

Town of Lexington
**Board of Zoning Appeals
Minutes**

January 4, 2018

MEMBERS PRESENT: Chair Mary Watts and Board Members Troy Fite, Kyle Clampitt, and Revé Richardson.

Others in attendance were: Director of Planning, Building and Technology John Hanson, Municipal Attorney Brad Cunningham, Transportation Director Randy Edwards, Councilmember Steve Baker, and Municipal Clerk Becky Hildebrand.

Six (6) citizens were present and no one from the news media was present.

Chair Watts called the meeting to order at 5:35 p.m. The meeting was held in the Eli Mack, Sr. room due to construction in the Council Chambers. Chair Watts read an opening statement to explain the procedures of a Board of Zoning Appeals meeting.

All four points must be met and should be read as part of the official record. The Board of Zoning Appeals is a legal board operating under the Comprehensive Planning Act of the State of South Carolina; they make decisions within the parameters of State law and may hear and decide appeals for a variance from the requirements of the ordinance when strict application of the provision of the ordinance would result in unnecessary hardship and a variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing all their findings: (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. (2) These conditions do not generally apply to other property in the vicinity. (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. State law further prohibits the board from granting a variance simply because the property could be used more profitably if the variance were granted. The board is not concerned with the use of the property because that is determined by others. If the applicant believes the board made an incorrect decision, they may appeal the decision through Circuit Court within certain time limits provided by State law. Those testifying at the meeting are asked to sign-in.

ACTION ITEMS

1. **Variance 2017-10 (V): Variance from the Commercial Center Sign Regulations at 52342 Sunset Boulevard:** Mr. Cameron Grogan requested a variance to allow two wall signs per tenant in building 300 of the Lexington Square shopping center. The Sign Ordinance allows each business in a commercial center to have space on the center's freestanding sign and one wall sign. Mr. Grogan requested to install signage on the front and back of the tenant spaces in building 300. The rear of this building faces Sunset Boulevard.

Chair Watts called for comments from the applicant and/or those *in favor* of the variance.

Mr. Cameron Grogan stated that they would limit the sign to 45 square feet; they would darken the red color for Firenze Pizza; and that the one tenant panel (Palm Beach Tan) on the monument sign could be removed. He added that buildings 100 and 200 are built. Mr. Grogan stated that the size was based on 10% of the square footage of the business.

Mr. Hanson stated that the developer had submitted the request to avoid the need for multiple requests once the remaining tenant spaces in building 300 were leased. He added that the variance could be to allow two wall signs and limit the size of the signs on the back of the building. He stated that the free standing signs are smaller than allowed.

Board Member Clampitt asked if the Architectural Review Board had reviewed the colors. Mr. Hanson responded that they had reviewed the colors. Board Member Clampitt stated that it is a visual issue and if they are on the monument sign it defeats the purpose. He recommended that the rear sign size be 5% of the first floor space and the front sign be 10%.

Board Member Fite asked what would be allowed on an end unit. Mr. Hanson responded that the end cap only applied on the building if it faced a road which this one does not.

Chair Watts called for comments from those *opposed to* the variance. There were none.

Chair Watts called for the Board's discussion. There being no further discussion, Chair Watts called for a motion.

A motion was made by Board Member Clampitt and seconded by Board Member Richardson to approve Variance 2017-10 with the following conditions: The rear sign size can be no larger than 5% of the first floor space and tenants in building 300 cannot be allowed on the monument sign. Chair Watts called for a roll call vote. Roll call vote results: Clampitt – Yes to the motion. Fite - Yes to the motion. Watts – Yes to the motion. Richardson – yes to the motion. The motion to approve Variance #2017-10 with conditions was unanimously carried.

2. **Variance 2018-1(V): Variance from the Sign Ordinance at 5551 Sunset Boulevard:** Mr. Adam Padget with Visual Concept Signs and Lighting requested a variance to install additional signage at 5551 Sunset Boulevard. The building located at this address was originally constructed as a single tenant building. A few years ago it was renovated so that two businesses can be located in the building. Each business currently has one wall sign and Mr. Padget would like to add a freestanding sign to the property. The sign regulations allow a single property to have two signs unless the property is part of a Commercial Center or a variance is granted.

Chair Watts called for comments from the applicant and/or those *in favor* of the variance.

Mr. Adam Padget stated that the property does not have a freestanding sign now and it is a safety issue. He stated that the dental office across the street has a large sign. He confirmed he was requesting one large sign with both business names. He stated that customers enter from the front of the building for both businesses.

Board Member Fite stated that the building used to be Coldwell Banker and just by adding a wall down the middle does not make it a commercial center.

Mr. Curtis Frost, property owner, stated that there is one wall sign on each tower and to change it would require the building to be changed. He confirmed that they wanted a wall sign on each tower. He stated that people drive to the Holiday Inn, but parking is off of Sunset Boulevard and is angled and the second entrance is one way.

Board Member Fite stated that the next business is Lazy Creek and the Holiday Inn sign is on an island.

Chair Watts called for comments from those *opposed to* the variance. There were none.

Chair Watts called for the Board's discussion. Chair Watts stated that she could not justify the variance. Board Member Fite agreed and added that the businesses are only separated by a wall. Board Member Richardson agreed. Chair Watts called for a motion.

A motion was made by Board Member Fite and seconded by Board Member Clampitt to deny Variance 2018-1(V) in that the business does not meet the definition of a commercial Center. Chair Watts called for a roll call vote. Roll call vote results: Clampitt – Yes to the motion to deny. Fite - Yes to the motion to deny. Watts – Yes to the motion to deny. Richardson – yes to the motion to deny. The motion to deny Variance #2018-1(V) was unanimously carried.

3. **Variance 2018-2(V): Variance from the Buffer, Setback and Parking Ordinance at 5560 Sunset Boulevard:** Donna Brown, Interplan, LLC, requested variances from the Buffer, setback, and Parking requirements to facilitate the redevelopment of the Chick-fil-A located at 5560 Sunset Boulevard into a new more efficient building and traffic configuration. If this project is able to move forward Chick-fil-A will include installation of a new decal lane on Sunset Boulevard that will improve access to this site as well as the entire shopping center. To install this lane a variance is needed on the 20 foot buffer and 30 foot setback required by the Preservation Corridor Special Overlay. It should be noted that the intent of this overlay is to preserve right of way for just this type of purpose. With respect to the variance on parking, it may be possible to meet the normal parking requirement for this proposal if some compact spaces are included in the plan, but often times these spaces are impractical and overflow parking may be available for this site in the adjacent Wal-Mart parking lot. Finally, the variance request for the dumpster setback is not necessary since it is setback 5 feet from a private driveway, not a roadway.

Chair Watts called for comments from the applicant and/or those *in favor* of the variance.

Mr. Sean Hickman, Interplan, LLC; Mr. Evan Foster, representing Chick-fil-A Corporation; and Mr. Michael Tucker, Chick-fil-A Lexington: Mr. Hickman stated that the main reasons for the requests were to install a right turn decal lane which would work for the entire center and to install a two lane drive-thru that would circle the building and not cross with parking where customers enter the restaurant.

Chair Watts confirmed that compact parking spaces were included in the new plan. Mr. Hickman stated that was the maximum compact spaces allowed. He added that there would be 62 parking spaces for the 120 seat restaurant.

Board Member Fite confirmed that the drive-thru would be similar to the drive-thru at the Saluda Point Chick-fil-A. He also confirmed that Chick-fil-A had not contacted Wal-Mart yet regarding overflow parking. Mr. Hickman stated that Wal-Mart may or may not sign a Cross Parking Agreement and even if they did not, customers would still park in the Wal-Mart shopping center which is adjacent to the Chick-fil-A.

Town Attorney Cunningham stated that the Town's Transportation Director Randy Edwards is present if there are questions about the deceleration lane. He added that the decel lane was required by the Town.

Transportation Director Edwards stated that they had discussed compact cars and the only drawback is you usually see a big SUV take two parking spaces which results in a net loss. He added that it would be better to be short eight than to have compact parking spaces. Mr. Edwards stated that the hardship is the Town's requirement for a decel lane under the improvement plan which is not a cost to the

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Town. He added that as a customer he walks in to this restaurant because the drive-thru is useless. He would use the drive-thru at the Saluda Point Chick-fil-A.

Board Member Clampitt stated that the variance is for the turn lane not just parking and it was not up to the Board to debate function. He added that the turn lane requirement is in place for a reason. He stated that they could not yet consider Wal-Mart for alternative parking.

Chair Watts suggested that the variance be postponed until the applicant had obtained permission from Wal-Mart for alternate parking.

Board Member Clampitt stated that they may not need additional parking if the variance was granted. He suggested tabling the request until additional information could be obtained to determine if a variance is needed. Mr. Hanson stated that they could come back at some other point, but the Board could handle the request now and reapprove if there is a change in the plan. Board Member Fite confirmed that the Board did not have to say yes to the entire variance request.

Transportation Director Edwards stated that he had seen another plan for Chick-fil-A but this was the best plan that they were willing to do. He added that one plan was to keep the existing building, but the Town would not get the traffic improvement.

Chair Watts called for comments from those *opposed to* the variance. There were none.

Chair Watts called for the Board's discussion. There being no further questions, Chair Watts called for a motion.

A motion was made by Board Member Richardson and seconded by Board Member Fite to approve Variance 2018-2(V) as stated to reduce the 20 foot buffer and a 30 foot setback and a variance of five (5) parking spaces. Board Member Richardson stated that: *(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property. (2) These conditions do not generally apply to other property in the vicinity. (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. (4) The authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.* Chair Watts called for a roll call vote. Roll call vote results: Clampitt – No to the motion to approve. Fite - Yes to the motion to approve. Watts – Yes to the motion to approve. Richardson – yes to the motion to approve. The motion to approve Variance #2017(7) was carried with a vote of three (3) in favor and one (1) opposed.

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APPROVAL OF MINUTES

A motion was made by Board Member Clampitt and seconded by Board Member Fite to approve the Board of Zoning Minutes from the November 2, 2017 meeting as submitted. The motion was unanimously carried.

OTHER BUSINESS

Mr. Hanson stated that there would not be a Board of Zoning meeting in February.

ADJOURNMENT: There being no further comments or questions, a motion was made by Chair Watts and seconded by Board Member Richardson to adjourn at 6:31 p.m. The motion was unanimously carried.

Respectfully submitted by:

Becky Hildebrand, CMC
Municipal Clerk

APPROVED:

Mary Watts
Chair

FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirements.