The Board of Zoning Appeals held their regular scheduled meeting on November 2, 2023, at 5:30 p.m. in the Council Chambers located in Town Hall, 111 Maiden Lane, Lexington, S.C. Those present for the meeting were Chair Mary Watts, Vice-Chair Troy Fite, Board Members Ronald Fisher and Justin Brown. Board Member Reve' Richardson was absent.

Staff Members present were: Director of Planning, Building and Technology John Hanson, Municipal Attorney Brad Cunningham, Director of Transportation Randy Edwards, GIS Analyst Woody Evans and Assistant Municipal Clerk Karen Hanner.

Four citizens were present and no one from the news media was present.

Chair Watts called the meeting to order at 5:30 p.m. and read an opening statement which explains the rules of procedure for a Board of Zoning Appeals meeting:

Welcome to the Town of Lexington's Board of Zoning Appeals meeting. This Board is comprised of volunteer Town Citizens. We are appointed by Town Council and we serve without pay.

We are a legal Board operating under the Comprehensive Planning Act of the State of South Carolina. Although this meeting may not seem as formal as a hearing in court, all statements must still be true, factual and not made in a manner to mislead us.

Board of Zoning meetings are not broadcast but may be filmed and minutes are taken and maintained as permanent records with the Town.

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

Please understand that we must make our decisions within the parameters of State law. State law requires us to grant a variance if and only if we find that each of the following four statements is true:

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 a 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 the public good and the character of the district will not be harmed by granting of the variance.

Moreover, State law prohibits us from granting a variance simply because the property could be used more profitably if the variance were granted.
We are not concerned with the use of the property. Use of the property is determined by others. We ask that you please confine your remarks to the issue at hand. Should we make a decision that you believe is incorrect, you may appeal our decision to the Circuit Court within certain time limits provided by State law. In case that such an appeal is made, it is important the Circuit Court know who testified at this meeting.

Please sign the Sign-In Sheet, identify yourself and speak into the microphone.

ACTION ITEMS

1. Variance 2023-6 (V): Variance from the Buffer and Setback Requirements at 5500 Sunset Boulevard

Director of Planning, Building and Technology John Hanson presented the request from Doug Carroll with Enmark Stations, Inc., who has submitted an application for a variance from the buffer and setback requirements for a new convenience store being planned at 5500 Sunset Boulevard. The property is located on the corner of Sunset Boulevard and Old Cherokee Road. The sides fronting on these roads are required to have a 20-foot landscape buffer and a 30-foot building setback. The applicant is requesting variances to reduce the buffer to as little as zero feet in the area adjacent to a new turn lane and reduce it to 10 feet on the remainder of the road frontage. They have also requested a variance to reduce the building setback to 15-feet along both roads. Director Hanson noted the zero setback along the turn lane is a safety concern.

Mr. Doug Carroll from Enmarket introduced himself and stated they operated in Lexington years ago and are currently west of Town. He added they identified this site as a viable site for a new Enmarket. Mr. Carroll stated most of the information is in the application but they are seeking a variance due to the conditions and geometry of the site and existing takings by SCDOT. He showed photos of the existing building on the site and said they would raze that and build something new, beautiful and functional for the community.

Vice-Chair Fite asked about the square footage of the building. Mr. Carroll responded 4800 square feet. Vice-Chair Fite asked where that is on the drawing. Mr. Carroll answered that it is not on the drawing. Vice-Chair Fite asked if that information was presented to the Town in any of the paperwork. Mr. Carroll responded that Mr. Thomas Purcell from Kimley Horn stated he did not believe the square footage was listed on the application.

Vice-Chair Fite asked Director Hanson how to calculate required parking without the square footage of the building. Director Hanson responded that parking is based on the square footage of the building and at 4800 square feet there would need to be ten parking spaces. Vice-Chair Fite confirmed that the 4800 square feet building size number is not in writing. Director Hanson stated he did not recall hearing the 4800 square feet number prior to now and he didn’t see it on the document.

Mr. Carroll said their engineers review the code when they are designing and the calculations would have been made based on the square footage they were intending to
apply for but it sounds like there may have been an oversight in not including that on this drawing.

Board Member Fisher referred to the Sunset Boulevard side and noted that the gas pump roof line would be 21 feet from the new property line. Mr. Carroll said that was correct with the dedication for the turn lane and the ample sidewalk. Board Member Fisher commented that the requested setback was 15 feet but it could be 20 feet.

Mr. Thomas Purcell of Kimley Horn introduced himself and said they went with 15 feet on that side because it was a nice round number and it could be more precise if the Board desires. He added the area shown as dedicated to SCDOT is approximate and hasn’t been platted yet but is what they are anticipating will need to be dedicated and gives the ability to adjust a foot or two in either direction.

Vice-Chair Fite asked if there was anything requested regarding the back of the building that abuts the Cleaner.

Mr. Carroll responded they are providing a sidewalk that circulates to the dumpster area and for delivery people to the rear of the building. Mr. Purcell confirmed there was not a variance request on the back side of the building along the rear property line.

Board Member Brown asked about the three oval shapes on the drawing next to the three parking spaces. Mr. Carroll said those are the fuel tanks. He added they have discussed the 21 feet at the canopy on the southeast corner and 20 feet at the northern canopy to be able to circulate a fuel truck. He stated the fuel tanks will be in the point of the property and the truck will drop to the passenger side and leave.

Chair Watts asked about the underground storage tanks. Mr. Carroll confirmed they are. Chair Watts asked if they were existing or new. Mr. Carroll responded the previous property owner pulled their tanks and the new tanks are to be installed with the new construction and new technology from an environmental perspective.

Vice-Chair Fite asked if signage had been addressed. Director Hanson stated they have not received building plans or architectural plans or signage plans. Mr. Carroll said they have some renderings to share. He showed the board an example of a landscape plan and a brick and Hardi Plank building and said this is their intent to develop.

Vice-Chair Fite noted the decel lane and the abutting sidewalk with road on one side and parking on the other. Mr. Carroll said it was like a concrete island and was designed to the proper width with a crosswalk connecting to the access point on Sunset Boulevard.

Vice-Chair Fite asked Transportation Director Edwards to discuss his concerns with that area. Director Edwards stated they worked with Enmarket to provide a deceleration lane directly down from the traffic signal and it is shown on the plan. He said he noticed there is no separation from a pedestrian perspective from the decelerating vehicle and the customer vehicle in a driving lane. He added the concern he had was two moving vehicles with someone walking down the sidewalk. He stated he didn’t know of any
other examples in Town where they have this scenario and he had concerns with the request for variance from the perspective that there was no buffer or refuge for the pedestrian in this zone. Chair Watts clarified that this is the deceleration lane right next to the sidewalk. Director Edwards confirmed vehicles would be in the deceleration lane turning right and the customer vehicles would be exiting onto 378. He noted that a pedestrian on the sidewalk would cross the exit at the same location and that was his concern regarding the request for the buffer reduction. Director Edwards said he believed there was a discussion about something next to the sidewalk in order to support some amount of a variance but their response was they needed the full space. Chair Watts asked what kind of buffer could be put there. Director Edwards responded he didn’t recall the exact dimension but he thought it was in the neighborhood of 8 feet and if that space was beside the sidewalk, they would feel okay about a reduced buffer.

Board Member Brown asked if the sidewalk is a requirement. Director Edwards stated there is existing sidewalk. Vice-Chair Fite commented that based on the plat in their package it looks like the sidewalk stops at the corner and the island does not have it. Director Hanson confirmed it is a requirement. Director Edwards stated that was his safety concern and he didn’t have issues with any of the other buffer or setback requests.

Chair Watts requested comments from the project engineer. Mr. Thomas Purcell stated they had discussed this concern with Town staff. He stated the triangular shape of the parcel made it too tight to fit in the buffer the Town desired. He added there is about 80 feet of sidewalk in that condition which is not very different from an urban area where the buildings are right next to the sidewalk. Board Member Fisher noted there could be vehicles on both sides of the sidewalk which would be a different scenario. Mr. Purcell stated he understood and they tried to do the best they could with the space they had and there just isn’t enough room to get an 8-foot buffer there.

Director Hanson asked if reducing the number of parking spaces could help find the additional space since the plan appears to have more than the required number. Mr. Purcell stated he didn’t think it would help in that specific area as they would need to have space on both sides of the fuel canopy for cars and trucks to maneuver.

Mr. Carroll noted it is a raised sidewalk with curb and gutter so it is not at street level with the car right next to you. He added they are trying to accommodate the requests from the Traffic Department, a condition where one car is hitting the decel lane and another car has done a U-turn. He stated if a car was jumping curbs, the 8 feet or zero would not make much of a difference in that scenario. Mr. Carroll responded to the parking discussion and said they are already below the amount of parking they would typically put on a site. He added the concern is going with less parking would not be convenient and they want people to be able to find a place to park when they are on the lot. He noted they only have six fuel dispensers where they would typically have eight. He said they felt as a modern convenience store with food offerings, they need people to be able to pull in for services other than just for gas. He added they also need parking for employees. Mr. Carroll continued that the distance between the fueling dispensers under the canopy, if reduced, could become a dangerous situation. He said they understand the concerns but due to the geometry of the site he wasn’t sure there was a great fix for this.
Chair Watts commented that there may be more problems with cars than pedestrians. Vice-Chair Fite stated he had two friends that were killed in this Town on the roads and as someone who uses the sidewalks for running, it is a concern. He noted they were asking for a good bit of setback on the Old Cherokee side and asked if they had considered a shift to the northern direction to address the traffic concerns. Mr. Purcell stated that they maybe could shift it to the north some and get a few feet but he didn’t think they could get eight feet. Vice-Chair Fite asked if they could look at that and maybe come to a smaller amount that Director Edwards could live with and added he feels there should be something along that side.

Mr. Carroll asked if he could sketch on the drawing for the Board to make sure he is understanding. Vice-Chair Fite commented if it was moved a little towards the Old Cherokee side and he understood how they wanted it to be centered, but it might be enough to add some space on the Sunset side. He added he has seen canopies with missing corners because they were in a tight spot and he didn’t want to see that. Mr. Carroll noted on the drawing that as long as he could keep the 21-foot and the 20-foot they might be able to make some adjustments and he would be happy to try and make that work. Vice-Chair Fite agreed that he didn’t think they would find 8-feet. Director Edwards said there is no science behind the 8-feet number but maybe a small strip would be enough to get bamboo or something. Chair Watts said no bamboo. Director Edwards said they could eliminate the decel lane if the right turn in was removed. Vice-Chair Fite said that would require 378 traffic to enter with a left turn from Old Cherokee. Board Member Fisher stated they might need a railing system on both sides.

Vice-Chair Fite asked if Mr. Carroll would consider tabling the request and bringing it back in December. Chair Watts added it would be to their benefit to look at it a little bit more. Director Hanson stated Mr. Carroll could withdraw the request and bring it back. Mr. Carroll asked if there were other comments that should be considered. Chair Watts noted they would like to see the size of the building on the plan.

Vice-Chair Fite asked about the three-quarter access driveway. Mr. Carroll stated that is a Right In, Right Out and Left In.

Board Member Fisher stated he would like them to consider some type of guardrail system. Mr. Carroll asked if that was on both sides, like a chain. Board Member Fisher said yes, it would make him feel better.

Mr. Carroll asked if there was a difference between withdrawing and tabling a request. Chair Watts responded withdrawing a request could be brought back the next month without a fee. Mr. Carroll asked if there were submittal deadlines. Director Hanson responded no but he would need it within ten days of the meeting.

Mr. Purcell said he didn’t see a guardrail being an issue on the Old Cherokee side but they would need to work with the Town on the Sunset side due to a sewer line running in the right of way. Vice-Chair Fite confirmed that it would be a problem to drive a post through a sewer line.

Mr. Carroll stated they would like to withdraw their request until December.
Board of Zoning Appeals Minutes
November 2, 2023

APPROVAL OF MINUTES

A motion was made by Board Member Brown and seconded by Board Member Fisher to approve the Board of Zoning Appeals minutes from the October 5, 2023 meeting as submitted. The motion was unanimous in favor of approval.

OTHER BUSINESS

Director Hanson stated there would be Board training on November 17. Chair Watts said she would be there and Vice-Chair Fite said he thought he could be there also.

ADJOURNMENT: There being no further business, Vice-Chair Fite made a motion to adjourn. Board Member Fisher seconded. The vote was unanimous in favor. The Board of Zoning Appeals meeting adjourned at 6:06 PM.

Respectfully submitted by:

Karen Hanner
Assistant 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.