

**Meeting Minutes of the Board of Zoning Appeals
Tuesday, April 11th, 2023, at 5:15 PM
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, April 11th, 2023, at 5:15PM with the following members in attendance: **Brian Murdoch, McKay Moore, Dominique Dawkins, and Dr. Dennis Devron.** Representing for the Planning Department is **Nan Zhou, Planner I, Tia Keitt, Planner II, Martin Livingston, Community Development Director.**

Brian Murdoch: It's 5:15 now, and we'll begin our City of Spartanburg Board of Zoning and Appeals April 11th, 2023 meeting, so we will call to order. Let's go around first and if each member of the board, starting with Dr. Dennis Devron, would state your name and that you're here.

Roll Call:

Mr. Murdoch: Brian Murdoch.

Ms. Dawkins: Dominique Dawkins.

Ms. Moore: McKay Moore.

Dr. Dennis Devron

Mr. Murdoch: Thanks, everyone. In accordance with the Freedom of Information Act compliance, public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the requirements of the City of Spartanburg Zoning Ordinance. Hopefully everyone had a chance to already take a look at the agenda, is there anything that looks like it needs to be changed or amended.

Approval of Agenda:

A motion was made by Ms. Moore, seconded Dr. Dennis Devron to approve the agenda. The motion was approved with a vote of 4-0

Ms. Moore: Motion to approve tonight's agenda

Dr. Devron: Second.

Mr. Murdoch: Second, all in favor

Attendees: Aye.

Mr. Murdoch: Thank you. Next, the approval of the minutes. Could we get a motion to approve the minutes from last meeting.

Approval of Meeting Minutes from March 14th, 2023.

A motion was made by Ms. Dawkins seconded Ms. Moore to approve the meeting minutes. The motion was approved with a vote of 4-0.

Ms. Dawkins: I make a motion to approve tonight's agenda

Ms. Moore: Second.

Mr. Murdoch: All in favor say aye.

Attendees: Aye.

Old Business: None.

New Business:

VAR 23-002-00002 The City of Spartanburg’s Board of Zoning Appeals has received a Zoning Variance Application from Gray Engineering, who is requesting a Variance for the proposed car wash, Shine Near Pine to be located at 1425 Union Street (TMS # 7-17-10-026.00). The request is to reduce the front setback from 25 ft. to 20 ft. The subject parcel is located in an I-1 Industrial Zoning District. Landowner: Gerald Hull.

Ms. Keitt: My name is Tia Keitt, and I'm a Planner with the City Planning Department.

Mr. Murdock: Good evening.

Mr. Murdoch: Could you, could you raise your hand

Ms. Keitt: Yes, I swear or will tell the truth.

Ms. Murdoch: Thank you.

Project Description and History

The property owner has always intended to develop a car wash at this location and has taken several steps to bring the idea into fruition. On January 24th, 2022 City Council approved the annexation of 1425 Union Street with the requested zoning designation of I-1, Light Industrial, followed by a Site Plan Review process, lot combination to create one parcel, and now a Variance request to allow for site development. The site sits between railroad tracks owned by Norfolk Southern Railway Company and SCDOT road, SC56 (Union Street). The site is currently being graded.

Analysis

Zoning Ordinance Consistency

The I-1 Light Industrial Zoning Designation requires a minimum setback of 25’ from the front of the property. A Variance is needed to build beyond the minimum setback and can only be granted by the City of Spartanburg’s Board of Zoning Appeals.

Variations may only be granted in the instances listed in Section 603.4 of the Zoning Code. Section 603.4 lists nine particular instances in which the Board may grant a Variance. Of these nine, only one is applicable to this project: §603.4(2): To permit the reduction of any required setback being in compliance with all applicable Building and Fire Codes and subject to review by the Building Official.

The Board must utilize Section 603.3(A)(2) and determine if the proposal meets all the criterion for approval. To hear and decide appeals for Variance from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship. A Variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- b. These conditions do not generally apply to other properties in the vicinity;

- c. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance.
- e. In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Findings

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

The applicant defined the site as narrow, and the Norfolk Southern Railroad company that abuts the rear of the site denied any encroachment onto their property. Therefore, the engineering firm is challenged to squeeze two lane driveways, the structure, vacuum stations, employee parking and required landscaping onto the site. The engineering firm has determined that pushing the building closer to Union Street allows for the site to be built out, which encroaches into the City of Spartanburg minimum front yard setback for I-1 properties.

b. These conditions do not generally apply to other properties in the vicinity;

All properties are required to build within the established setback for each Zoning District. Per the Zoning Ordinance, I-1 Districts are intended for industrial uses, which are not offensive to nearby commercial or residential uses, and for business uses which generally support and are integrated with these industrial uses. Further development of residences is prohibited from these districts to prevent residences from being established under strongly adverse conditions and to conserve the supply of industrial land.

c. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and Application of this ordinance would effectively prohibit the current design of the car wash.

d. The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance.

At this time, Staff does not see any substantial detriment to adjacent properties or to the public good. The proposed car wash sits on a major corridor leading into the City of Spartanburg and is not be designed in a way to harm the character of the industrial corridor.

e. In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

The Zoning Ordinance required a Site Plan Review process that allowed staff to enforce zoning and building codes to protect established property values in the surrounding area, as well as promote public health and safety.

The Board of Zoning Appeals may act to approve the request of reducing the setback requirement from 25 ft to 20 ft for the proposed car wash, or to approve with conditions, or to table the matter to the next meeting in need of more information, or to deny this request. In the event the Board finds that the Variance finding can be met and the project approved, conditions of approval are attached to this report.

Mr. Murdoch: Thank you. Does anyone on the board have any questions?

Mr. Murdoch: Well, next ask of our applicant who would like to, anyone like to speak you.

Ms. Moore: So, I was counting on the site plan. There's 34 vacuum spots?

Mr. Baker: Yeah.

Ms. Moore: There's less vacuum spots in the other two carwash locations, the one on Highway 9. I believe there's less, and then the one on 29th there's also less. Was it this is just... I'm saying did you try to configure it to fit? Or you already did and then they asked for the bigger space?

Mr. Baker: Well, we configured it to fit, and then they asked for the bigger space, but this is as much as we can get on this parcel so we maxed out. They have all the vacuum spaces we can get on the property. It wouldn't, I guess, the lengthwise wouldn't really affect the grade. It's more the widthwise that's the issue.

Ms. Moore: Yeah. I was just curious if maybe you had gone through some areas where you got rid of one of those roads and still had 20 spots, I mean 18, but I'm not an engineer.

Mr. Baker: Yeah.

Ms. Moore: The other car washes are in B-1 zoning.

Ms. Moore: And they actually have a 15, no, a 10 rear setback, but I-1 has a 15 foot rear setback, so we thought about trying to change zoning and get five more feet that way.

Mr. Baker: Yeah. I mean we're asking for this after we're already approved grading-wise. We already went through all the city reviews and everything. It was just called the building permit review. It's already been through all the zoning reviews and the reviews, but it was just missed on this.

Mr. Murdoch: Any more questions?

Ms. Moore: Well, I was just looking into the significance of the setback. A lot of it is... Thank you, Tia. A lot of it is future expansion, and the Union Street corridor is meant to be more pedestrian friendly, and right now that sidewalk is right next to the road, and so if they ever chose to add some landscaping between the road and the sidewalk, that would be more difficult if the businesses were close, yet a lot of the businesses on Union Street are still close to the sidewalk. These are the things that I'm playing out. What is the purpose of the setback? Why would a variance be not a good idea?

One of the other considerations was airflow. I was wondering about that. A lot of the cars, I guess, are going to be lined up away from the sidewalk.

Mr. Baker: Yes.

Ms. Moore: So, they wouldn't have that stagnant exhaust that you're walking through, but because it's at the end of the rail trail, your pedestrian traffic is not on the trail anymore. It's not on the behind. It's going to come out to that sidewalk. I want that sidewalk to be a pleasant place to be.

Mr. Baker: And we're proposing a good bit of landscaping along both sides of Union Street and Country Club Road, to hide the ugly buildings.

Dr. Devron: What have you all put in place, or putting in place or considering, for that to make sure? You said you're doing things, but what does that look like.

Mr. Baker: As far as?

Mr. Devron: As far as when you're talking about the... She's asking about the trails and pedestrians. What are you putting in place or what are you looking at to make sure that that's not disturbed?

Mr. Baker: There's a sidewalk along Union Street that's existing, and there are a couple of curb cuts that previous driveways have been on. We're going to redo those curb cuts and, I guess, extend the sidewalk along this, and then we're also... We just have a landscape plan to hide the building from the sidewalk, and then like she was saying, we have the cars that are supposed to be stacked on the other side so that they're not having much exhaust levels.

Mr. Murdoch: Any further questions? Thank you, Mr. Baker. We appreciate it. So if there's no other questions, could we get a motion to open the meeting for public comments?

Dr. Devron: I make a motion to open the meeting for public comments.

Mr. Murdoch: Could I get a second?

Ms. Moore: Second.

Mr. Murdoch: All in favor?

Attendees: Aye.

Mr. Murdoch: All right. Anyone that would like to speak either for or against this request? All right. If not, could I get a motion to close public comment?

Ms. Keitt: I have a comment.

Mr. Murdoch: Oh, sorry.

Ms. Keitt: Tia Keitt speaking as public.

Mr. Murdoch: Okay.

Ms. Keitt: I'd like to ask the developer to consider adding a dog wash to the carwash. I recently heard of this idea, and it's a little bit of a joke because originally it was suggested a bicycle wash, but the next a dog wash. In considering the proximity to the trail, I'd just like to encourage that.

Mr. Murdoch: Thank you. Please note that encouragement.

Mr. Baker: I will ask.

Mr. Murdoch: Thank you. All right, if there's no further public comment, could we get a motion to close public comments?

Ms. Dawkins: I make a motion that we close public comment.

Dr. Devron: I second.

Mr. Murdoch: Second? All in favor?

Attendees: Aye.

Mr. Murdoch: Okay. So Ms. Keitt, I guess may I ask you any questions asked during the public comments. There weren't. There weren't any questions for the agent, so this is the time for board deliberation regarding the request. Anyone with thoughts?

Mr. Murdoch: Anyone with thoughts.

Mr. Murdoch: Any thoughts?

Ms. Moore: I hesitate because of the... Like are we really going to contribute to another building right next to the sidewalk that if you're... We do walk on the sidewalks, my family and I, and the ones that are right next to the road, very unpleasant. It's alarming because of the cars going by, so then you're going to put a building close, you know.

I would like to see some conditions, perhaps. Would be the first one that I would say yes, you can put it closer to the right of way with some contingencies or some conditions, mostly because in the findings, so it meets finding A, extraordinary conditions for which link in to that property. It meets finding B. I wouldn't say it meets finding C, simply because I think you can change the design easily enough, but I'm not an engineer.

In finding D, it wouldn't be... There's other buildings that are close to the sidewalk. It's not a detriment to the other. It doesn't, it won't look out of place, so possibly I would go forward with possibly the dog wash, or you could make the building look a little bit more historic. The one up the road is being developed with... as a historic mill site, the warehouses up there that are going to be the apartments. Could you make it look historic or nice like that?

Mr. Baker: So yes.

Ms. Moore: Is that feasible? Or is that really, really-

Mr. Baker: That's out of my scale of... I'm just a civil engineer.

Ms. Moore: Yeah.

Mr. Baker: Yeah.

Ms. Moore: Or it might be for tabling it. You don't have that many. You have some of the other board members here.

Mr. Murdoch: We have a quorum.

Ms. Moore: Okay, but that would be my other suggestion, just this. I hesitate with it.

Mr. Murdoch: Okay.

Dr. Devron: There's a few things that I always refer to when it comes to variances or... Is it going to cause an issue with traffic. Is it going to cause a problem or challenge for pedestrians, and also is it going to deface the historic landmarks that we already have? I'm discussing in this instance. I don't know that it will, but with all three I know with two of them it will not. And with the historic portion, to be honest with you, we're looking to bring in businesses, new businesses in Spartanburg, and so I'm not saying that we base our decision off that, but I will say that if we can look at making sure that the trail and the pedestrians are not being impeded against, if that's the word, and that we can still maintain the health portion that would be the smoke or whatever the case may be that comes from a carwash, I really don't... I don't see any major issue. Does anybody know where the closest carwash is to this one?

Ms. Moore: There's a self-carwash at the end of the block?

Dr. Devron: Just a block?

Ms. Dawkins: It's a big block.

Mr. Murdoch: There's a Wand Carwash.

Ms. Moore: Yes

Dr. Devron: So how does that compare to this one? I mean, you can step back up there. Can you tell us about the differences between that carwash and yours?

Mr. Baker: I don't really know the one that he's referring to, but if it's-

Mr. Murdoch: I would not consider it... I mean, it would be like comparing two restaurant. The one closer down, because I live on the rail trail, so there's a one carwash, and I think a couple of them work, but I don't think there are any vacuums that worked last time I was there maybe. There's-

Ms. Moore: Some people are using it today.

Mr. Murdock: Yeah, it was probably built in the '70s.

Mr. Murdock: And it has maybe four bays and it's a wand carwash. I think as opposed to this, it's my understanding this is more of a hybrid. It's a-

Mr. Baker: It's kind of like the Waves or... Trying to think of other brands.

Dr. Devron: So the question would be is there a benefit. Is there a benefit.

Ms. Moore: Slightly different product.

Dr. Devron: Okay.

Ms. Moore: I believe there will be a benefit.

Ms. Dawkins: But it would probably put the other carwash out of business.

Dr. Devron: We have absolutely nothing to do with that. Just is there a benefit? Does it benefit the public? That's the thing because we're here to just speak about, to vote for, and to protect the public interest. So does it benefit the public?

Dr. Devron: I believe there's a need and if there's... There's not a whole lot of these around this area, so I think it's bringing a new... It will satisfy a need for the area.

Dr. Devron: Thank you. That's all I have.

Mr. Murdoch: I guess just a couple of comments that I would make. Car washes, I think as far as historic nature of those type things, if we were talking about something closer to our downtown district, our central business district, I would feel that would be more of a concern. In this general area, if you go further down Union Street, I know that there are Kentucky Fried Chickens and Walmart's that come up through, and there's a BI-LO that closed. There's a restaurant and there's a CVS across the street. I don't think, in just looking at some of these, with the piece of property, the Norfolk Southern I can imagine, I think we went through that before, that there was, as far as getting them a variance, I think that was an issue. It's not going to apply to any other properties in the vicinity, I don't think, that there's anything. I think on the other side is a dry cleaner. Across the street's a CVS.

The current design, I don't think we want to get into having somebody redesign a carwash, and if we were talking about the difference... We're talking about the difference between the 25 foot setback, I believe, and 20 foot. I enjoy the rail trail personally. I love the rail trail, and I think we don't... That's one of the things that that Spartanburg has going for it. One thing to remember, though, is we have a working railroad directly beside this piece of property, so the noise and the smoke and the things that could happen at the railroad, I don't know that this is going to move the needle much for me.

The public good character of the district, I think, kind of matches the character of the district. We could attach conditions, I guess, and if it were something more drastic than talking about a difference between 25 feet and 20 feet setback, we're talking about 20% difference, that'd be up to the committee. For me, when you consider how close some of the other ones... The dry cleaners are directly against the road and some of the other buildings. To me, the setback requirement from 25 to 20 feet, considering everything that's right there in that area... And I use the rail trail. I love that. It's hard for me to see a major issue, but again, that's... Okay.

Ms. Moore: Does the owner like Spartanburg and want to invest in Spartanburg? Would they possibly put a dog wash just because they think it would be sweet? Or would it be a condition of what

Mr. Baker: I don't want to spend somebody else's money, so I can't-

Ms. Moore: Yeah.

Mr. Murdoch: Please note that it was in public comment and encouraged from the committee. Okay. We'll continue to deliberate or if someone would like to make a motion to approve, deny, or to table?

Mr. Livingston: I think there's another.

Mr. Murdoch: Oh, I'm sorry.

Mr. Livingston: As far as conditions, the Board can apply conditions related to the property itself. You can make a request for additional landscaping according to where it does cross the building setback. It crosses by three feet. They're requesting five feet, but it actually only crosses about three feet, so you can make additional condition that they add additional landscaping at that point where it does cross over and it's one corner of the building that's crossing over.

Ms. Dawkins: Well, that is very helpful.

Ms. Moore: Yeah. Which corner of the building?

Mr. Livingston: This corner right here, across from street.

Ms. Moore: Yeah.

Dr. Devron: It's the red, 25 and 20. This is the 20, so it's just this one.

Ms. Dawkins: That is very helpful. No, I was thinking differently.

Mr. Murdoch: Thank you, Mr. Livingston.

Mr. Murdoch: Appreciate that. All right, would anyone like to make a motion?

On a motion by Dr. Devron, seconded by Ms. Moore for a variance approved by a vote of 4 to 0.

Dr. Devron: I'll make a motion to approve.

Mr. Murdoch: All right. Need a second

Ms. Moore: I will second.

Mr. Murdoch: Second? All in favor say aye.

Attendees: Aye.

Mr. Murdoch: Thank you.

Mr. Livingston: Any conditions?

Mr. Murdoch: Appreciate that.

Ms. Moore: No.

Mr. Murdoch: No conditions. Okay, let's go back and look at our agenda items. Next on the agenda is staff announcements. Mr. Livingstone, please.

Mr. Livingstone: Mr. Chairman, members of the board, I did want to make you aware that we have two events coming up. We have a June 29th orientation for board members. This year we're working with the Appalachian Council of Governments to actually have training in Spartanburg, so you don't have to travel for your orientation and continuing education. Orientation will be for new board members. We're expecting four new board members for Planning Commission and HARB. I don't think we're expecting any new members for the BZA. I think all members are continue for the next year.

You'll need to attend the continuing education, which is scheduled on August 24th at 5:30 pm. If you'd like to attend the orientation, you're not required to but you certainly can. We're going to send a notice out hopefully sometime, if not this month, next month to make all board members aware of the option for orientation and continuing education in Spartanburg. It will be conducted by the Appalachian Council of Governments. We are confirmed for Dr. T. K. Gregg Center for those two events.

Mr. Murdoch: Okay. Well, if nothing further, may I please have a motion to adjourn the meeting?

Ms. Dawkins: I move that we adjourn the meeting.

Ms. Moore: Second.

Mr. Murdoch: Second? All in favor, aye.


Attendees: Aye.

Mr. Murdoch: Thanks everyone.

Ms. Moore: Good job, good job.

Mr. Murdoch: Thanks.

The meeting was adjourned at 5:54 PM.


~~Brian Murdoch, Vice Chairman~~
Don Bramblett, chairman