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MINUTES

AUGUST 2, 2018

7:00PM

BOARD OF ADJUSTMENT

YOUNGSVILLE COMMUNITY HOUSE

Chairman Fonzie Flowers called the meeting of the Town of Youngsville Board of Adjustment to order at 7:00 pm. Chairman Flowers initiated a roll call. In attendance were Chairman Fonzie Flowers, Interim Town Administrator Roe O'Donnell, Town Attorney Edward Bartholomew, Town Clerk Emily Hurd, Members Terry Hedlund, Larry Wiggins, Graham Stallings, and Catherine Redd, and Planning / Zoning Administrators Bob Clark and Andrew Thomas, Jr. Member Joseph Johnson was not in attendance.

The first item on the agenda was to approve the minutes from the June 12, 2018 Board of Adjustment Meeting.

MOTION: TO APPROVE THE MINUTES FROM THE JUNE 12, 2018 BOARD OF ADJUSTMENT MEETING

The motion was made by Member Wiggins and was seconded by Member Hedlund. The motion passed unanimously.

The next item on the Agenda was Old Business. There was no Old Business.

The next item on the Agenda was New Business.

The first item under New Business was a Request for Variance from Andrea and Dwayne Coleman for property located at 209 S Nassau Street.

Town Clerk Hurd swore in those wishing to testify; David Williams, Larry Wilder, Andrew Thomas, Jr., Bob Clark, and Roe O'Donnell.

Thomas gave a preliminary statement to describe the case before the Board. He read from the Staff Findings. The completed Request for Variance application was received on July 2, 2018. Thomas explained the applicants were requesting variances associated with a proposed single-family dwelling at 209 S Nassau Street, specifically requesting a lot width variance of 47.5 feet from the required 100-foot lot width (Sec. 307.2) and a lot area variance of 3,975 square feet from the required 15,000 square foot minimum (Sec 307.2).

Thomas noted the property was owned by Andrea and Dwayne Coleman and consists of a single rectangular shaped .25 acre vacant lot. He stated the preliminary site plan illustrates a building footprint that would exceed the minimum required setbacks and was prepared by Cawthorne,

Moss, and Panciera of Wake Forest, NC. Thomas noted the property is located within the Residential Single Family (RS) zoning district where single-family dwellings are a permitted use per Sec 307.1.2 (a). He explained there was an unrecorded survey and map prepared by Phil R Inscoe, Registered Surveyor, dated March 21, 1959. That map laid out the lots on S Nassau Street. Some of the lots have been recombined but there are several vacant tracts that are not owned by the adjoiners. This lot is under separate ownership from the adjoining properties.

Thomas explained Section 208.3.1 allows the administrative granting of a 20% reduction in the required standards. For circumstances beyond 20%, the applicant would have to apply for a variance from the Town Board (acting in its capacity as the Board of Adjustment). Thomas noted the Zoning Ordinance for the Town of Youngsville was adopted on September 9, 1993 and was effective October 1, 1993.

Thomas noted there was an aerial photo of the property in question in the Staff Findings, along with the RS minimum requirements.

Chairman Flowers polled the Board as to any conflicts of interest or bias. The Board answered no, unanimously, to not having a fixed opinion prior to hearing the matter that is not susceptible to change. Chairman Flowers asked the Board if there had been any undisclosed ex parte communications and the Board answered no, unanimously. The Board answered no, unanimously, to having a close familial, business, or other associational relationship with an affected person or entity; or a financial interest in the outcome of the matter.

Chairman Flowers opened the floor for the applicant to present evidence for their application. David Williams, representing the owners, explained the owners intended to sell the property to him and he wished to build a single family home on this lot.

Member Redd asked if the lot next door already had an approved variance and Mr. Williams stated yes. Member Redd asked if this would be different and Mr. Williams stated that it would be very similar.

Chairman Flowers opened the floor to ask questions of the applicant. He asked that anyone speaking identify themselves and their relationship to the property. There were no comments from the public.

Chairman Flowers opened the floor to any persons in support of the application that would like to present evidence. There were no comments from the public.

Chairman Flowers noted Thomas had presented the Staff Findings during his preliminary statement and asked if there was any further information.

MOTION: TO ACCEPT STAFF FINDINGS AS EXHIBIT COLEMAN #1

The motion was made by Member Wiggins and was seconded by Member Hedlund. The motion passed unanimously.

MOTION: TO ACCEPT TESTIMONY BY DAVID WILLIAMS AS EXHIBIT COLEMAN #2

The motion was made by Member Hedlund and was seconded by Member Wiggins. The motion passed unanimously.

MOTION: TO ACCEPT THE APPLICATION PACKET FOR REQUEST FOR VARIANCE FROM ANDREA AND DWAYNE COLEMAN FOR 209 S NASSAU STREET AS EXHIBIT COLEMAN #3

The motion was made by Member Redd and was seconded by Member Wiggins. The motion passed unanimously.

Chairman Flowers opened the floor for questions of the Staff. When asked, Thomas explained variances did not need to go before the Planning Board. Attorney Bartholomew asked if there were any recommended conditions and Clark stated there was not as long as they can meet their setbacks. Clark noted this case was consistent with previous cases. Supplemental

MOTION: TO ACCEPT SUPPLEMENTAL TESTIMONY BY STAFF AS EXHIBIT COLEMAN #4

The motion was made by Member Redd and was seconded by Member Stallings. The motion passed unanimously.

Chairman Flowers opened the floor to any persons opposed to granting the application that would like to present any evidence. There were no comments from the public.

Chairman Flowers opened the floor for rebuttals to opposing testimony. There were no comments from the public.

Attorney Bartholomew summarized the Evidence. He noted Staff Findings, as read by Thomas, was Coleman #1. Testimony by David Williams was Coleman #2. The application for Variance by Andrea and Dwayne Coleman was Coleman #3 and supplemental testimony by Staff was Coleman #4. Attorney Bartholomew noted this request for variance was consistent with others in the past.

MOTION: TO CLOSE THE COLLECTION OF EVIDENCE PORTION OF THE HEARING.

The motion was made by Member Hedlund and was seconded by Member Wiggins. It passed unanimously.

Chairman Flowers opened up the deliberation section of the Hearing for the Board. As there were no proposed Conditions or discussion, Attorney Bartholomew moved on to the Findings of Facts Worksheet.

Attorney Bartholomew read the Findings of Facts.

707.3.2.1 There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography, that are not applicable to other lands or structures in the same district, or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of the ordinance unrealistic. 4 ayes / 0 nays

707.3.2.2 Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located. 4 ayes / 0 nays

707.3.2.3 A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. 4 ayes / 0 nays

707.3.2.4 The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. 4 ayes / 0 nays

707.3.2.5 The special circumstances are not the result of the actions of the applicant. 4 ayes / 0 nays

707.3.2.6 The variance requested in the minimum variance that will make possible the legal use of the land, building, or structure. 4 ayes / 0 nays

707.3.2.7 The variance is not a request to permit a use which is not a permitted or conditional use in the district involved. 4 ayes / 0 nays

Attorney Bartholomew stated the Request for Variance by Andrea and Dwayne Coleman for property located at 209 S Nassau Street has been approved with no conditions.

The second item under New Business was a Conditional Use Application from Legacy Car Sales, LLC for property located at 110 S College Street.

Town Clerk Hurd swore in those wishing to testify; Andrew Thomas, Jr., Bob Clark, Roe O'Donnell, Ekiti Lowe, Tommie Lowe, Jr., and Thurman Brooks.

Thomas gave a preliminary statement to describe the case before the Board. He read Staff Findings. Thomas explained Tommie Lowe Jr. signed and filed a complete application, with a site specific plan exhibit, on June 21, 2018 requesting a Conditional Use Permit for pre-owned car sales at 110 S College Street. Mr. Lowe indicates his business would have a three year lease. Thomas noted the property is owned by BB Youngsville, LLC, Charlotte, NC. The property consists of a single, triangularly shaped, .71-acre vacant lot with an existing 1,508 square foot building (formerly the SunTrust Bank). It has existing parking lots, driveways, and landscaping. The applicant intends to use the property as it is and signage will be on the existing boxes.

Thomas stated the preliminary site plan illustrates the arrangement of the drives, building and where the cars for sale will be parked, as well as the customer parking. There are 24 off street parking spaces. The property is located at 110 S College Street in the Commercial (C) district where retail businesses with outdoor sales are permitted as a conditional use per Sec. 308.1.2 (b).

A picture in Staff Findings shows the location of the building and surround uses. On the east is a used car lot (C) and Wine and Beer 101 (MSBD); on the west is Five Points Shopping Center (C); on the south is Youngsville Elementary School (C); on the northeast is Speedway Convenience Store (MSBD); and on the northwest is the ABC Store (C).

Thomas stated both he and Clark met with the applicant on July 5, 2018, where the applicant indicated a desire to use the building and property as is. The applicant intends to leave the existing landscaping in place with no cars parked on the grass, on ramps, or outside of the existing parking lot.

Thomas stated if the applicant receives a favorable recommendation, Staff recommends the following conditions: retaining the existing trees/shrubbery with minimal trimming when maintenance is required; no vehicles parked on ramps or any grassed area at this site; any additional lighting to be directed inward towards the site and no increase in lumens beyond the property line; no on-street parking for loading or unloading vehicles, temporary placement of car carriers, or vehicles for sale; and the applicant must comply with the sign section of the zoning ordinance so as not to display inflatables, signs with moving parts, feather banners or like devices.

Chairman Flowers wanted to clarify that Main Street Business District (MSBD) ends at Five Points and Thomas stated that was correct. Chairman Flowers asked if car lots were allowed in MSBD and Clark stated they were no longer allowed in that district.

Chairman Flowers polled the Board as to any conflicts of interest or bias. The Board answered no, unanimously, to not having a fixed opinion prior to hearing the matter that is not susceptible to change. Chairman Flowers asked the Board if there had been any undisclosed ex parte communications and the Board answered no, unanimously. The Board answered no, unanimously, to having a close familial, business, or other associational relationship with an affected person or entity; or a financial interest in the outcome of the matter.

Chairman Flowers opened the floor for the applicant to present evidence for his application. Tommie Lowe Jr. stated he was a second generation car dealer that lives in Wake Forest and he owns used car dealerships. He stated he previously met with Clark and Thomas to address all of the issues involved with car dealerships. Mr. Lowe stated they planned to keep the facility as it currently is, including landscaping. He explained they were a small dealership that would have approximately fifteen cars for sale, leaving nine open parking spaces for customers. Mr. Lowe stated there would be minimal foot traffic as most of their sales were online.

Chairman Flowers opened the floor to ask questions of the applicant. He asked that anyone speaking identify themselves and their relationship to the property. There were no questions.

Chairman Flowers opened the floor to any persons in support of the application that would like to present evidence. Thurman Brooks, owner of the property, stated he purchased the property in June. He noted he wanted to lease the building to allowable businesses and had discussed the Conditional Use Application with Clark and Thomas. Mr. Brooks stated Mr. Lowe was a good tenant that would have a limited number of cars onsite, along with keeping the current landscaping. He stated the drive through lanes would not be used by this tenant. Mr. Brooks noted this Conditional Use Permit would be exactly like the used car dealership across the street.

Chairman Flowers noted Thomas had presented the Staff Findings during his preliminary statement and asked if there was any further information. Clark reiterated there were conditions proposed by Staff. He also wanted to point out the color map in the application that shows where the display cars and customer parking would be located. Clark noted the traffic counts from 2016 are now higher. He also noted the traffic count showed 8,100 VDP on S College Street and that should be the count for N College Street.

Clark stated the conditions are already what the client wants to do but recommended they be put in the record as conditions. Thomas noted the applicant sells mostly online and is not a traditional car dealership. He stated the applicant has one dealership in Wendell that is indistinguishable and those cars are sold online as well.

MOTION: TO ACCEPT STAFF FINDINGS AS EXHIBIT LEGACY #1

The motion was made by Member Wiggins and was seconded by Member Hedlund. The motion passed unanimously. Attorney Bartholomew noted the testimony by Thomas was part of Staff Findings and did not need to be entered as a separate evidence.

MOTION: TO ACCEPT TESTIMONY BY TOMMIE LOWE, JR AS EXHIBIT LEGACY #2

The motion was made by Member Wiggins and was seconded by Member Hedlund. The motion passed unanimously.

MOTION: TO ACCEPT TESTIMONY BY THURMAN BROOKS AS EXHIBIT LEGACY #3

The motion was made by Member Stallings and was seconded by Member Wiggins. The motion passed unanimously.

MOTION: TO ACCEPT SUPPLEMENTAL TESTIMONY OF STAFF AS EXHIBIT LEGACY #4

The motion was made by Member Wiggins and was seconded by Member Redd. The motion passed unanimously.

MOTION: TO ACCEPT THE CONDITIONAL USE APPLICATION BY LEGACY CAR SALES, LLC AS EXHIBIT LEGACY #5

The motion was made by Member Redd and was seconded by Member Wiggins. The motion passed unanimously.

Chairman Flowers opened the floor to any persons opposed to granting the application that would like to present any evidence. There were no comments from the public.

Chairman Flowers opened the floor for rebuttals to opposing testimony. There were no comments from the public.

Chairman Flowers asked if there was any more discussion or questions. Attorney Bartholomew summarized the evidence that had been presented: Staff Findings was listed as Legacy #1, testimony by the applicant Tommie Lowe Jr was listed as Legacy #2, testimony by the owner Thurman Brooks was listed as Legacy #3, supplemental testimony by Staff was listed as Legacy #4, and the Conditional Use Application by Legacy Car Sales LLC was listed as Legacy #5. Attorney Bartholomew noted Staff has recommended conditions in #7 of Staff Findings.

MOTION: TO CLOSE THE COLLECTION OF EVIDENCE PORTION OF THE HEARING.

The motion was made by Member Wiggins and was seconded by Member Stallings. It passed unanimously.

Chairman Flowers opened up the deliberation section of the Hearing for the Board. After a brief discussion, the Board agreed on all of the presented conditions. Conditions included retaining the existing trees/shrubbery with minimal trimming when maintenance is required; no vehicles parked on ramps or any grassed area at this site; any additional lighting to be directed inward towards the site and no increase in lumens beyond the property line; no on-street parking for loading or unloading vehicles, temporary placement of car carriers, or vehicles for sale; and the applicant must comply with the sign section of the zoning ordinance so as not to display inflatables, signs with moving parts, feather banners or like devices.

MOTION: TO ADOPT THE 5 CONDITIONS AS PRESENTED IN STAFF FINDINGS #7

The motion was made by Member Wiggins and was seconded by Member Hedlund. The motion passed unanimously.

Attorney Bartholomew read the Findings of Facts.

1. 710.1.1 The proposed use will comply with all of the dimensional and other standards which this ordinance applies to all users? 4 ayes / 0 nays
2. 710.1.2 Access roads or entrance and exit drives are or will be suitable in size and properly located to ensure automotive and pedestrian friendly safety and convenience, traffic flow, and control and access in case of fire or other emergency. 4 ayes / 0 nays

3. 710.1.3 Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic glare, odor, and other impacts on adjoining properties in the general neighborhood. 3 ayes / 1 nays
4. 710.1.4 Utilities, schools, fire, police and other public and private facilities and service will be adequate to handle the proposed use. 4 ayes / 0 nays
5. 710.1.5 The location and arrangement of the use of the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts. 3 ayes / 1 nays
6. 710.1.6 The type, size and intensity of the proposed use, including such consideration as hours of operation and number of people who are likely to utilize or be attracted to use, will not have significant adverse impact on adjoining properties or the neighborhood. 3 ayes / 1 nays

Attorney Bartholomew stated the Conditional Use Permit for Legacy Car Sales LLC has been approved with five conditions. Conditions included retaining the existing trees/shrubbery with minimal trimming when maintenance is required; no vehicles parked on ramps or any grassed area at this site; any additional lighting to be directed inward towards the site and no increase in lumens beyond the property line; no on-street parking for loading or unloading vehicles, temporary placement of car carriers, or vehicles for sale; and the applicant must comply with the sign section of the zoning ordinance so as not to display inflatables, signs with moving parts, feather banners or like devices.

The next item on the agenda was Reports and Other Business. There was no comment.

MOTION: TO ADJOURN THE BOARD OF ADJUSTMENT HEARING

The motion was made by Member Wiggins and was seconded by Member Hedlund. The motion passed unanimously.

The meeting adjourned at 7:54 pm.