



CITY OF LINCOLNTON BOARD OF ADJUSTMENT

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BOARD MEMBERS: Thomas Hawk, Chair, thomasrhawk@aol.com; Anita McCall, Vice-Chair, a.mccall@bellsouth.net; Becky Burke, beckyburke@charter.net; Jerry Hoffman, jlskhoffman@charter.net; Kathryn Yarbrow, kathryny@charter.net

Tuesday, June 21, 2016 Meeting

Present: Becky Burke, Jerry Hoffman and Anita McCall with And Lynn sitting in as first alternate and Gene Poinsette sitting in as second alternate.

Absent: Tom Hawk and Kathryn Yarbrow

Call to Order

Acting Chair Anita McCall called the meeting to order and recognized three members were present, two were absent, And Lynn was sitting in as first alternate and Gene Poinsette was sitting in as second alternate.

Approval of Minutes

Acting Chair McCall asked the Board if there were any additions or corrections to the minutes of the May 17, 2016 meeting.

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

BOA-8-2016

Application from Jaime Self requesting a change in nonconforming use. The proposed use is for a massage therapy business to be located at 206 West Main Street (Parcel ID 16396).

Mark Carpenter addressed the Board noting the following:

The property is in the R-10 zoning district and is located at 206 West Main Street. The surrounding properties are zoned R-10 to the north, south and west, and CB to the east. Surrounding uses include a mixture of single family housing, offices, and a church.

The applicant seeks to use the former office for massage therapy. No exterior changes will be made to the building.

Sections 153.279(B)(1)(a) and (b) of the Unified Development Ordinance allow the Board of Adjustment to grant a change in nonconforming use only after having first held a public hearing and determined each of the following in the affirmative:

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| 153.279(B)(1)(a) | Said change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation. |
| 153.279(B)(1)(b) | The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question. |
| 153.279(B)(2) | The decision to grant the change will be in harmony with the general purpose and intent of the ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare. |
| 153.279(C) | The Board of Adjustment, in granting said change, may prescribe appropriate conditions and safeguards in conformity with the ordinance in order to conform with Sections 153.279(B)(1) and (B)(2). Violation of such conditions and safeguards when made a part of the terms upon which the change in use is granted, shall be deemed a violation of the ordinance and shall be punishable as is prescribed in Section 153.999 of the ordinance. |

The building has been used for offices over the past several years. It will be changed, if approved, to a massage therapy business. The proposed use should be equally suitable and appropriate for the lot as the former offices. There should be no more traffic in and out of the site than there was for the office uses.

There should be no more harmful effect on the properties surrounding the lot in question. The hours of operation would be no earlier than 9:00 a.m. and no later than 6:00 p.m. Monday through Saturday.

Granting the change for the building to be used as massage therapy should not injurious to the neighborhood or otherwise detrimental to the public welfare.

Section **153.279(C)** of the ordinance allows the Board of Adjustment to prescribe appropriate conditions and safeguards so as to ensure that requirements of Sections **153.279(B)(1)** and **(B)(2)** are met. If approved, staff recommends that the following conditions apply as follows:

- (1) Any noise coming from the property must be no louder or frequent than the noise which could be normally expected from uses allowed in a Residential District.
- (2) There will be no odors or vibrations detectable from the property boundary without instruments.
- (3) Hours of operation should be 9:00 a.m. until 6:00 p.m. Monday through Saturday
- (4) Signage should be limited to the business name on the door
- (5) Applicant must obtain a change in occupancy permit from Lincoln County Planning and Inspections Department.
- (6) Applicant must meet all requirements of the City Fire Code as enforced by the City Fire Inspector.

Mr. Carpenter noted the proposed use should be in conformance with the Lincoln Unified Development Ordinance and should have no more harmful effect on the neighborhood than the previous use subject to the above conditions.

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

Adjournment

Motion: Jerry Hoffman made a motion to approve. And Lynn seconded.
Motion carried unanimously.

Laura Elam