

MINUTES

Athens Board of Zoning Appeals
June 19, 2019
9:00 AM
Conference Room

ROLL CALL

MEMBERS PRESENT

Chairman Tom Hamilton
John Coker
Randy Heafner
Kenny Charles
Ralph Fenton

MEMBERS ABSENT

OTHERS ATTENDING

Anthony Casteel
Brandon Ainsworth
Aaron Dickinson

Approval of Minutes

The minutes of the April 17, 2018, regular minutes was approved on motion by Kenny Charles; seconded by Randy Heafner; vote – unanimous

Old Business

There was no Old Business to discuss.

New Business

1. **Variance request** by JMD Real Estate Inc. for a nine (9) foot side yard setback variance on a parcel shown as Tax Map 056K Group A Parcel 012.00 and addressed as 1019 Decatur Pike zoned B-3 Intensive Business District.

Chairman Hamilton swore Mr. Dickinson in.

Mr. Dickinson said they are a developer for Fast Pace and they also do Dollar Generals around East Tennessee and Virginia. Fast Pace approached them because they have that building up by the Walmart. They are looking at relocating out of there because it not their typical 3600 square foot building. They came across this lot. Respectfully he was a little shocked.

Mr. Dickinson referred to the Staff Report, page three, item number three. The first reason they give for hardship or special circumstance is "exceptional narrowness." It does not give a definition but using common sense, the minimum lot width is 100 feet wide, and they are at 107 feet wide. He said he would have to think that qualifies as being exceptionally narrow width. Anything under 100 feet is not even considered a lot

by definition. By the time that they meet the setbacks, they are trying to fit this building in 67 feet.

In order to make it work, they need nine feet of relief off of that side 20-foot setback.

Chairman Hamilton said they do have lots of nonconforming lots, but the fact that this lot is 107-feet it definitely conforms to the definition of a lot. It appears to be a narrow lot, but only because it is 400 foot deep. Chairman Hamilton said they do not have ability to change the zoning ordinances or change the variance. This is state law. Chairman Hamilton said it is not the building that is the problem though it is the parking that is the problem.

Chairman Hamilton said they cannot meet the states requirements. He is not facing a situation that meets that criteria. He cannot see a way to vary this.

Mr. Dickinson said they are only eight feet away from having a nonconforming lot and he did not know how much narrow they could get.

Mr. Casteel said if Mr. Dickinson's argument is saying all their (City of Athens) minimum lot sizes in a B-3 (Intensive Business District), will qualify for a variance, he does not believe that is how the Code was written. He said he believed the City wanted it to be designed a certain way and the council voted in a certain way. He said Mr. Dickinson exceeded those regulations so therefore they should be able to design the lot. He has seven more feet from the minimum requirement.

John Coker said the way he understands what they are saying is that Fast Pace has a building footprint that they use all over the country.

Mr. Dickinson said yes, they use the same building all over the country. The building is not that wide, it is only 45-feet wide.

Mr. Coker said why are they just looking at that one particular lot.

Mr. Dickinson said the lot on Decatur Pike are expensive and economically this is what they can make work. The house by Taco Bell that is for sale, the owners want a half million dollars. They did look.

Chairman Hamilton said if they flip the building over, it looks like it will fit on there well. Currently the parking is on the right side of the building, if you flip it over and put your parking on the left side of the building, the parking can be in setback and they will not lose anything.

Mr. Dickinson said it will be the same mirror image if they flipped it.

Chairman Hamilton said it will be a mirror image, but the building would not be in setback, the parking spaces would.

Mr. Dickinson said the 25-foot drive would be condensed to less 20-feet and you really need 24-feet.

Mr. Casteel said what Mr. Dickinson is saying you would not be able to back in and out of the parking spaces because it would not be deep enough.

Mr. Coker asked Mr. Dickinson if he was opposed to flipping the building and not having a boundary between Dairy Queen's parking lot and his facility.

Mr. Dickinson said if you flip it, you will not have enough access for two-way traffic to drive beside the building and access the dumpster pad.

Mr. Coker said he has eleven feet and he has to have twenty.

Mr. Dickinson agreed and said yes, he needs nine feet.

There was some more brief discussion and a motion was made.

MOTION: To deny the request based on Staff's recommendation and their interpretation of the regulation.

MADE: Kenny Charles
SECOND: Ralph Fenton
VOTE: Unanimous
MOTION PASSED

Ralph Fenton, Secretary