

Board of Zoning Appeals



Minutes for the Thursday, September 2, 2021, Regular Meeting

Members of the Board of Zoning Appeals

Wesley Summers

Chairman

Bill Burkhalter

Kathie Stallworth

Jim Newman

Kevin Scaggs

CITIZEN ASSISTANCE: Individuals requiring special assistance or a sign interpreter to participate in the meeting are asked to please notify the Department of Planning and Development 48 hours prior to the meeting at 803-441-4221.

REGULAR MEETING

1. **Call to Order** – The regular meeting of September 2, 2021, having been duly publicized, was called to order at 7:00 p.m. by Chairman Wesley Summers.
2. **Roll Call** – Board members present were Chairman Wesley Summers, Board members Kathie Stallworth, Kevin Scaggs, Bill Burkhalter and Jim Newman. Also in attendance was Tommy Paradise, Interim Director of Department of Planning and Development, members of the public and the applicants. A full list of speakers is provided at the end of the minutes.
3. **Approval of Minutes** – Minutes of the Regular Meeting of the August 5, 2021 meeting.
4. **Confirmation of Agenda**- There were no changes to the agenda.
5. **ZV21-007**-- A request by S & H Enterprises for a variance at 5425 Jefferson Davis Hwy, TMP 013-15-02-001 & 013-20-03-004 from Article 3, Section 3.8.5.3, Table 3-9, Dimensional Standards, Maximum Front Setback (ft.) requiring a maximum building setback of 90 feet to allow the building to be setback 153.5 feet and Article 3, Section 3.8.5.2, Table 3-9, Dimensional Standards, Minimum Frontage Buildout which requires a minimum of 30% build out to allow a minimum of 26.3% build out.
 - a. **Public Hearing** – The purpose of the hearing is to receive public comment on the application.
Mr. Paradise states the location is 5425 Jefferson Davis Highway and knows this location as the old Taylor Toyota building facility and has been several things since that time. They want to do a scrape and build where they would like to tear

down the existing building and build a new car dealership which will meet their needs. It consists of a 9.25 acre parcel and a 7.26 acre parcel which is zoned Industrial and will be going in front of City Council for the first reading on 09/20/2021. It was recommended for rezoning by the Planning Commission and for this development to go forward, the property would have to be re-zoned. This parcel is in the Thoroughfare Corridor zoning district and also on the Highway overlay corridor. They are required to have a maximum setback of 90 feet from the right of way. This is inconsistent for a car dealership so they are requesting to be allowed to move it back to 153.5 feet. They also have to have 30% buildout across the frontage and 26.3% and asking variances for that issue. Mr. Paradise stated that Mr. Will Buchanan from Johnson, Laschober, and Associates was present to discuss the project and answer any questions the Board may have regarding this location.

Chairman Summers asked if it was going for the first reading 09/20/2021 to which Mr. Paradise confirmed. Then it was asked if it required only two reading and Mr. Paradise responding, "Yes."

Mr. Paradise stated that one of the recommendations that he included was that it be contingent on the rezoning of the other parcel so that these two parcels be combined. That way if City Council doesn't go through the rezoning, then it wouldn't be like a curve ball.

Chairman Summers swore in Mr. Will Buchanan of Johnson, Laschober, and Associates. Mr. Buchanan said once they received the information, his company made a conceptual site design that was based on a realistic survey. They realized that the building setback was much further back than what is allowed based on the overlay district. So the owner was contacted and asked about getting a variance. He said it is worth the efforts to get a variance because the way the business works, if the business didn't have the inventory by the road to be seen, it would hinder the business goals. Inventory being able to be seen is the most important factor. Mr. Buchanan said they were pretty close to meeting the build out width but we showed a future expansion if they meet the 30% number. And they wanted to go ahead and ask for the other variance as well.

Ms. Stallworth asked about a 4-foot variance is what the second one was about. He stated he did not know at the time. She stated that she was sure that was right.

Being that the lot is so big, Mr. Scaggs asked how much was visible from the road. He wanted to know if it would be the first couple of rows of vehicles or more.

Mr. Buchanan did not know the numbers on that specific question but that more is better. He says if the building stayed at 90 feet from the road that a few rows (3-4 rows) of inventory would be visible from the road. However, if the building is moved back to 153.5 feet he stated about 12-15 rows which would be a substantial difference of inventory being seen from the road.

Mr. Scaggs asked if the visibility piece was the sole reason for the variance request.

Mr. Buchanan stated that it was indeed the driving force.

Mr. Scaggs asked if there are any interferences involved.

Mr. Buchanan stated there are no easements and it's a big piece of property and nothing is going through it.

Mr. Scaggs said he realized it is a big piece of property with a big piece of green field property.

Mr. Buchanan noted that with all the other dealerships in the area, they are not meeting the 90-foot rule either so the precedent has already been set in the area based on that business model.

Chairman Summers stated that this is consistent with every other dealership in the area that has to come before the Board needing more space. Usually it depends on the design of the building because sometimes the code doesn't match up with Kia or Nissan's major corporations that will allow you to build. So this is nothing unusual. He understands needing the inventory up front for customers to visualize. He spoke of the problems with the Hyundai dealership and supporting a variance and granting a variance for the set-back to be further back.

Mr. Scaggs asked if Kia requires them to be setback a certain distance from the road. Mr. Buchanan stated there was no such requirement and that more is better. There is no black and white code to continue the project.

Mr. Buchanan said there is no black and white code for the project. The variance is business model driven to have the setback to allow for more cars to be seen because more is better.

Mr. Scaggs stated that there are no conditions of the property. It's just the requirement itself.

Mr. Buchanan stated that it is business model driven based on his model.

Chairman Summers states that it benefits the customer too and a little bit of the safety issue, people driving in and out, people backing in and out and wanting to take the car for a test drive. And the more space you have for that, the better. He also asked if it was a partial requirement from Kia.

Ms. Stallworth did not understand that. She said she thought he said that if it didn't happen they would not pull out of the project.

Mr. Buchanan stated that that was not what he meant. He did not mean to say they would pull out of the project. Kia said they would not pull out of the project if the variance wasn't approved.

Mr. Scaggs asked how many rows were at other lots compared to this one. Mr. Buchanan does not know for sure. However, Mr. Jim Newman said he thought it was 4 or 5 rows in front of their parking area at the Hyundai dealership

Chairman Summers said they gave a variance for Hyundai but could not get one for the Taylor Toyota. He said he goes there to service his vehicle and he believes they have 5 and may have 6 rows up front.

Mr. Buchanan said the dealership across the street is 128 feet back from the right of way.

Ms. Stallworth stated that the building for Toyota was required by them but was not up to code for the City of North Augusta so it was for a different type of variance. It was for the facing of the building.

b. **Consideration** – Application ZV21-007

Based upon these factors, the Board's review of this application, consideration of the staff report, as well as testimony and evidence submitted by the applicant, and providing the opportunity for public comment at the hearing, the Board has found in the affirmative that the appeal meets all of the standards required to issue the variance. The variance to a front setback of ± 153.5 feet from Jefferson Davis Highway and a minimum front buildout of 26.6% is granted.

After a motion made by Mr. Scaggs, and duly seconded by Ms. Kathie Stallworth, the Board voted unanimously to approve the application with the following conditions:

- 1) Tax parcel number 013-20-03-004 is rezoned to Thoroughfare Commercial and is combined with tax parcel number 013-15-02-001 to form one parcel on which the site will be developed.
- 2) The property will be developed in general conformance with the layout provided. Minor changes to the layout may be allowed as determined by the Planning & Development Director or the City Engineer.

6. **ZV21-008**-- A request by Martintown LLC for a variance at 417 E. Martintown Road, TMP 007-12-06-032 from Article 3, Section 3.8.5.8.5 Front Setback Landscaping requirements. NADC §3.8.5.8.5.d requires a Type B buffer with a depth of 25 feet and NADC § 3.8.5.8.5.e requires a Type D buffer 20 feet in depth to allow a Type B buffer 4 feet in depth.

a. **Public Hearing** – The purpose of the hearing is to receive public comment on the application.

Mr. Paradise states it is an undeveloped piece of property adjacent to the Lidl's grocery store. It is a step out from the Lidl's property to this lot that puts some constraints on the location of the building for the applicant. Depending on the section you look at, it requires some buffering on the front because of the car isle and the setback from the front from the property line. Because of the inter-connection with Lidl and where the access road would go that prohibits them from moving it further back and meeting the requirements for the buffer. They are requesting a 4-foot buffer along the front in lieu of the other buffers which have been required. There was a previous variance, a special exception a few years ago. However, the exception has expired because the project of storage buildings never moved forward.

Mr. Scaggs asked if the setback was over 30 feet then it has to have a type D buffer and type e if over 30 feet.

Mr. Paradise explained that he included both of them apply in the variance. He stated we would enforce the type D buffer because it's more astringent because you would come out of the car wash and drive all there. So that's why it needs to be setup. Mr. Paradise stated he put both in so there's no confusion or anyone coming back saying there's a variance for this however, something else applies. We have the entire thing in front to review and no hiccups going forward.

Mr. Jim Newman asked if this was similar setup to the car wash at exit 5 at Lulu's.

Chairman Summers stated he went and looked at the LuLu's on exit 5 and all the businesses have a 20-25 foot buffer from the highway with low vegetation.

Robert Titus, representing EMC Engineering was sworn in by Chairman Summers. He stated that they looked at several configurations from this lot and was granted the approval to move forward with connectivity to the adjoining parcels. If you were to see behind the paint store, the retaining wall is about 15-18 feet high and the blocks are huge. So with those, it limits the space they have for the project. They have to get the access drive down. For an automatic carwash, 125 feet is typical. With the layout and configuration with having one entrance that would go through the car wash and one exit so it controls the people that accesses the property limits the configuration but the plan seems to be set. If we didn't have the depth they could push it back to get the required 25 feet but that is not possible so they are stuck on the project.

Ms. Stallworth asked if it was going to be Perpendicular to Martintown road like Lulu's is to Highway 25. Mr. Titus responded yes.

Mr. Scaggs asked if he would try to sub-lease the other part of the property. Mr. Titus responded that there are a lot of constraints so he is not sure what would

really happen, if anything. They would like to at some point but as of right now, no plans.

Ms. Stallworth asked if it was going to be a national carwash or a local hometown carwash. Mr. Titus responded it would be local.

Mr. Titus said they configured everything that if you have a driveway to the right, you would want to go counter-clockwise and similar that if you have a driveway to the left, you would go clockwise. He said that's what settled the configurations to make everything work. So they are squeezed.

They are left with a 4-foot buffer from the road. He stated that was from the right of way line. He said the property line is at the sidewalk line. It will be a public sidewalk.

Mr. Titus said the constraints from getting from US 1 down to the base of the property.

Chairman Summers asked if we could require them to dump traffic to Lidl's parking lot. And Mr. Titus said indeed that was the case.

Mr. Paradise stated that the inter-connection was an agreement when Lidl was developed that there would be that interconnection and this is just the next phase for that to happen. It follows through with the comprehensive plan as far as interconnectivity.

Ms. Stallworth asked for clarification on the connection with Lidle. Mr. Titus stated it would be a drive that would feed the connection to the carwash another entrance to Lidl. And will also provide for the potential of further development for anything else. Access mainly.

Chairman Summers finds it interesting the City is funneling traffic there and it was not the same as when Sherwin Williams and Lidl was built.

Mr. Titus states that from a traffic standpoint, you are trying to get more points of accessibility so you don't have congestion in one spot. He thinks that may be the reason.

Ms. Stallworth asked if it would be a left and right turn out to Martintown Road and confirmed by Mr. Titus.

Mr. Scaggs stated the variance request is that of landscaping. He asked what it would look like because he didn't know what type D was referring to. Mr. Titus explained that the trees were 50 feet for B and 40 feet for D. That's the reason they asked for the B because it was wider. And the branches would not be hanging in the road.

Mr. Jim Newman asked what was required coming off the road and provided another option.

Mr. Tommy Paradise stated that it would be an 8 foot Type A buffer is the width of 8 foot, one large tree every 60 feet, minimum trees are optional and buffer points are .2 as opposed to 1.2 for type B and 1.0 for C and .7 for D. Those points are assigned by trees and the number shrubs.

Mr. Jim Newman stated he has 34 feet to work with and plenty of room for those trees.

Ms. Stallworth commented that he does want the improvement to make it look better in that area. New construction will enhance the strip of road would be better. She doesn't want to do away with the landscaping.

The applicant's request for a variance to allow a front buffer of 4-feet in width of a Type D. buffer with small trees being substituted for large trees is granted.

b. **Consideration** – Application ZV21-008

After a motion was made by Mr. Scaggs, and duly seconded by Ms. Kathie Stallworth, the Board voted unanimously to approve the application with the following conditions:

1. The approved buffer along the East Martintown Road frontage consist of a Type D buffer with small trees being substituted for the required trees and the buffer being at least 4-feet in depth.
2. The property will be developed in general conformance with the layout provided. Minor changes to the layout may be allowed as determined by the Planning & Development Director or the City Engineer.

7. **Adjourn-** With no objections, Chairman Summers adjourned the meeting at approximately 8:45pm.

As approved October 7, 2021

Respectfully Submitted,



Thomas L. Paradise, Interim Director
Department of Planning and Development
Secretary to the Board of Zoning Appeals