

ATHENS-CLARKE COUNTY HEARINGS BOARD
MINUTES
April 11, 2012

The Athens-Clarke County Hearings Board met and considered the following items at a public meeting on Wednesday, April 11, 2012, 3:00 p.m. at 120 W. Dougherty Street, Athens, Georgia:

MEMBERS PRESENT: Jim Anderson, Genie Bernstein, David Ellison, Sean Hogan, Beverly King, Liz Kramer and Adrian Pritchett (Chair)

MEMBERS ABSENT: None

STAFF PRESENT: Natalie Brooks, Jane Erwin, Amber Eskew, Gavin Hassemer, Bruce Lonnee (ACCUG Planning); Bob Faucett (ACCUG Public Works); Steve Decker (ACCUG Traffic Engineering) and Holly Hilton (ACCUG Attorney)

CALL TO ORDER AND APPROVAL OF MINUTES:

1. **Introduction of Staff reports and all other documents submitted to the Hearings Board at the meeting into the official record.** Ms. King made a motion to introduce all reports and documents into the official record. Ms. Bernstein seconded the motion, which passed unanimously.
2. **Approve Minutes from the January 11, 2012, Hearings Board meeting.** Mr. Anderson made a motion to approve. Ms. Kramer seconded the motion which passed unanimously.

OLD BUSINESS:

1. 2033 WEST BROAD STREET

VAR-2012-02-293

Petitioner: James C. Warnes for R&L Investments, LLC
Zoning: C-G (Commercial General)
Tax ID: 122C2 F027
Request: A. Variance to reduce FAR from 25% to 21.9%
B. Variance to allow parking between the building front and street

Mr. Hassemer gave the staff report with the recommendation of denial for Variance A and B.

Staff note: Mr. Lonnee informed the Board that staff members from both Public Works and Traffic Engineering are available to answer any questions.

In Favor: Jim Warnes, agent for R & L Investments, LLC. spoke for the request. Mr. Warnes noted that there are two things that affect this site. One is the location of the property directly across from King Avenue. This is the only property on Broad Street that is limited on the number of driveways that they are allowed. He noted that the design company had met with DOT. They had asked about a right out only but were turned down. DOT will only allow for one entrance directly across from King Avenue. The building has been pushed back to accommodate the required turning radius because of safety issues.

The second variance addresses parking spaces in front of the building. We have tried numerous layouts. The first was with two entrances and exits; however, DOT said no. The second design was with 40 parking spaces and went through Plans Review and was approved. The local franchise owners and land owners were okay with that; however, the Steak and Shake Corporate office said that they need 53 spaces or they won't build.

The third design was to place the building to the western side, which would cause problems with pedestrian and vehicle traffic because of having only one entrance. This would create a safety issue.

We have revised the design to what you see today with the minimum number of spaces and the change in the FAR. We met with staff on other ways to design the site after the request was last tabled. We changed the FAR from 25% to 21.9%. We could have fewer parking spaces; however, Corporate will not go for that.

Steak and Shake has a history of being a good business. Their company knows how many employees they have, how many customers they have at peak times. This number of 53 is not an arbitrary one; it's a number that they know works. He noted several different Steak and Shake locations through-out Georgia and noted that the majority had upwards of 60 spaces.

We are asking for two variances today. The variances are to allow for parking in front of the building and the other for a reduction in the FAR requirements. He noted that he had been involved a year ago when Racetrac looked at this site and the site next door. The neighbors came out in droves against it. The Mayor and Commission denied it. They wanted something on a smaller scale on this site. The residents surrounding this site can walk to this site for food and/or jobs. He added that as far as off-site parking, the owners to the east had a complete breakdown when they were working with Racetrack and there is no way to acquire that property at a reasonable price. Additionally, we would have to combine the properties if we could acquire it. He also added that the road in front of this site is a 7 lane highway. It would be impossible for customers to park across the road and come to the restaurant.

Bob Smith, Smith and Associates noted that they had developed several different site designs. One of the problems with a right out only was that DOT said it would be too close to Colima Avenue. This would cause unsafe traffic movement. He added that moving the building to the eastern point of the site would cause traffic issues within the site. He showed on the screen how the flow of the traffic and pedestrians would be. He added that they have proposed a retaining wall at the rear of the property 10' high located right on the property line. The rear property owner is in agreement with this. We would then add a 10' landscaped area for the apartments behind the site/wall. He noted that there was a comment in the staff report regarding the vehicle circulation. He showed some other site plans and explained the various issues with each.

Don Sumner noted that he represented several properties across Broad Street from this site, including one at 830 King Avenue. He stated that they liked the alignment that DOT has asked for. He is disturbed that they would be held back from developing this because of such a punitive issue. Athens-Clarke County has rules but when it's up against DOT, DOT will always trump them. He expressed support for approval of the variances because of how the property sits.

Tyler Jeffery stated that this property is an eyesore to Athens and anyone who wants to develop on this property should be helped.

Jimmy Wilfong stated that he owns the apartments behind the proposed Steak and Shake. He has 18 units and his tenants are so excited. They are glad that the rat infested building will be torn down. But most of all they are excited about the possibility of jobs and being able to walk to work and to eat there. Mr. Wilfong said he feels that like Steak and Shake Corporate knows what they are doing. The applicant has looked at a number of different options to make this site work. He said he did not feel that giving them the spaces would make a huge difference.

Reverend Abraham Mosley stated that we need jobs in Athens-Clarke County. He says he can remember back when this building was the old Katherine's Kitchen. This building has become a run-down eyesore and is making Athens look bad. This would be a star to the community if we allow Steak and Shake. He

asked the Board to do the right thing here as Athens needs these jobs.

Wayne Robinson, Franchise Owner, stated that he graduated from UGA in 1977. He wants to reconnect with the Classic City. Our goal is to do something that Athens-Clarke County would love. It will be a great asset. This restaurant will bring 100 to 110 jobs and a nice tax base increase to Athens.

Charlie Upchurch, stated that he represented the owners of the property. He has been representing them for years and the only thing that seems to fit on this lot is some type of restaurant. We tried to work things out for Racetrac but had problems with the adjacent property owner. This building was built in 1974. The two main allowable uses for this site seem to be a liquor store or we have had recent interest for an oriental restaurant. However, they did not have monies to update the building for a restaurant. Mr. Upchurch stated because of DOT regulations this is a very tough tract to work with. He added that Steak and Shake has done everything that they can just like Racetrac did. He asked the Board to allow these variances. The current owners do not want to see this become a liquor store and that is looking like the only alternative at this point. He stated that the Board needs to do what they can do to promote growth in this area.

David Dwyer, representative for Steak and Shake commented that the Franchise owner is in it for the long haul. He is committed to have Steak and Shake in Athens. We have had numerous people suggest that we go to Oconee County. I'm an Athenian and am focused on sites in Athens and this is the one that works. This project will bring major jobs and change the appearance of this corridor.

Linda Davis, representative of the Evans Neighborhood Watch said that their group had met. They can see all the challenges that Steak and Shake is faced with. We reached a consensus that bringing in more jobs was very appealing to us. We would like to see a vote in favor of their request.

Jim Warnes just noted that Steak and Shake cannot regulate the size of the trucks that will be delivering food. The majority are 18 wheelers which necessitates the variance requests.

In Opposition: None

Board Discussion: Ms. Bernstein said she was convinced that this would be a good thing for Athens and she likes the business and the location. Her trouble is with Corporations who come in here knowing that we have our ordinances and they want to do it their way. I realize that the parking request is for only 8 spaces; however, if a variance is approved it goes with the property forever. She noted that there had been discussion that they had enough but Corporate says that if they don't get the 53 they will go somewhere else. Mr. Pritchett asked Ms. Bernstein which standards that would affect? Ms. Bernstein said she had not applied them. She said as far as the parking goes, it would be Standards 2 and 3 that she struggled with but it would not be an automatic vote of no.

Mr. Hogan thanked all the people that had come to the meeting. He said that one thing he wanted to point out was that he too is all about bringing jobs to Athens. He continued that all people want to use their property the way that it is zoned. However, the Board is charged with reviewing the variance request to see if it meets Athens-Clarke County standards. The Board has a very narrow focus to consider.

Mr. Hogan reviewed the standards relative to Variances A & B. Standard 1, he agrees with the applicant, that in their view this property is zoned for this. The way the property lines have been worked out over the years has ended up with this shape. The placement of the driveway makes it hard to not have front

parking. Standard 2, whether this is a local business or the corporate office requesting this, it does meet the standard as it is not just for convenience. They are trying to use the site for what it is zoned for and have shown us a plan that will work. Standard 3, this certainly definitely did not occur by any actions of the applicant. They are asking to put a restaurant there and are bringing the minimum variance to meet this. They have tried various ways to meet the ordinance. Standard 4, the benefits would be greater than any negative impact. Standard 5, this is the minimum variance needed.

Mr. Ellison said that he concurred with Mr. Hogan that this request meets all of the 5 standards. He noted that the key is Standard 1. This is the only parcel on Broad Street that has an obligation to have a curb cut across from a major intersection. He reviewed the property giving comment that reinforced Mr. Hogan's review of the standards.

Ms. Kramer stated that if this were not a corporate restaurant and was an independent, they could come in here and this could be built with a minimum amount of site disturbance. We are working with whether we want a corporate restaurant. DOT has limited the driveway to be across from King Avenue, this makes the site constricted and brings the FAR request into play. Steak and Shake usually builds on outparcels and does not have to meet FAR. Look at this as an urban renewal project with constraints on it unique to the site and circumstances. The applicant has worked with the neighborhood and around the area. This then becomes the minimum variance request. She suggested that they condition the approval with a set number of spaces. This would limit someone to the footprint in the future. Additionally, having to line up with King Avenue and only have one curb cut makes it difficult for large trucks to access the property without allowing front yard parking. Ms. King suggested putting a limit on parking. Ms. Kramer said that it could be worded to allow them the 8 spaces. Discussion about this was held.

Motion: # 1 for Variance A: Mr. Hogan made a motion to approve Variance A. Mr. Ellison seconded.

Ms. King stated that if this variance is approved it goes with the property and in the future if there is another owner they would have the same variance. Mr. Pritchett said he had concerns that approval of this variance could under-mine the zoning ordinance and comprehensive plan. He discussed that there are other proposals for this property that could meet the Athens-Clarke County Ordinances.

Discussion of conditioning the approval was held. Mr. Pritchett asked for further discussion on Standard 4. Mr. Anderson said that this will be a great improvement to the site. Mr. Hogan said that because of the size of the lot he is not particularly concerned as it was a small request. Further discussion was held. The motion passed unanimously.

1 for Variance B: Mr. Hogan made a motion to approve Variance B with condition that they are limited to 8 spaces. Mr. Anderson seconded.

Mr. Ellison asked for a clarification if the 8 spaces were full spaces. Mr. Anderson said he was fine if the motion said approval of up to a maximum of 8 spaces.

2 for Variance B Mr. Hogan amended the motion to approve Variance B with the condition that they are limited to a maximum of 8 parking spaces in the front. Mr. Anderson seconded the amended motion.

Discussion was held regarding the required number of parking spaces by Athens-Clarke County. Mr. Hassemer explained that there are two ways to figure this, explaining both. Mr. Pritchett called Mr. Warnes to the podium and asked him how they felt about the proposed condition. Mr. Warnes suggested an alternative motion. He noted that sometimes at Plans Review issues come up that require some slight

alterations. Further discussion was held about number of spaces to condition and how spaces are counted. Other points of discussion were plaza space. Ms. King suggested limiting to maximum of 53 spaces. The Board discussed the turn radius needed. Mr. Lonnee noted that in Plans Review they had not seen too many scenarios that required the lines to shift back and cause problems; if you stay with this plan the line could possibly move 2' which could possibly pick up 2 to 4 spaces. A suggestion was made that the Board could condition to no more than 8 entire spaces or raise the number to 10 to give wiggle room. The Board talked with the applicant about the conditions that could be placed on the property.

3 for Variance B Mr. Hogan amended the motion to approve Variance B with the condition that they are limited to no more than 10 whole parking spaces between the building and the street. Mr. Anderson seconded.

Mr. Lonnee noted that if a portion of a space is included it does not count. The motion passed by a vote of 6 to 1 (Bernstein opposed).

NEW BUSINESS:

1. **530 S. MILLEDGE AVENUE** **VAR-2012-03-567**
Petitioner: Bill Kraeling for Gamma Alpha House Corporation, Inc.
Zoning: C-O (Commercial-Office) Local Historic Landmark; Milledge Avenue Historic District; Milledge Avenue Corridor Special District Overlay
Tax ID: 122D4 F001
Request: A. Variance to reduce perimeter parking lot buffers from 10' to 4' on north side, from 10' to 1' on south side and 10' to 2' on west side

Ms. Eskew gave the staff report with the recommendation of table.

In Favor: Mr. McCleary said that they are requesting that the Board table their request until the next meeting. He talked about what they have been doing with their project. He said they were trying to maximize their parking with the buffer. He added that they have been in discussions with their neighbors to the south and the west to come up with buffer requirements to be reached. They have reached an agreement with the neighbors to the West, Courtyard Condominiums. They have not yet reached an agreement with the neighbors to the South. There is a condominium building that has 4 units. One is owner occupied and the other 3 are rentals. Mr. McCleary reported that the owner living there noted that they have had problems with people hiding in the bushes in the past and with break-ins. He said that they had cleared the area and want to leave it clear. He said that they ran out of time to reach the other owners. He asked to have a table until the May meeting if the Board would agree to that.

Terry Randolph, President of the Homeowners Association, for the property to the South. He stated that they were in support of the table; if not, they would be for denial. He informed the Board that he had just found out about this a couple of days ago and sent an email to one of the owners who lives in Florida in the winter. He noted that the applicants are great neighbors. All of the owners have to be in agreement not just the one that lives there. He said he is concerned about allowing the parking to come to the edge of the property and the 10' buffer falling on their shoulders. We have not had enough time to fully review and give a definitive opinion.

Mr. McCleary stated that he feels that they can reach an agreement within the next 30 days working with the owners to the South.

In Opposition: None

Board Discussion: Mr. Hogan asked if the Board could table for 30 days. Mr. Lonnee stated that they would have to have new information provided to staff by Monday. The submittal deadline for the May meeting has past. Submittal deadline for June 13th meeting is May 11th.

Mr. Lonnee asked Mr. McCleary, how quickly he could resubmit information to staff. He said that they could give them up to 7 days. Mr. McCleary said that he would request they get as much time as possible to meet the May meeting deadline.

Ms. Bernstein asked Mr. Randolph if he said he had just found out about this only 2 days ago. Did the sorority not notify you? A discussion about this was held briefly.

Mr. Hogan suggested the Board table until the July meeting which would give them additional time. Mr. Lonnee said that 7 days is the most that staff can give. They would need to resubmit by midday on Wednesday of next week for staff to get done what they need to do.

Ms. Hilton stated that there is a small wrinkle to this one in that the deadline is past. Mr. Lonnee said that staff could work with them to maybe meet the May meeting.

A question was asked if this were tabled until no later than July could the applicant come back and ask for a further table. Ms. Erwin said that it could be considered.

Motion: Mr. Hogan moved to table Variance A to no later than the July meeting of the Board. Ms. Bernstein seconded. The motion passed unanimously.

OTHER BUSINESS:

1. *Directors Report:* Mr. Lonnee reported that there is no information to share.
2. The next meeting will be May 9, 2012, unless the tabled item is not received in time, Board members will be notified.

The meeting was adjourned at 4:50 p.m.



Adrian Pritchett, Chair



Brad Griffin, Director/Secretary