



CITY OF LINCOLNTON BOARD OF ADJUSTMENT

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BOARD MEMBERS: Worth Roberts, Chair, worth.roberts@charter.net ; Thomas Hawk, Vice-Chair, thomasrhawk@aol.com ; Anita McCall, a.mccall@bellsouth.net; Becky Burke, beckyburke@charter.net; And Lynn, andmlynn@gmail.com

Tuesday, May 19, 2015 Meeting

Present: Becky Burke, Tom Hawk, Anita McCall, Worth Roberts with Kathryn Yarbrow sitting in as first alternate.

Absent: None.

Call to Order

Chair Worth Roberts called the meeting to order and recognized that four (4) regular members were present and Kathryn Yarbrow was sitting in as first alternate.

Approval of Minutes

Chair Worth Roberts asked the Board if there were any additions or corrections to the minutes of the April 21, 2015 meeting.

Motion: Anita McCall made a motion to approve the minutes as amended.
Becky Burke seconded. Motion carried unanimously.

BOA-2-2015, Application for a Variance from Tom Flohr

Mark Carpenter addressed the Board stating that the applicant is seeking a variance which would allow for construction of two entryways that would not meet the side yard setback requirement in the General Business (GB) District. Also, the variance would allow for parking to be constructed that would not meet the required setback from the street right of way.

The property is located at the southwest corner of East Sumner Street and North Poplar Street. The property has several commercial warehouse structures on it that were constructed in 1940. The structure at the corner will be renovated and the entryways and parking will be placed on the sides to meet current building code standards.

A handicapped parking space would be constructed between the building and North Poplar Street which would not meet the required spacing parking adjacent to the street right of way.

The applicants plan does not meet these setback requirements which are outlined below:

Required Setbacks

Side adjacent to North Poplar Street- 20 feet from street right of way.

Side adjacent to Rail Trail- 10 feet

Handicapped Parking Space- 12 feet from street right of way

Proposed Setbacks

Side adjacent to North Poplar Street- 17 feet from street right of way approximately.

Side adjacent to rail trail- 1 foot from property line approximately

Handicapped Parking Space- 5 feet from street right of way.

Mr. Carpenter noted that the UDO requirements for granting of the variance are as follows:

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.
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.
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.
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.

Mr. Carpenter noted the following with respect to compliance with the UDO requirements:

1. The applicant states “We need a 3 foot variance on the front so that we can build an ADA compliant entrance to the building. All other adjacent buildings are built much closer to the street. The building has no current entrance. Also need a variance on the Poplar Street side to do a handicapped parking space. Lastly, asking permission to build a 5 foot

wide deck on the rail trail side to allow a secondary entrance to the building. We do have a 5 foot easement as per the deed.”

Staff feels that the hardship does result from the strict application of the ordinance. The building on the property was built in 1940 and no setback requirements were in place at that time. If the building is to be restored, it must meet all current building code requirements which cannot be done without proper entryways and handicapped parking.

2. The conditions of the site are peculiar to the property. The structure was constructed years ago when no zoning or building codes were in place. Upgrades to the property are only possible if it is brought up to the applicable codes.
3. The hardships are not a result of actions taken by the applicant. The building was in place prior to zoning in the area.
4. The variance would be consistent with the spirit, purpose, and intent of the ordinance. Public Safety is secured and substantial justice would be achieved.

Mr. Carpenter noted that Staff is of the opinion that due to the case made by the applicants that that the four (4) findings of fact required to issue a variance have been met.

Motion:

Tom Hawk made a motion to approve the variance request. Anita McCall seconded. Motion carried unanimously.

Adjournment

Motion:

Tom Hawk made a motion to adjourn the meeting. Anita McCall seconded. Motion carried unanimously.

Laura Elam, Secretary