



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; Jerry Hoffman, jlskhoffman@charter.net

Tuesday, September 15, 2015 Meeting

Present: Becky Burke, Anita McCall, and Worth Roberts with Kathryn Yarbrow sitting in as first alternate and Lynn sitting in as second alternate.

Absent: Tom Hawk and Jerry Hoffman.

Call to Order

Chair Worth Roberts called the meeting to order and recognized that three (3) regular members were present and Kathryn Yarbrow was sitting in as first alternate and Lynn as second alternate.

Approval of Minutes

Chair Worth Roberts asked the Board if there were any additions or corrections to the minutes of the August 18, 2015 meeting.

Motion: Lynn made a motion to approve the minutes. Anita McCall seconded. Motion carried unanimously.

BOA-6-2015

BOA-6-2015 - Application from The Salty Petal requesting a variance to allow a projecting sign in the Central Business (CB) district at 235 East Main Street. (Parcel ID 18912).

Mark Carpenter addressed the Board stating that the applicant is requesting a variance from the Lincoln Unified Development Ordinance (UDO) to allow for a projecting sign in the Central Business (CB) District. The subject property is located at the northwest corner of East Main Street and North Poplar Street. The address of the property is 235 East Main Street.

The UDO currently allows land uses in the CB District to have a projecting sign that extends over a public sidewalk by being attached to the building. The sign must be no more than three

(3) square feet in size, must be 8 ½ feet above the surface of the sidewalk, and project no more than four (4) feet from the building.

The applicants sign is six (6) square feet in size, eight (8) feet above the sidewalk, and projects approximately 5 feet 8 inches from the building. A similar variance was issued to Southern Charm Winery, Inc. at the same location in 2010.

The Ordinance requires that the following findings be determined in order to grant the variance:

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 regarding the findings:

1. The applicant states “the hardship to the existing business will come in the form of decreased visibility. Exterior signage is a must. Without the use of a sign of this nature customers are unable to located Salty Petal, Inc. Lincolnton thereby reducing the traffic of our business.”
2. The hardship is unique to the applicant’s property. The location of the awning and design of the building make it a unique situation.

3. The hardship did not result from actions taken by the applicant. It is based on the placement of the awning and building design.
4. The public safety and welfare will be protected if the variance is granted for the exterior signage. The requested variance would be consistent with the spirit, purpose, and intent of the ordinance.

Mr. Carpenter stated that Staff is of the opinion that, due to the case made by the applicant, the four findings of fact required to issue a variance have been met.

Motion: Becky Burke made a motion to approve the variance. And Lynn seconded. Motion carried unanimously.

BOA-5-2015

BOA-5-2015 Application from Lincolnton Main Street, LLC requesting a variance of the front yard setback requirements of the Unified Development Ordinance for the building and parking for the Planned Business (PB) and Special Highway Overlay (SHO) districts. The subject property is located on the south side of East Main Street approximately 250 east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 91738).

Mark Carpenter addressed the Board stating the applicant is seeking a variance which would allow for construction of a new 4,000 square foot pharmacy and parking that will not meet the front setback requirement in the Planned Business (PB) and Special Highway Overlay (SHO) districts. The subject property is located on the south side of East Main Street approximately 250 east of the intersection of East Main Street and U.S. Highway 321 (Parcel ID 91738). The building will be located on the east side of the Urgent Care Facility currently under construction.

Due to the property location near the highway, the setback requirements of the Special Highway Overlay would have to be met. The applicant's plan does not meet these setback requirements which are outlined below:

Required Setbacks

Front Building Setback- 50 feet from street right of way

Parking Setback- 24 feet from the street right of way

Proposed Setbacks

Front Building Setback- 32 feet from the street right of way.

Parking Setback- Approximately 3- 5 feet from the street right of way. (Parking for Drive through Window)

The Ordinance requires that the following findings be determined in order to grant the variance:

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 regarding the findings:

1. The building and parking area cannot be constructed and meet the strict letter of the ordinance. The project could not be built unless variances are granted. The parcel is of a unique size, orientation, and includes challenges such as two (2) gas pipeline easements; and these hardships require setback variances for the building and parking to fit the site.
2. The property conditions are peculiar due to the railroad right of way to the south, NCDOT owned property to the south, and the gas pipeline easements running through the center of the property. This limits the size of the usable property.
3. The hardship is not a result of the actions by the applicant, nor the current owner. The property is unique in that the property:
 - a. Lacks depth front to back
 - b. Is burdened with the restrictions of an underground gas pipeline easement.
4. The granting of the variance will result in only minor deviations in the dimensional setbacks of the building structure and parking area. There is no issue that would negatively affect the public safety and welfare.”

Staff is of the opinion that, due to the case made by the applicants, the four findings of fact required to issue a variance have been met.

Motion: And Lynn made a motion to approve the variance. Anita McCall seconded. Motion carried unanimously.

Adjournment

Motion: And Lynn made a motion to adjourn the meeting. Becky Burke seconded. Motion carried unanimously.

Laura Elam, Secretary