

Board of Zoning Appeals



Minutes for the Thursday, October 7, 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** – 7:00 p.m.
2. **Roll Call** – Present at the meeting was Chairman Wesley Summers, Board of Zoning Appeal members Bill Burkhalter, Kathie Stallworth, Jim Newman, and Kevin Scaggs. Also present was Tommy Paradise, Interim Planning and Development Director.
3. **Approval of Minutes** – Minutes of the Regular Meeting of the September 2, 2021 meeting.

Mrs. Stallworth stated that on page six there needed to be an amendment to a question about the carwash being a national carwash or a local, homegrown carwash, with Mr. Titus stated it being a local carwash. Mrs. Stallworth stated that she was asking for clarification for access to the carwash from Lidl, with Mr. Titus explaining that there would be a drive connecting to the carwash and another entrance for Lidl.

Chairman Summers stated that there needed to be another motion with the amendment of the minutes. A motion was made and was properly second to amend the minutes from September 2, 2021 meeting.

4. **Confirmation of Agenda**- Chairman Summers moved to get confirmation of the agenda, with Mr. Scaggs seconding the motion. Chairman Summers approved confirmation of the agenda, with moving the Approval of Minutes from September 2, 2021 meeting to the last item to approve on the agenda because Mrs. Stallworth was stuck in traffic and was on the way to the meeting.

5. **ZV20-008** – A presentation by Ivey Development of Traffic Impact Analysis (TIA) for a proposed townhome and single-family detached development on ±89.64 acres located at the terminus of Napal, Green Forest, and Bobbye Drive, TPNs 006-10-09-002 and 006-11-03-164 as required by the variance approval on January 7, 2021.

Chairman Summers read a brief statement from the Board. Chairman Summers stated that when the Board met on January 7, 2021, to decide the request, whether the Board approve or disapprove, there was nothing that could be done to stop the development as long as it met the requirements of the North Augusta Development Code. Chairman Summers stated that however, the Board wanted to make sure that they recognize there would be heavy traffic and that a traffic study was completed and presented to the Board of Zoning Appeals as a part of the variance. Chairman Summers stated that if you like or dislike the traffic study, there is nothing the Board can do to stop the development, as long as it meets the requirements. Chairman Summers stated that if someone is in disapproval of the development, they are welcomed to attend the Planning Commission meeting to voice their opinion of the project.

Chairman Summers asked if there was anything that Mr. Paradise would like to add to the discussion and Mr. Paradise stated that the Board has five conditions for approval and this will meet the criteria for the third condition, which was the approval of the lot size.

Chairman Summers stated that the only people who could ask questions tonight were the Board members. Chairman Summers stated that the City has passed a proclamation stating that Chairman of the committees can choose to hold the meetings virtual, but Chairman Summers chose to hold this meeting in person to give the public at home a chance to view the presentation, but the projector does not work to view the presentation.

Chairman Summers swore in the presenter, Mr. Jason Whinghter, from the Ivey Development and the McKie Property Development. Mr. Whinghter stated that they hired Steve Cassell from a traffic study firm to conduct the traffic study. Mr. Whinghter stated that they met with staff in January 2021 and staff told them initially to study one half mile by road length for the traffic study, so that was done and turned in form comments. Mr. Whinghter said that staff came back and told them to study one half mile radius, so that picked up the intersection of Knollwood Avenue at Pisgah. Staff also asked to study the intersection of Green Forest Drive at Five Notch. Mr. Whinghter said that they have studied all the intersections and asked that if Mr. Cassell could come up and explain the traffic study.

Mr. Cassell was sworn in and explained the traffic study. Mr. Cassell stated there was a challenge with this traffic study based on the ordinance. Mr. Cassell explained the dynamics of the traffic study that was conducted and he stated that he was using level of service, which is the measurement of delay of traffic, which is used for heavy

corridors. Mr. Cassell explained to the Board that they observed the traffic during near the school during the peak hour, which is four consecutive 15-minute intervals with the heaviest traffic flow.

a. **Consideration** – Received by the BZA as information only

6. **ZV21-009-A** request by North Augusta Middle School for a variance at 725 Old Edgefield Road Hwy, TMP 013-09-01-001 from NADC Section 13.8.3.L which does not allow an electronic message center (EMC) in a P, Public Use zoning district and message center is limited to 50% of the sign area to allow an EMC in the P, Public Use zoning district and allow the message center area to be 60% of the sign area.

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

Mr. Burkhalter stated before the public hearing starts, he would like to recuse himself because he has an association with the school district and North Augusta Middle is a part of that.

Chairman Summers opened the public hearing for public comments at 6:45pm. Mr. Paradise stated that the NADC does not allow for an EMC in the P, Public zoning district and the Code only allows for the EMC to be 50% of the total signage area, with the North Augusta Middle School EMC sign being 60%, so there are two variances needed, one for the P zoning district to allow the use of an EMC and the other for the EMC being 60%, not 50% of the total signage area. Mr. Paradise stated that the Planning Department became aware of the sign is when the contractor contacted Mr. Paradise, inquiring if a permit was needed to erect the sign. Mr. Paradise stated that's when it was realized that the sign had already been erected. Mr. Paradise told the Board that schools are not inspected by local inspectors, but by inspectors from the state office. Staff told Mr. Wade, applicant of the sign review for North Augusta Middle School, that he would need to apply for a variance for the EMC to be allowed in the zoning district and for the EMC to be over 60% of the total signage area, since the sign was already erected. Mr. Paradise stated that staff wanted to give Mr. Wade an opportunity to be heard before making the school take their sign down. Mr. Paradise said that staff has some conditions that they would like the Board to consider if they were to grant the variance. One of the conditions is that this only applies to this property and the signage cannot be changed and should the sign need to be replaced, that it meets the sign code at the time of replacement. The other condition was that the EMC has a timer on it and cuts off from 10pm-6am because of the lights bothering the neighbors. Mr. Paradise also wanted the Board to consider that the EMC at North Augusta Middle School complies with the regulations of EMCs in other zoning districts.

Chairman Summers asked Mr. Paradise if a permit was pulled for the sign and Mr. Paradise stated that the zoning compliance was not approved before the sign was put up. Chairman Summers asked how long has the sign been up and Mr. Paradise stated

that it has been up for about a month and a half. Mr. Paradise told the Board that there had been a few phone calls about the sign when it went up and one of the calls was from a church, asking if the code had changed.

Chairman Summers asked if anyone wanted to speak on the sign and Mr. Ron Wade spoke on behalf of Signs Unlimited. Chairman Summers asked Mr. Wade has he put up any other signs in North Augusta. Mr. Wade stated that he has put up signs in North Augusta, not for the school, but for himself and his business. Chairman Summers stated to Mr. Wade that he should have known that he needed permits to put up the sign. Mr. Wade said that this is the first time that this has happened and he thinks there was some confusion on local code. Mr. Paradise called Mr. Wade and informed him that the sign had already been erected. Mr. Wade explained to the Board about the dynamics of the sign and different programs on controlling the signs. Mrs. Stallworth asked if the other cities, such as Aiken, where other EMCs are being erected, is there a variance needed for this type of sign. Mr. Wade stated that this is the first city in the area where he has erected an EMC that he needed to apply for a variance. Mrs. Stallworth stated to the Board that the Nancy Carson Library has erected an EMC and contacted the Board, stating that the sign is not the right size, but they would absorb the cost on re-doing the sign. Mrs. Stallworth said that with the library being in the city limits, we might need to take a look at the code on EMCs in public zoning districts. Mr. Paradise explained that the application for the sign at the library pre-dated him with the previous Planning Director, and the specs and dimensions were submitted then and approved before his tenure. Mr. Wade explained more in depth to the Board about the sign and the message and ads that would be featured on the signs. Mr. Paradise explained to the Board about a case that went to the Supreme Court, stating that you can regulate the size of the sign, but you cannot regulate the message of the sign.

Chairman Summers closed the public hearing at 8:14pm.

b. **Consideration** – Application ZV21-009

Chairman Summers explained that they generally take the ten items needed to approve the variance and stated that if one item is not approved, then the variance is not granted. Mr. Newman asked if the variance is denied or approved, what will happen. Mr. Paradise stated if the variance is denied, the City will move forward in assuring compliance with the zoning ordinance, which is removal of the sign. If the variance is granted and the sign has to be 60/40 in ratio, then the sign would have to be modified to those standards. If the Board says “no, we don’t want the sign there, it doesn’t meet the criteria”, then the variance will be denied and the sign will be removed, or it can be approved or approved with conditions. Mr. Paradise explained that the size of the sign is not the issue, it’s the ratio, with the Code stating that the EMC cannot be more than 50% of the total signage area.

Mr. Scaggs motioned for the approval for the variance ZV21-009 with two conditions: if the sign needs to be replaced, it must comply with the current sign ordinance in place and staff recommends limiting the hours of operation of the EMC from the hours of 11pm-6am, with the sign being expected to follow all regulations of the sign code. Mr. Newman seconded the motion, with the vote being unanimous in the approval of ZV21-009.

7. Adjourn

The meeting was adjourned at 8:48pm.

As approved November 4, 2021

Respectfully Submitted,



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