

# Board of Zoning Appeals



## Minutes of the Thursday, June 4, 2015 Regular Meeting

*Members of the Board of Zoning Appeals*

Wesley Summers  
*Chairman*

Jim Newman  
Lynn Stemberge

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, Hap Greenway, Kathie Stallworth and Lynn Stemberge. Board member Jim Newman was absent. Also in attendance: Scott Sterling, Director of Planning and Development; Christine DeCamp, Planner; the applicant; and the public.
3. **Approval of Minutes** – The minutes of the April 2, 2015 regular meeting were approved as written.
4. **Confirmation of Agenda** – There were no changes to the agenda.
5. **Application Number ZV 15-003** – A request by John M. Newell III DMD, LLC for a variance pursuant to Table 3-11, Dimensional Standards for the Neighborhood Preservation Corridor Overlay District, of the North Augusta Development Code. The applicant requests a variance to change the maximum building footprint in the Neighborhood Preservation Corridor Overlay District from three thousand (3,000) square feet to three thousand seven hundred forty (3,740) square feet. The appeal affects property located at 1405 and 1409 Georgia Avenue, Tax Parcel Numbers 006-19-13-012 and 006-19-13-008.
  - **Public Hearing** – Chairman Summers read the application summary, reviewed the public meeting participation guidelines and opened the public hearing at 7:05 p.m.

Mr. Sterling was sworn in and reviewed the variance request, referring to Staff Memorandum 15-23.

Dr. John Newell, the applicant, 236 Edgefield Road, North Augusta, was sworn in and reviewed his plans for the site and the reasons for the variance request. Kristi Poss Atkins, the applicant's realtor, 163 Orchard Way, North Augusta, spoke in support of the variance request.

Board of Zoning Appeals members commented and asked questions on the following: the basis for the variance request; the zoning compliance and the minor site plan approval process; the structures previously located on the parcels and the decision and process to demolish them; the purpose and value of the Neighborhood Preservation Corridor Overlay district; parking requirements; the new building design and how the space will be utilized; and the potential impacts of the variance, if granted.

Mr. Sterling and Dr. Newell responded to all comments and questions.

Chairman Summers closed the public hearing at 7:43 p.m.

- **Consideration – Application Number ZV 15-003** 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 parcels combined are larger than most existing residential lots in the Neighborhood Preservation Corridor but are smaller than many commercial properties in the immediate vicinity. There is only one residential use within two blocks of the subject properties. The applicant proposes a structure that is residential in appearance and hopes to salvage two large oak trees that are currently on the site. The proposed building size and configuration serves his required business plan. The site, with the lots combined, is well-suited for a dental office with a 3,740 square foot footprint because of its uncharacteristic size, its close proximity to other commercial uses and the applicant's plan to maintain the neighborhood preservation appearance.

**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 3-11 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 building footprint standard would require the applicant to develop the site in a manner that limits his proposed dental practice in terms of number of patient rooms/chairs, waiting room size and administrative areas. The building footprint proposed is designed to meet the demand for services. The application of the building footprint limit in Table 3-11 of the North Augusta Development Code to this site unreasonably restricts the utilization of the property for the intended purpose.

**An unnecessary hardship exists.** The Board discussed and agreed that the proper practice of dentistry as described by the applicant requires a certain building configuration and corresponding building footprint. The applicant originally proposed renovating at least one of the structures that were previously located on the subject properties but later determined that neither building was salvageable. The applicant has considered the possibility of moving a portion of his operation to the planned second floor of the proposed building to meet the 3,000 square foot footprint limit, but states that doing so would be detrimental to his business processes and may violate OSHA and ADA requirements. The Board further discussed and agreed that, were the two subject parcels to be developed separately, each could hold a building with a 3,000 square foot footprint, which would not be in keeping with the intent of the Neighborhood Preservation Corridor.

**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 dental office location and conceptual design does not detract from the character of the area and the Neighborhood Preservation Corridor Overlay district and that the variance, if granted would not be detrimental to adjacent properties or to the public good.

**Based on the findings previously discussed and voted upon, Ms. Stallworth moved that Application ZV 15-003, a request by John M. Newell III DMD, LLC for a variance pursuant to Table 3-11 of the North Augusta Development Code to change the maximum building footprint in the Neighborhood Preservation Corridor Overlay District from three thousand (3,000) square feet to three thousand seven hundred forty (3,740) square feet for property located at 1405 and 1409 Georgia Avenue, Tax Parcel Numbers 006-19-13-012 and 006-19-13-008, be granted subject to the following condition:**

- 1. The variance is granted subject to City approval of a minor site plan for one dental office with a 3,740 square foot footprint on the combined subject properties. 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** – Mr. Sterling updated Board members on the Wyndham lawsuit. Recent mediation efforts were unsuccessful. The case is expected to be heard in Aiken County Circuit Court later this month. The hearing may involve a jury trial and Board members may be called to testify.

With no objection, Chairman Summers adjourned the meeting at 8:01 p.m.

Respectfully Submitted,

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