

Board of Zoning Appeals



Minutes of the Thursday, June 2, 2016 Regular Meeting

Members of the Board of Zoning Appeals

Wesley Summers

Chairman

Jim Newman

Kathie Stallworth

Bob Pettit

Lynn Stembridge

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, Bob Pettit and Kathie Stallworth. Board members Jim Newman and Lynn Stembridge were absent. Also in attendance: Scott Sterling, Director of Planning and Development; Christine DeCamp, Planner; Tilden Hilderbrand, P.E., the project engineer; John Donaldson, the project developer; members of the public; and the press.
3. **Approval of Minutes** – The minutes of the May 12, 2016 regular meeting were approved as written.
4. **Confirmation of Agenda** – There were no changes to the agenda.
5. **Application Number ZV 16-001** – A request by KCK Properties, LLC for a variance pursuant to Table 3-3 of the North Augusta Development Code. The applicant requests a variance to extend the maximum front setback in the OC, Office Commercial Zoning District from twenty (20) feet to one hundred fifty (150) feet, a net increase of 130 feet. The appeal affects property located along West Martintown Road, Tax Parcel Numbers 002-08-03-006 and 002-08-03-027.
 - Chairman Summers read the application summary, briefly reviewed the public meeting participation guidelines and opened the public hearing at 7:03 p.m.

Mr. Sterling was sworn in and reviewed the variance request, referring to Staff Memorandum 16-18. The applicant, KCK Properties, LLC, plans to sell the combined parcels to a developer who proposes to construct an eighty (80) unit assisted living/memory care facility on the site. The two parcels were legally combined after the original appeal was filed and the new parcel is identified as Tax Parcel Number 002-08-03-006.

Mr. Sterling stated that the proposed use is conditionally permitted in the Office Commercial zoning district and that the applicant will be required to apply for a conditional use permit in conjunction with a major site plan application. The conditional use permit will be processed by the Planning Commission.

As part of his review, Mr. Sterling referenced a letter from Doris and Richard Goley, owners of property immediately adjacent to the site. The letter expressed the Goleys' concerns about impacts to their property and possible risks to future assisted living residents due to the Goleys' existing pond directly behind the subject property.

John Donaldson, 6300 Powers Ferry Road, Atlanta, the project developer, was sworn in and offered to answer any questions raised by the Board. Mr. Donaldson reviewed his experience with similar assisted living developments and stated that the setback variance is necessary to ensure residents' health and safety and also to improve sight distance for vehicles exiting the property.

Tilden Hilderbrand, P.E., Hass and Hilderbrand, 133 Greenville Street, Aiken, the project engineer, was sworn in and reviewed site conditions, including site topography, Office Commercial zoning requirements, and the proposed use. He stated that several building configurations and sitings were studied and that the current site plan best meets the needs of the proposed development while minimizing impacts to the site.

Mr. Hilderbrand offered several justifications for the front setback variance from 20 feet to 150 feet. A front setback in excess of the allowed twenty foot maximum is required to provide needed separation of the proposed facility from Martintown Road noise and traffic and to make the property safer for residents. The increased setback will allow for a covered drop-off in front of the building, and will allow better sight distance when exiting the property. The proposed setback is similar to the existing setbacks on adjacent properties. The property terrain also makes it difficult to locate the planned facility closer to the road. Mr. Hilderbrand provided proposed site development drawings to illustrate his points.

Rick Berry, 150 Hammond Place Circle, was sworn in and spoke in support of the project and the requested setback variance. Mr. Berry noted his past experience as a real estate investor involved with similar projects.

Board of Zoning Appeals members commented and asked questions on the following: the basis for the variance request; the annexation and zoning history of the site and surrounding properties; current setbacks for neighboring properties with different zoning designations; sight distances; resident security and safety; building design; adjacent property owners' concerns regarding buffers and fencing and

project plans to address the concerns; stormwater impacts and regulations; and the conditional use permit and major site plan approval process.

Mr. Hilderbrand, Mr. Donaldson and Mr. Sterling responded to all comments and questions.

There were no other public comments. Chairman Summers closed the public hearing at 7:40 p.m.

- **Consideration – Application Number ZV 16-001** 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 the only property in the vicinity that is zoned OC. Office Commercial, and subject to a twenty foot setback. The ±4.48 acre property is small in relation to other nearby properties and has some topographical challenges. The permitted 20 foot setback, if no variance is granted, conflicts with the existing and expected setbacks along West Martintown Road.

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 generally apply to other property in the vicinity.

Because of the conditions, the application of the requirements of Table 3-3 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 residents and neighboring property owners. The application of the maximum front setback requirement in Table 3-3 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 an unnecessary hardship exists. Requiring the proposed assisted living facility to be constructed 20 feet from the right of way of a major thoroughfare would cause potential visibility and traffic problems and would present a safety hazard to residents. The alternative design that will be used if the variance is granted provides desired distance from West Martintown Road; required site distance for drivers and safety for residents; and allows the proposed assisted living facility to be constructed as designed.

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 assisted living facility location, if the variance is granted, is consistent with setbacks in place for neighboring properties and will 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 16-001, a request by KCK Properties, LLC, for a variance pursuant to Table 3-3 of the North Augusta Development Code to change the maximum front setback in the Highway Corridor Overlay District from twenty (20) feet to one hundred fifty (150) feet for property located along West Martintown Road, Tax Parcel Number 002-08-03-006, be granted subject to the following conditions:

- 1. The applicant and project developer are required to provide barrier fencing along the north-south adjacent Goley property line as well as buffer landscaping between the adjoining properties.**
- 2. The variance is in effect following City approval of both the conditional use and the major site plan for a 52,063 square assisted living facility (80 rooms) on the subject property. If the applicant's conditional use permit request and major site plan application are not approved or are withdrawn, the variance shall be void.**

Mr. Pettit seconded the motion. The motion carried 3-0.

6. Adjourn – With no objection, Chairman Summers adjourned the meeting at 8:06 p.m.

Respectfully Submitted,

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