

**ATHENS-CLARKE COUNTY HEARINGS BOARD**  
**Minutes**  
**February 8, 2017**

The Athens-Clarke County Hearings Board met and considered the following items at a public hearing at 3:20 p.m. on Wednesday, February 8, 2017, at 120 W. Dougherty Street, Athens, Georgia.

**MEMBERS PRESENT:** Sharon Bradley, David Ellison, Mike Lord, Pat Shearer, and Ed Simpson (Chair)

**MEMBERS ABSENT:** Nancy Burk and Joey Tucker

**STAFF PRESENT:** Jane Erwin and Craig Page (ACCUG Planning), Jim Davis (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.** Mr. Simpson made a motion to introduce all reports and documents into the official record. Mr. Ellison seconded the motion, which passed unanimously.
2. **Adoption of minutes from the January 11, 2017 Hearings Board meeting.** Mr. Shearer made a motion to approve. Mr. Lord seconded the motion, which passed unanimously.

**NEW BUSINESS**

- |                               |   |
|-------------------------------|---|
| <b>1. 155 MITCHELL STREET</b> | <b>VAR-2017-01-55</b>   |
| Petitioner:                   | Williams & Associates for Mitchell Street Properties, LLC               |
| Zoning:                       | RM-2 (Mixed Density Residential)  |
| Tax ID:                       | 171B4 E013  |
| Request:                      | A. Variance to allow 11,112 square feet of riparian buffer encroachment |

**Ms. Erwin gave the staff report with the recommendation for Denial.**

**In Favor:** Frank Pittman of Williams & Associates, applicant, stated that he wanted to clear up a couple of mistakes staff made. The area of encroachment listed on the agenda is incorrect. Staff added the two numbers for the site and building together when the total is the 8,700 square feet mentioned for the grading. Construction debris from an ACC road project was allowed to be dumped on the site years ago. The area of the debris extends from up at the road all the way back to the line of disturbance limit shown on the plan. The depth of the debris ranges from about 3 feet to 30 feet. Geo-technical reports indicate that none of the site is stable enough to support any construction. The request is to clean all of the debris out and return the site to original grade. The plan is to revegetate the site. Mr. Pittman noted that the building is set as far forward on the site as possible to allow for the entrance into the parking beneath the building.

He addressed the standards in the report, indicating that the extent of the construction debris dumping area makes the site unusable at this time and is probably why this is one of the last undeveloped sites in the area. Approval of the variance to allow work to clean up the buffer is required to be able to do anything with the site. Negative impacts of cleaning up the property should be none since no one knows what may be leaking from the site into the stream. They intend to clean it up and return it to the original grade. The property owners did not dump the debris, so the conditions are not self-imposed. They are the ones who have to try to clean it up. The mitigation plan is to reduce the slopes by returning the site to original grade. They will have to follow all Local, State and Federal regulations. They will revegetate the site and the tree canopy proposed will be greater than the existing. Extreme hardship is the extent of the debris, all the way to the street. The encroachment limits are those to take the site back to the original condition. The project will not have an above ground pond for stormwater, but no project in the downtown area does, which is typical of downtown areas.

Carl Nichols, one of the owners spoke in favor, noting that the owners have the goal of environmentally cleaning up this mess. They want to get it cleaned out and returned to a stable condition where it is an environmental plus. He said he wants to make this an asset to ACC.

**In Opposition:** None

**Board Discussion:** Mr. Shearer asked Mr. Pittman about uses that could utilize less of the site, requiring less disturbance of the site. Mr. Pittman responded that that might be possible, but it would likely require construction of a retaining wall to reach to the bottom of the debris pile to stabilize the area for construction. The original grade is like that of the adjacent UGA parking lot. Further discussion included the uncertainty of what all may be buried on the site and what may be leaching into the stream.

Ms. Bradley asked about the depth of the proposed parking deck. Mr. Pittman responded that it is intended to be at that original grade. They do not propose to excavate to a lower level. Ms. Bradley and Mr. Simpson reconfirmed the extent and depth of the debris to be removed. Mr. Pittman explained that the back side of the parking deck will afford a view out. It will not be below grade.

Mr. Ellison asked about the period of time that the property has been vacant. Mr. Pittman was not clear on when the demolition occurred. He further noted that another buyer had considered the property a couple of years ago and the geo-technical report at that time indicated that cottages could not be constructed without removal of the debris. A cost exceeding \$300,000 was cited at that time for clean-up. Mr. Ellison also asked about stormwater management facilities for the proposed project and confirmed the requirement to comply with all other agencies' rules and standards for completion of the work. Mr. Pittman explained that an underground stormwater management facility would be installed beneath the parking deck and that the project would have to be permitted and comply with all other State and Federal regulations. Soil erosion and sedimentation control was also discussed. Mr. Simpson noted the staff's comments on the impacts to the stream by the grading. Mr. Pittman confirmed that the work can be accomplished without further impairing the stream.

Mr. Simpson asked about the implications to the project if the variance were denied. Mr. Pittman explained that the cost of the clean-up, retaining wall construction and fill dirt would probably be excessive making the project unfeasible. Ms. Bradley asked about the appropriate disposal of the material that would be removed. Mr. Simpson also asked about what would happen to the site if this project is not developed. Ms. Erwin confirmed that any use for the property would have to take into account the site conditions, and if engineering studies show that nothing could be built, then it would remain vacant. Mr. Simpson also asked about the possibility of then turning the site into a park. Mr. Lord noted that still, no one knows what environmental hazards may be on the site or what may be leaching into the soil and stream. Mr. Pittman explained that the same processes would have to be followed for whatever purpose it was being cleaned. Mr. Shearer also brought up the idea of piping the stream to protect it. Mr. Pittman explained that piping would be worse, with confirmation by Ms. Erwin. Mr. Shearer also asked about what could be placed on the property without violating the riparian buffer standards. Ms. Erwin reviewed the allowable uses, which are basically limited to single-family dwellings.

Mr. Ellison clarified that even with approval of the variance the owners would still have to meet all state and local soil erosion control ordinances and would have to satisfy all environmental requirements. Mr. Pittman confirmed this.

Mr. Simpson provided a summary observation and comments on the challenges before the Board with this type request. Mr. Ellison followed up with comments on how he saw each of the standards being met, including (a)(2)a – the unique circumstance being the debris. Standard (a)(2)b & (b) preservation of property rights and an extreme hardship are met since clearing out the debris is going to require going into the buffer. Further, no residential project is going to be adequate to fund this undertaking. Standard (c) 1 is met because this parking deck is the minimum necessary; standard (a)(2)c is satisfied because the benefits are greater because of the removal of the construction debris; plus state and local authorities will monitor the project. Standard (a)(2) d is met since this was not self-imposed; the owners did not dump the debris. The owners will not violate other ordinances with the necessary review and permitting.

**Motion:** Mr. Ellison made a motion to approve the variance, Mr. Shearer seconded the motion, which passed 4-1(Bradley opposed).

**2. 600 PULASKI STREET**

**VAR-2017-01-59**

Petitioner: Loretta Bork Newcomer for Todd Burton & Pulaski Exchange, LLC  
Zoning: C-N (Commercial-Neighborhood)  
Tax ID: 163C4 B002  
Request: A. Variance to allow front and side elevation metal siding visible from street

**Mr. Page gave the staff report with the recommendation for Approval with conditions.**

**In Favor:** Lori Bork Newcomer spoke in favor stating that the five criteria are met by the historic surroundings of the site making it unique. Criterion 1 - brick and metal used as the primary pallet materials make the proposed structures compatible with the existing historic

structures. She explained how the style and proposed materials would tie the new structures to the project and tie to the surrounding residential structures. Criterion 2- is met; disallowing the use of the metal material would eliminate the compatibility with the historical context and would interfere with the property owner's right to develop a successful project. Criterion 3- materials and context are part of the existing site, which was not created by the developer. The developer wants to create a context sensitive project to also benefit the neighborhood. Criterion 4 is met by the design, which is cohesive with the neighborhood, energy efficient, recyclable, and has high quality hidden fasteners. Criterion 5: the amount of metal is the minimum necessary to meet the architectural goals of the project. Both buildings would be limited to 34% metal only on the upper story. Elsewhere, wood and brick would be utilized. The primary material on the ground story is brick.

**In Opposition:** None

**Board Discussion:** Mr. Shearer asked Ms. Newcomer if she accepts the recommended conditions. Ms. Newcomer responded that she is fine with the conditions; the project meets them all. Ms. Bradley noted that the conditions appear really as a formalization of the application. Mr. Shearer indicated that he feels that all five standards have been met.

**Motion:** Mr. Shearer made a motion to approve the variance with the conditions as recommended by staff. The conditions are: (a) The percentage of metal siding is limited to the overall percentage of 34% of walls that are visible from the front or side yard adjacent to a street.; (b) Metal siding is not permitted on the first floor of front or side yard walls that are visible from or adjacent to a street; (c) The metal siding must be a fabricated architectural building material with a hidden fastening system. Mr. Lord seconded the motion, which passed unanimously.

## OTHER BUSINESS

### **1. Amendment to Hearings Board Rules of Procedure**

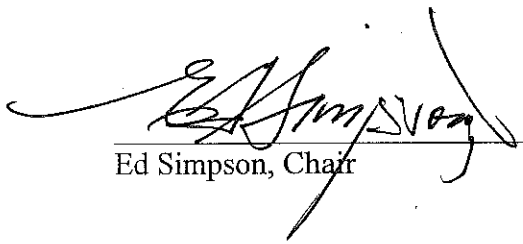
Ms. Erwin explained that the proposed amendment is to formalize the procedure that the Board has been following for the last few months. She noted that there had been confusion with regard to the times allowed for public comment. This simplifies the procedure, giving the applicant 10 minutes, all others 3 minutes, and then an additional 2 minutes for the applicant if needed.

**Motion:** Mr. Simpson moved to approve the amendment; Mr. Shearer seconded the motion, which passed unanimously.

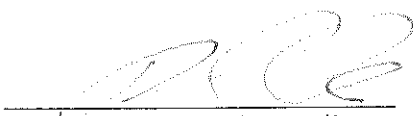
### **2. Planning Director's Report:** Ms. Erwin reported that two applications have been received for next month's meeting.

The meeting adjourned at 4:35 p.m.

Following adjournment, Mr. Davis, ACC attorney, announced that this was his last meeting as he is retiring at the end of the week. He commented that he had enjoyed working with the board.

A handwritten signature in cursive script, appearing to read "Ed Simpson".

Ed Simpson, Chair

A handwritten signature in cursive script, appearing to read "Brad Griffin".

Brad Griffin, Director/Secretary