

# Board of Zoning Appeals



## Minutes of the Thursday, April 2, 2015 Regular Meeting

*Members of the Board of Zoning Appeals*

Wesley Summers  
*Chairman*

Jim Newman  
Lynn Stenbridge

Kathie Stallworth  
Hap Greenway

1. **Call to Order** –Chairman Wesley Summers called the meeting to order at 7:00 p.m.
2. **Roll Call** – Board members present: Chairman Summers, Jim Newman and Lynn Stenbridge. Board members Hap Greenway and Kathie Stallworth were absent. Also in attendance: Scott Sterling, Director of Planning and Development; Christine DeCamp, Planner; the applicant's representative; and the public.
3. **Approval of Minutes** – The minutes of the March 5, 2015 regular meeting were approved as written.
4. **Confirmation of Agenda** – There were no changes to the agenda.
5. **Application Number ZV 15-002** – A request by Ryan Berger, representing Martko-Aiken, LLC, for a variance pursuant to Table 3-9 of the North Augusta Development Code. The applicant requests a variance to change the maximum front setback in the Highway Corridor Overlay District from ninety (90) feet to two hundred fifty-five (255) feet. The appeal affects property located along East Martintown Road adjacent to Martintown Plaza, Tax Parcel Number 007-12-06-032.
  - Chairman Summers read the application summary, briefly reviewed the public meeting participation guidelines and opened the public hearing at 7:02 p.m.

Mr. Sterling was sworn in and reviewed the variance request, referring to Staff Memorandum 15-17.

Chris Capellini, Bohler Engineering, Charlotte, NC, was sworn in and provided background information on the variance request. The applicant, Martko-Aiken, LLC, plans to sell a portion of property to MGP Retail to serve as the site of a medium-size grocery store. A front setback in excess of the allowed ninety foot maximum is

required to provide for visibility and also ensure safe and efficient parking and traffic flow for the proposed grocery store and also for the existing and adjacent Sherwin Williams retail store and Martintown Plaza.

Board of Zoning Appeals members commented and asked questions on the following: the basis for the variance request; future development of the remainder of the parcel; parking options; traffic flow options and sight distances; proposed retaining wall(s); exterior lighting requirements; means of pedestrian access; the former Bank of America site; project proximity to adjacent residential uses; required landscape buffers; potential impacts of the variance, if granted; and the minor site plan approval process.

Mr. Capellini, Mr. Sterling and also Henry Mealing, Martko-Aiken representative, responded to all comments and questions.

Chairman Summers closed the public hearing at 7:17 p.m.

- **Consideration – Application Number ZV 15-002** To determine that an unnecessary hardship would result, and to grant a variance, the Board must find and explain in writing that the evidence and facts of the case prove that each of five mandatory factors apply. After consideration of the evidence and arguments presented, the Board of Zoning Appeals reached the following findings of fact and conclusions. The Board considered each of the five criteria separately.

**There are extraordinary and exceptional conditions pertaining to the particular piece of property.** The Board discussed and agreed that the subject parcel is smaller than other shopping/grocery sites in the area and has a restrictive shape. The portion of the site on which the grocery store is proposed to be located is behind two existing parcels that front East Martintown Road, making it problematic for the applicant to comply with the 90-foot maximum front setback. The site is well-suited for a grocery store use because of its location at a traffic light and its proximity to other, larger, shopping centers.

**The conditions do not generally apply to other property in the vicinity.** The Board discussed and agreed that the conditions of the subject property, listed above, do not currently apply to other property in the vicinity.

**Because of the conditions, the application of the requirements of Table 3-9 of the North Augusta Development Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.** The Board discussed and agreed that the strict application of the maximum front setback standard would require the applicant to develop the site in a manner that is inefficient and could pose safety hazards for shoppers. The application of the maximum front setback requirement in Table 3-9 of the North Augusta Development Code to this site unreasonably restricts the utilization of the property.

**An unnecessary hardship exists.** The Board discussed and agreed that requiring the proposed grocery store to be constructed within the 90-foot maximum allowable setback would cause potential visibility and traffic problems, would impede access, and would not be the best use of the site. The alternative design that will be used if the variance is granted provides desired visibility, traffic flow and resulting safety for both cars and pedestrian shoppers.

**The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. Harm to the character of the district may include structures that are significantly out of scale, and the creation or potential for the creation of excessive noise, light, traffic or incompatible late night activity.** The Board discussed and agreed that the proposed grocery store location, if the variance is granted, is consistent with setbacks in adjacent Martintown Plaza and will not be detrimental to adjacent properties or to the public good.

**Based on the findings previously discussed and voted upon, Mr. Newman moved that Application ZV 15-002, a request by Ryan Berger, representing Martko-Aiken, LLC, for a variance pursuant to Table 3-9 of the North Augusta Development Code to change the maximum front setback in the Highway Corridor Overlay District from ninety (90) feet to two hundred fifty-five (255) feet for property located along East Martintown Road adjacent to Martintown Plaza, Tax Parcel Number 007-12-06-032, be granted subject to the following condition:**

- 1. The variance is granted subject to City approval of a minor site plan for a ± 37,000 square foot grocery store to be generally located at the west end of the subject property behind the two existing outparcels. If the applicant's minor site plan is not approved or is withdrawn, the variance shall be void.**

**Ms. Stembridge seconded the motion. The motion carried unanimously.**

**6. Adjourn –**

With no objection, Chairman Summers adjourned the meeting at 7:56 p.m.

Respectfully Submitted,

Scott Sterling, AICP  
Director of Planning and Development  
Secretary to the Board