



**Asheboro Planning Board
Asheboro City Hall (146 N. Church Street)
Monday, October 5, 2020
7:00 PM
AMENDED AGENDA**

- I. Call to Order
- II. Approval of Minutes from September 14, 2020
- III. Review of Cases
- IV. Discussion of potential Community Development Block Grant application for COVID-19 relief
- V. Update on pending or proposed land development projects
 - a.) Property Located at Randolph County Parcel Identification Number 7751738346 (170 N. Church Street)
 - b.) Coleridge Road Apartments Bond Issuance Related to Coleridge Road Apartments through a partnership between Asheboro Housing Authority and Burlington Housing Authority.
 - c.) Miscellaneous projects throughout jurisdiction
- VI. Items not on the agenda
- VII. Adjournment

MEETING OF THE ASHEBORO PLANNING BOARD
CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.
MONDAY, SEPTEMBER 14, 2020
7:00 p.m.

This being the time and place for the regular meeting of the Asheboro Planning Board, a meeting was held with the following officials and members present:

Van Rich) - Chair
Michael O'Kelley) - Vice Chair

Harold Anderson)
Ritchie Buffkin)
David Henderson) - Members Present
Thomas Rush)
Pamela Vuncannon)

John Evans, Assistant Community Development Division Director
Justin Luck, Planning and Zoning Administrator
Brad Morton, Planner/Deputy City Clerk
Jeff Sugg, City Attorney

CALL TO ORDER

Mr. Rich called the Asheboro Planning Board to order.

APPROVAL OF MINUTES FROM AUGUST 3, 2020

Mr. Rich asked if there were any corrections to the minutes. Hearing no corrections or additions, the minutes were approved as presented.

REVIEW OF CASES

Mr. Luck reported on the cases which were heard at the regular August City Council meeting.

RZ-20-10: REQUEST TO REZONE PROPERTY LOCATED AT THE NORTHERN CORNER OF EAST ALLRED STREET AND GOLD HILL ROAD (RANDOLPH COUNTY PARCEL IDENTIFICATION NUMBER 7762748164) FROM CU-B2 (CONDITIONAL USE GENERAL COMMERCIAL) TO R10 (MEDIUM-DENSITY RESIDENTIAL)

Mr. Evans gave a visual presentation to the board regarding the above mentioned rezoning case. He gave the following overview information:

Applicant: Michael Somero

Location: East Allred Street and Gold Hill Road

Request: Rezone from CU-B2 Conditional Use General Commercial to R10 Medium-Density Residential

Randolph County Parcel ID: 7762748164

Size: 2.07 acres +/- of 2.33 acres +/-

Existing Land Use: Undeveloped

He then showed overview, rezoning, topographic/utilities, and aerial maps as well as photos of the property from all locations. He then gave the following analysis:

1. The property is inside the city limits. While city water and sewer are adjacent to the property, any subdivision of the property likely will require the owner to extend public utilities consistent with city policy.
2. Both East Allred Street and Gold Hill Road are state-maintained minor thoroughfares
3. In 2006, when the property was rezoned from R10 Medium-Density Residential to CU-B2 Conditional Use General Business, no conditional use permit was requested. As the property is currently zoned, any development would require a Conditional Use Permit. Residential uses are generally not permitted in the B2 zoning district.
4. The requested R10 zoning allows for single-family and two-family dwellings if lot size requirements are met.
5. In 2015, Land Development Plan's Proposed Land Use Map changed the proposed designation of the subject property from Village Activity Center to Commercial, to recognize the current CU-B2 zoning. The designation of immediately adjoining property was changed from Urban Residential to Neighborhood Residential. These changes were based on changing development patterns since the 2000 Land Development Plan.
6. Zoning Ordinance Statements of Intent:

General B2 district:

"...Intended to serve the convenience goods, shopper's goods retail and service needs of the motoring public, both local and transient. This district should always be located with access directly to minor thoroughfares or higher classification streets, but never local residential streets."

R10 district:

"...Intended to provide regulations which will produce a moderate intensity of residential uses, usually single family or two family in character and served by central water supply and sewage disposal systems, plus the necessary governmental and other support facilities to service such urban intensity living."

He then gave the LDP Recommendations:

Proposed Land Use Map:

Commercial

Small Area Plan: East

Growth Strategy Map: Primary Growth

Goals/Policies Supporting Request (5):

- Checklist Item 3: Fits description of intent in zoning ordinance
- Checklist Item 4: Compatible with surrounding land uses
- Checklist Item 5: Complies with Growth Strategy map
- Checklist Items 12-13: Property is outside watershed, flood area

Goals/Policies Not Supporting Request (2):

- Checklist Item 1: Not compliant with Proposed Land Use Map
- Checklist Item 7: Not compatible with East Small Area Plan

He then gave the staff's consistency with adopted plans, reasonableness and public interest statement:

- Prior R10 designation and CU-B2 district has no request or approved use since being rezoned in 2006.
- Residential designation is not in conflict with LDP and ensures more compatibility with surrounding land uses by eliminating possibility of non-compatible non-residential development.
- Allows viable by-right uses without unnecessarily invoking CU process.

He then stated that staff's recommendation was to approve the rezoning request. He stated if there were any questions for him he would be able to answer them at this time.

Mr. Henderson asked if the applicant can develop the lot without board review, to which Mr. Evans stated that the applicant will likely be submitting a major subdivision plat due to the need to extend city-maintained water and sewer, which would require review from staff, Planning Board, and City Council.

Mr. O'Kelley moved to recommend approval of case RZ-20-10 based on staff's recommendation. Mr. Anderson seconded the motion and the motion carried unanimously.

SUB-17-04: FINAL PLAT FOR ROBINS NEST, PHASE 2, SECTION 1 (FINCHLEY CT.)

Mr. Evans gave a visual presentation to the board regarding the above mentioned subdivision case. He gave the following overview information:

Applicant: Davidson Land Development, LLC

Request: Subdivision Final Plat, Phase 2, Section 1

Size: 54,689 SF +/-

Parcel ID #s: 7762750195, 7762658808

Number of Lots: 3

Average Lot Size: 15,164 SF

He then showed overview, topographic/utilities, and aerial maps as well as the preliminary plat for the entire phase 2 of Robins Nest, which included a total of 44 lots in addition to new public streets. He also presented the board with the final plat for Robins Nest, Phase 2, Section 1.

He then presented all development issues:

1. The property is located in the city limits. City services are available.
2. The proposal is for the extension of an existing conventional residential subdivision, Robins Nest, Phase 1.
3. Single-family and two-family dwellings are permitted in the R10 zoning district if lot size requirements are met.
4. Two existing entrances serve the development from the existing Phase 1.
5. This section of Robins Nest Phase 2, includes the extension of Finchley Court by approximately 70 feet, ending in a cul de sac.
6. The future development area with access to Finchley Court may be platted as a lot through the minor subdivision at a later date if it meets all applicable zoning and subdivision ordinance requirements. Future phases defined as a major subdivision (extension of public right-of-ways, publicly maintained water, or publicly maintained sewer) will be reviewed under the major subdivision process.

He then went over department comments:

Engineering: Need final as-built engineering information and certifications

Public Works: No comments at this time.

Planning: Plat corrections have been made.

Other comments include:

1. A phasing plan shall be submitted. Any street ending in a temporary turnaround(s) due to phasing will need to be accessible for sanitation and emergency vehicles.
2. Uncompleted improvements must be guaranteed as allowed by Subdivision Ordinance.

3. A written one year warranty against improvement defects is required.

He stated that planning staff has received the phasing plan and the written one year warranty against improvement defects. He then stated that staff's recommendation was to approve the request pending the completion of listed items. He stated that if the board had any questions for him he would be able to answer them at this time. He also stated that the applicant's representative is present for any questions. There were no questions for Mr. Evans or the applicant's representative, Mr. Bobby Kivett.

Mr. Henderson moved to recommend approval of case SUB-17-04 with the condition that the above-listed items must be completed. Mr. Rush seconded the motion and the motion carried unanimously.

BOA-20-02: PLANNING BOARD FUNCTIONING AS BOARD OF ADJUSTMENT INVOLVING REQUEST CONCERNING 114 OLD LIBERTY ROAD: VARIANCE FROM TABLE 200-1 REGULATING FRONT YARD SETBACK

At this time, Mr. Luck and the applicants, Mr. Gil Goldstein and Mrs. Rosie Goldstein, were sworn in to give their testimony due to the variance case being a quasi-judicial hearing.

Mr. Luck gave a visual presentation to the board regarding the above mentioned variance case. He gave the following overview information, listing the process of a variance:

- 1) **Staff Analysis**
- 2) **Applicant Testimony**
- 3) **Board Deliberation and Decision**

Next Meeting (October 5, 2020)

- 4) **Final Decision Document**

He stated that the variance was to eliminate the 25 foot required front yard setback as regulated by Table 200-1 along Ashley St. He then gave the analysis:

Location: 114 Old Liberty Rd.
Parcel Identification Number: 7762043267
Property Size: 0.37 Acres
Zoning: B2 General Commercial

Surrounding Land Use:
North: Residential **East:** Commercial
South: Commercial **West:** Commercial

LDP Recommendations:
Growth Strategy: Primary Growth
Proposed Land Use Map: Commercial

He then showed aerial, zoning, and topographic maps as well as photos to highlight the area in which the variance is requested.

He stated that the Zoning Lot is a corner lot located at the intersection of Old Liberty Rd and Ashley St. The lot is located in the City of Asheboro corporate limits with all utilities available. The lot is a legal, conforming lot featuring a Motor Vehicle Repair – Minor use. While the lot is legal conforming, nonconforming situations, such as but not limited to, parking and landscaping, exist and are allowed to continue subject to Article 800 of the Asheboro Zoning Ordinance. The Zoning Lot is zoned B2 General Commercial. Table 200-1 of the AZO requires a 25 foot front yard (setback) for all structures in the B2 district. Being a corner lot, the Zoning Lot is subject to the 25 foot required yard along both Old Liberty Rd. and Ashley St. He showed Table 200-1 of the Asheboro Zoning Ordinance highlighting the 25' front yard setback. He then showed the board a site plan showing the proposed addition to the property. He then went over the findings of fact:

- 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.

He stated that if there were any questions from the board, he would answer them at this time. Mr. Henderson asked if Ashley Street was city-maintained and stated that it was a very narrow street, to which Mr. Luck stated that it was a city-maintained street. Mr. Henderson also stated that regardless of the narrow street, the front setback has to be met, to which Mr. Luck confirmed. He also asked if the city has a right to make any improvements to the street including widening, to which Mr. Luck confirmed that the city has a right to make improvements in its right of way.

At this time, Mr. Gil Goldstein and Mrs. Rosie Goldstein, the applicants, gave their testimony addressing each of the findings of fact. Mr. Goldstein stated that they wanted to add a new structure on an existing paved pad and would not encroach any more onto the existing grass area between the pavement and the street. This addition would allow for enclosed storage and eliminate some outdoor storage. Mrs. Goldstein stated that the addition would make the area cleaner and would not interfere with the road. She stated that the only difference in the site would be enclosing the unenclosed paved area.

To address the hardship test, the applicant stated that they could not build in the rear due to the retaining wall and the topography and they could not build in the front due to a loss of parking and a power line in the front yard, therefore the placement of the structure on the site plan submitted is the only way it can be constructed. Mr. Rush asked what the distance from the right of way was, to which the applicant stated that the property line was the edge of their asphalt and that the grass in between the street and the asphalt is the right of way.

Mr. Henderson asked what the purpose of setbacks are from a zoning perspective, to which Mr. Luck stated that from an early planning perspective, this was to ensure airflow and light as well as to prevent any potential hazards from motoring traffic. He stated that there were some aesthetic reasons as well for the setbacks. Mr. O'Kelley asked if the street could be widened with the addition, to which Mr. Luck stated that it could be.

Mr. Buffkin made a motion to approve the variance. Mr. O'Kelley seconded the motion and the motion carried with 6 in favor and one, Mr. Henderson, in opposition, stating that in the future if the road is widened there may be issues with a structure being that close to the right of way.

BOA-20-03: PLANNING BOARD FUNCTIONING AS BOARD OF ADJUSTMENT INVOLVING REQUEST CONCERNING 1129 SOUTH COX STREET: VARIANCE FROM ARTICLE 200A(E)(2)(a)(iii)(bb) REGULATING FRONT YARD SETBACK WITHIN TIER 3 OF CENTER CITY PLANNING AREA

At this time, Mr. Luck, the applicant, and her legal representative were sworn in to give their testimony due to the variance case being a quasi-judicial hearing.

Mr. Luck gave a visual presentation to the board regarding the above mentioned variance case. He gave the following overview information, listing the process of a variance:

- 1) **Staff Analysis**
- 2) **Applicant Testimony**
- 3) **Board Deliberation and Decision**

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He stated that the variance request was to, the maximum depth shown on the site plan reviewed by the Board of Adjustment, allow a principal structure to exceed the front yard setback as prescribed by Article 200A(E)(2)(a)(iii)(bb). He then gave the analysis:

Location: 1129 S. Cox St.

Parcel Identification Number: 7750970562

Property Size: 0.44 Acres

Underlying Zone: OA6

Overlay Zone: Center City Planning Area Tier 3: Commercial and Employment Center Planning Area

Surrounding Land Use:

North: Residential

East: Residential

South: High Density Residential

West: Office/Residential

LDP Recommendations:

Growth Strategy: Primary Growth

Proposed Land Use Map: Town Activity Center

He then showed aerial, zoning, and topographic maps as well as photos to highlight the area in which the variance is requested.

He stated that the Zoning Lot is located in the City of Asheboro corporate limits with all utilities available. The lot is a legal, conforming lot that is currently vacant. The lot was rezoned from R7.5 to OA6 in 2015. The lot was last used for a Single Family Dwelling. The previous dwelling was demolished in 2014. The Zoning Lot is located in Tier 3: Commercial and Employment Center Planning Area of the Center City Planning Area (CCPA). The CCPA modifies or adds to various underlying zoning requirements, including required yards (setbacks) for structures. Tier 3 requires that, for OA6 zoned properties, a front yard setback line be established based on the average of the front yard setbacks of all adjacent lots within the same block. Once the average front yard is established, the principal structure must be constructed within five feet of the average. For this lot, the average front yard setback is 48 feet. This means the principal structure must be placed between 43 and 53 feet of the front property line. The applicant's request is to place the principal structure towards the rear of the lot, beyond the required front yard setback line. The applicant proposes the principal structure be constructed approximately 115 feet back of the front property line. He then showed a site plan to the board which included the location of the parking and the structure on the lot. He then went over the findings of fact:

- 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.

He stated that if there were any questions from the board, he would answer them at this time. Mr. Buffkin inquired as to why the 48 foot setback was established, to which Mr. Luck stated that front yard averaging for Tier 3 requires averaging of the whole block. He stated that this was to establish a campus style aesthetic. Mr. Henderson asked if the adjoining lots are compliant from a setback standpoint, to which Mr. Luck stated that they are. Mr. Buffkin inquired on the zoning, to which Mr. Luck stated that the underlying district is OA-6 within Tier 3 of the Center City Planning Area. Mr. O'Kelley inquired if this was the corridor that was rezoned to OA-6, to which Mr. Luck stated that this is correct. There were no other questions for Mr. Luck.

Mr. Ben Morgan, the applicant's legal representative, gave testimony on the case, stating that the intent is to increase the setback of the structure in excess of the established average. He stated that the dimensions of the lot were a constraint on having parking in the rear of the site and that the topography and location are peculiar characteristics to the lot. He stated that the shape of the lot hasn't changed since 1960 or before. He also stated that the spirit and intent is achieved due to many lots having structures placed further back and parking in front of the building. He then stated he would answer any questions at this time. Mr. Buffkin asked if the parking could be moved closer to the street and the site plan updated, to which Mr. Morgan stated that this was not the intent of the applicant and that the closer you move parking to Cox Street, the narrower it gets. Ms. Vuncannon stated that there would likely be safety concerns if the building were closer to the street due to a curve in South Cox Street near the frontage of the property.

Mr. Henderson moved to approve the variance request. Ms. Vuncannon seconded the motion and the motion carried unanimously.

ITEMS NOT ON THE AGENDA

There were no items.

ADJOURNMENT

With no further business to come before the board, Mr. Rich adjourned the meeting.

Bradley Morton, Planning Board Secretary

Van Rich, Planning Board Chair