

TOWN OF ABINGDON
BOARD OF ZONING APPEALS
REGULAR MEETING
FEBRUARY 12, 2008 - 6:00 P.M.

The regular meeting of the Town of Abingdon Board of Zoning Appeals was held Tuesday, February 12, 2008, at 6:00 P.M. The meeting was held in the Municipal Building, downstairs meeting room.

Mr. Gerald Henninger, Chairman, called the meeting to order. Mr. Jackson called the roll and welcomed Mr. Bell as a new member to the Board of Zoning Appeals.

Roll Call:

Members Present: Mr. Gerald Henninger, Chairman
Ms. Marva Jo Wheeler
Mr. Kenneth Shuman
Mr. Sam Hurt
Mr. Cameron Bell

Comprising a quorum of the Board

Members Absent: None

Administrative Staff: Mr. W. Garrett Jackson, Director of Planning/Zoning
Mrs. Cecile Rosenbaum, Town Clerk
Mrs. Deborah Icenhour, Town Attorney

Visitors: Mr. Joseph Whitehill
Mr. Charlie Jordan

- (2) Approval of Minutes Regular Meeting, October 9, 2007

Ms. Wheeler made a motion that the minutes of the regular meeting, October 9, 2007 be approved, with the following correction:

Correction – Page 07-15

Visitors:

FROM Visitors: Mr. Brad Ely, Attorney
Mr. James O. White

TO Visitors: Mr. Brian M. Ely, Attorney
Mr. James O. White

Mr. Shuman seconded the motion, with unanimous approval.

- (3) **Case No. 391 - Dunkin' Deli Restaurant, Joseph Whitehill, LACB, Inc., applicant, 924 East Main Street, Abingdon, VA 24210; application for a variance from the requirements of Article 11, Section 11-4-1, Setback Regulations, in the B-2 General Business District as contained in the Zoning Ordinance. Tax Map No. 106 (4) 2A.**

This request is for a variance from Article 11, Section 11-4-1, Setback Regulations for property located 924 East Main Street.

The date of application is January 23, 2008, and the application was scheduled to be heard on this date, February 12, 2008.

The application was duly advertised in accordance with the requirements of the Code of Virginia (1950, as amended, Section 15.2-2204) and all adjoining owners were notified of the meeting.

It is the desire of the applicant to build a 14 feet addition on the front of the existing Dunkin' Deli Restaurant. The area to be covered is currently being used by the restaurant as an outdoor dining area.

The Town of Abingdon Zoning Ordinance reads as follows:

11-4-1 Structures shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or thirty-five (35) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the "setback line".

Therefore, requirements of Article 11, Section 11-4-1, Setback Regulations, in the B-2 General Business District allows a setback of 25 feet; applicant is requesting 16 feet; a variance request of 9 feet or 56 percent.

Mr. Jackson stated that it must be taken into consideration, if East Main Street were to be widened in the future, even though there are no plans, to date to do so, the widening would encroach upon the properties on the north side of East Main Street.

After discussion, Mr. Hurt made a motion that the requested variance of 9 ft. in Case No. 391 be approved (to extend 14 ft. from existing structure to right-of-way), based upon facts that this is an extraordinary situation or condition of the subject property, such a hardship is not shared by other properties and character of the district will not be changed. The motion was seconded Mr. Shuman.

VOTE:

Mr. Hurt	Aye
Mr. Shuman	Aye
Ms. Wheeler	Aye
Mr. Bell	Aye
Mr. Henninger	Aye

- (4) **Case No. 392 - Town of Abingdon, P. O. Box 789, Abingdon, VA 24212; application for a variance from the requirements of Article 6, Section 6-3, Area Regulations, Article 6, Section 6-4, Setback Regulations, in the R-3 Residential as contained in the Zoning Ordinance. Property location is in the Taylor's Hill Redevelopment Project Area. Tax Map No. 11 (2) 1, 11 (1) 37, 11 (4) 5, 11 (4) 6, 11 (4) 15, 11 (4) 16, 11 (4) 18, 11 (4) 19, 11 (4) 20, 11 (5) 57 and 11 (1) 60C.**

Mrs. Rosenbaum explained that the reason for this application is because the Town of Abingdon is seeking variances on eleven (11) properties it owns in the Taylor's Hill Neighborhood. The Town purchased these lots through the Department of Housing and Community Development Block Grant Program which is revitalizing the neighborhood with street, sidewalk, water and sewer improvements, as well as housing rehabilitation and new construction. Once variances are allowed, the Town will advertise the lots to be sold to low-to-moderate income (LMI) eligible prospective buyers.

The variances are needed on these lots as the boundary adjustments that were made created non-conforming lots, per the Town's Zoning Ordinance requirements. The neighborhood in general does not conform to the setback requirements set forth in the Zoning Ordinance. This was because the neighborhood was in existence prior to the writing of the Town's Euclidian Zoning Ordinance, which is zone specific and not/site/property specific.

The staff is working on an overhaul of the Zoning Ordinance to create a Form-based Code, one which will prevent the need for variances and be based on use and existing conditions? The new ordinance will have significant changes in setbacks, eliminating them in some cases and allow for small single-family lot size.

The following language is taken from the Town of Abingdon Zoning Ordinance:

Section 6-3 Area Regulations.

6-3-1 For lots served by public water and sewer, the minimum lot area shall be:

- a. **Eight thousand, five hundred (8,500) square feet for single-family dwellings.**

Section 6-4 Setback Regulations.

6-4-1 Structures shall be located thirty (30) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty-five (55) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. This shall be known as the "setback line".

6-4-2 Structures shall be located fifteen (15) feet or more from the property line along any existing alley.

Section 6-5 Frontage Regulations.

6-5-1 The minimum lot width at the setback line shall be seventy (70) feet for single-family dwellings and eighty (80) feet for other permitted uses on lots served by public water and sewer.

6-5-2 The minimum lot width at the setback line shall be one hundred (100) feet for lots served by individual sewage disposal systems.

Section 6-6 Yard Regulations.

6-6-1 Side. The minimum side yard for each main structure shall be ten (10) feet, and the minimum total width of the two (2) required side yards shall be twenty-five (25) feet. NOTE: see Article 17, Section 17-12 for corner lot provisions.

6-6-2 Rear. Each main structure shall have a minimum rear yard of thirty-five (35) feet.

6-6-3 No accessory building shall be closer than five (5) feet to any property line.

Currently, the average front setback, along Leonard Street, in the Taylor's Hill Neighborhood, is 15 feet. Due to the non-conforming lot areas sizes topographic conditions of the properties (steep slopes) a relaxed setback would allow future owners of these properties to build single-family residential dwellings.

Mr. Jackson stated that after review and consideration of this application, it was the staff's recommendation that setbacks should be 15 feet (15) for Front Setback, 15 feet (15) for Rear Setback and 10 feet (10) for Side Setback.

After discussion, Mr. Bell made a motion that the requested variance from the requirements of Article 6, Section 6-3 Area Regulations Article 6, Section 6-4, Setback Regulations, in the R-3 Residential District in Case No. 392, be approved based upon facts that this is an extraordinary situation or condition of the subject property and with the context of this property, if variance is not granted the project will not take place. The motion was seconded Mr. Shuman.

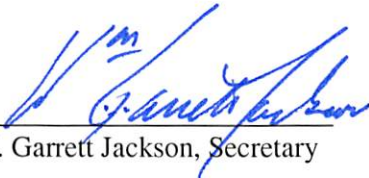
VOTE:

Mr. Bell	Aye
Mr. Shuman	Aye
Mr. Hurt	Aye
Ms. Wheeler	Aye
Mr. Henninger	Aye

DISCUSSION

Mr. Jackson stated that a Virginia Certified Board of Zoning Appeals Member Commissioner Training, will be held in Roanoke, two days in May and two days in July, with expenses for each member attending the training to be paid by the Town. Also, a Certified Planning Commissioner Training will be held in Abingdon sometime in June and August. Mr. Jackson encouraged all members to attend one or both of the training sessions. More information will be submitted to Board members as it becomes available.

There being no further business, the meeting was adjourned.



W. Garrett Jackson, Secretary

Gerald Henninger, Chairman