felt that this type of structure is compatible and makes a reasonable transition from the residential and commercial area. He said its one and a half story with some storage on the top. He said the feedback was that they supported it. He said subsequent to the application, Godin Scott informed him that there were some residents next door that had concerns about the traffic coming out on Forest View. He said he didn't think there would be more traffic going into the neighborhood, but he said he wanted to everything possible to be a good neighbor and took at an arrangement where the building would come over to the other side of the lot. He said it would still require similar variances, but they would attempt to make that work. He brought revised plans for the Board to see.

Wheeler said if Forest View was a State or County road. McClam said it was a State road. Wheeler asked if he had looked into encroachment permits. McClam said he had not.

Maney asked if the lot behind the subject property was occupied. McClam said there were 3 vacant lots behind the property. McClam said the owner of the subject property also owned the other 3 lots and the encroachment would most directly affect him and he was okay with the encroachment.

Maney asked what the proposed square footage of the building would be and whether or not there was any flexibility there. McClam said there was not much flexibility. Wheeler asked how many square feet there was. McClam said approximately 4,200 square feet. Maney asked if the building could be turned 90 degrees. McClam said it would lose them parking. Wheeler asked what the parking requirement was for a building that size. Godin Scott said 17 were required. Godin Scott said they had 29 parking spaces showing.

Maney said the encroachment toward Church Street concerned him. He said it could create some havoc later on down the road.

Young asked if anyone wanted to give testimony. Georgia Kapshuck was sworn in. She lives at 1301 Church Street, which was the corner of Forest View and 501. She said they had shrubs on the front of their property that faced 501 and they understood the responsibility of keeping them trimmed for safety of turning onto 501 from Forest View. She said they had lived in the house for 9 years. She said they had more traffic in their driveway than the average person. She said their driveway enters from Forest View and there are at least 10 people a day using it as a turnaround. She said there were numerous accidents in front of their house. Maney asked how that related to this particular issue. She said it related that this building over there, the way he originally had it there is a parking lot there and the original issue was driving in and out off of Forest View to get into this building. She said with the parking if there was overflow, she said she could assure the Board that there would be parking in front of her house and pulling into her driveway to turnaround.

Young said he'd like to show her the alternate plans. Kapshuck said she was aware of the alternate plans. Young said this one showed no access onto Forest View. She said she was aware of that. He said the access would be on 501. She said she did not have an objection to that plan except for the fact that she feels she would be entitled to privacy so that she did not have to look at the building. She said she wanted a fence and nice shrubs to be her view. Maney asked Godin Scott to reiterate what would be required there. She said although the building was encroaching slightly into the 15' required (they are showing 10'), the City would require a 7' wooden fence with landscaping on the residential side of the fence. Godin Scott said as shown, she assumes the 10' would become landscaping although it is shown 5' shorter than what was required. Young asked if Kapshuck objected to the deletion of the fence and just have the landscaping or did she want both. She said she wanted the fence and the landscaping.

Joseph Kapshuck was sworn in. He said he had no problem with the building being placed on the lot using the alternate plan. He asked what type of fence it would be if they were required to put up a fence. Wheeler said a privacy fence – wood or masonry. Godin Scott added that chain link was not permissible. Kapshuck asked if they did put up a fence how far they would be allowed to run it up the side. Wheeler said that was a DOT issue. Maney said he thought the fence could go up to about 25'.

Jim Mahaffey was sworn. He lives at 1303 Cherokee. He said McClam had contacted him. He said McClam talked to about 6 or 10 families. He said they all agreed that they had no objections to the planned purpose. He said their concern was the curb cut entry way off Forest

View. He said the traffic needed to be needed to be restricted and he like the alternate plan with the entry on 501 and not on Forest View.

Wheeler thought perhaps the item should be deferred until McClam had his issues with DOT figured out. McClam said if they had an issue on Church Street, they could move the curb cut farther down. Young asked if there wasn't already a curb cut from the old gas station. Wheeler said DOT wouldn't honor that curb cut. Young asked if they could deny a curb cut. Wheeler said no, but they could make him slide it down.

Nye asked if there were any windows on the side of the building facing the Kapshuck's property. McClam said there were false windows, but no real windows. McClam thanked the residents for working with him and he welcomed their comments. McClam said rather than go for the 10' setback, they could push it back to 15', which would give them the full landscape area that was required. He said there would be no reason for a fence that would not look as good as the building. He said there were no privacy issues. He said it would be a more attractive corner. He said the building would screen the parking.

Wheeler asked if this had gone to the CAB yet. Godin Scott said it had not. She added that in regard to the landscaping on the residential side, if this building were moved 15' without the fence, the landscaping that would be required would be 5 shade trees, 5 ornamental trees, and 35 tall shrubs. She said that was 7 shrubs for every 25'. Young said if it was pushed back would that negate having the have the fence. Godin Scott said no, it would still need a variance. Mr. Kapshuck said he the landscaping would be enough. He said it would be nice to have something on the lot as long as it was not a gas station. Nye said it would be more attractive to look at the side of the building than to look at a board fence. McClam said it was his experience that people took better care of structures than they did of fences.

Young asked if McClam was proposing to modify his variance request as to the side setback from Forest View. McClam said yes. He said he was hearing it was a pretty important issue.

Wheeler made a motion, with Godin Scott's assistance:

- 1) The location of the building is changed from the original application. The building shall be located 15' from Forest View Road.
- 2) The fence will not be constructed in the landscape buffer on Forest View Road. Plant materials must be installed as required by Section 10.1060 Type B Buffer, consisting of one shade tree, 1 ornamental tree and 7 tall shrubs per 25 linear feet as well as ground cover.
- 3) The overhangs of the entire building will be permitted to encroach into the setbacks. All setback measurements shall be taken from the slab.
- 4) The 7' wooden fence shall be installed along the entire rear of the property. The plant material will be placed on the commercial side of the fence instead of on the required residential side.

- 5) The front setback will be 25', a variance of 5'.
- 6) The rear setback will be 11' 2" a variance of 13' 8".

Maney said he felt that the 25' setback at the front was a serious safety issue. He felt there would be a visibility issue, but his first concern was that it was a State highway, actually a Federal highway, and that 30' setback is a pretty staunch issue. He said he also thought it would be opening a can of worms for future development on 501. Wheeler said that DOT, outside their right-of-way lines they had no jurisdictional control. Maney said he disagreed with that. Maney said that reducing the porch by 5' would resolve the issue or moving the building.

Wheeler said his motion still stood and Nye seconded the motion. Voting in favor were Wheeler, Nye and Young. Maney voted nay. The motion carried.

Wheeler asked if McClam could work with this. He said he could.

**B. Tyson Sign Company, applicant, requests a variance from Article 12, Section 12.1060, Signs Permitted in the Core Commercial Zoning District. The applicant is seeking relief to install six (6) parking lot directional signs at 1300 2<sup>nd</sup> Avenue.**

Godin Scott said this was an existing building in the Core Commercial zone. She said it had been vacant for a while and was now getting some tenants. In March 2007 the Board granted a variance to install two signs not allowed by the Zoning Ordinance. The applicant is now requesting to install six directional signs at the property. Three signs will be located at the Third Avenue entrances, one sign located at the Second Avenue entrance and two located within the parking area. The signs are approximately 3.75 square feet per sign face and 2'6" in height.

Nye said when Tyson was here before about the signs weren't they asked if there would be any more signs. Godin Scott thought that question had been asked. Debbie Jenkins, with Tyson Signs, was sworn in. She said the site plans were still changing when she came before the Board before. She said as time passed and she got her hands on the final version of the site plan and knew what the traffic flows would be discussion began about customers being able to move around in the parking lot. She said the location of the freestanding sign is an exit only. Wheeler said why didn't that sign go by the entrance and they could have put entry on that sign. Jenkins said there was not a deep enough land area to meet the setbacks and put a sign in. Wheeler said they could have slid the parking lot around and it wouldn't have been a problem.

Maney asked what the signs were made of. Jenkins said they were all aluminum with reflective vinyl film. She said they at the ingress and egress the signs don't repeat the banks logo. She said they were just information and not for advertising purposes.

Jenkins said the law firm was already on the third floor and there were a lot of cars in the lot already. She said the parking was going to be important. Wheeler said he realized that, but public safety still superseded the number of parking stalls. He said he understood why they were not allowed in the City. He said he couldn't think of anywhere else they had been approved.

Maney said they recently approve directional signs at Waccamaw Bank on 16<sup>th</sup> Avenue. Wheeler said he had forgotten about that. Nye said they had given them to Lowe's, too. Jenkins said it was a pretty big property. She said as the law firm stays busy, and with two engineering firms on the second floor and the bank will have full service banking and a loan department on the first floor. She said they anticipate a lot of traffic.

Young asked Wheeler again what his concern was with the freestanding sign. Wheeler said the sign should have been put by the entrance and labeled as the entrance. He said they saved 3 or 4 parking spaces by doing it the way they did.

Nye made a motion, seconded by Maney, to approve the six (6) directional signs. The vote in favor was unanimous. The motion carried.

#### **IV. PUBLIC INPUT**

There was no public input.

#### **V. BOARD INPUT**

There was no Board input.

#### **VI. STAFF INPUT**

Godin Scott said there was a variance request for next month and it was another directional signage request. She said there would be a meeting in December as well.

Godin Scott told the Board that due to demands of business and family, John Cassidy had resigned from the Board. She said that left the Chairman position open. Wheeler made a motion, seconded by Maney, to nominate Jim Young as Chairman. The vote in favor was unanimous. The motion carried.

#### **VII. ADJOURN**

There being no further business to come before the Board, the meeting adjourned at 6:45 p.m.

Approved and signed this 15<sup>th</sup> day of November, 2007.

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Chairman

Minutes prepared by Barbara Tessier, Secretary.