

MINUTES OF THE MEETING

Athens Board of Zoning Appeals

November 18, 2020

9:00 AM

City Council Chambers

ROLL CALL

MEMBERS PRESENT

Chairman Tom Hamilton
John Proffitt
Wesley Kite
Dick Pelley

MEMBERS ABSENT

Kenny Charles

OTHERS ATTENDING

Anthony Casteel
Tracey Diehal (virtual)
Mr. Miller (virtual)
Ben Birchfield
Seth Sumner
Gene McConkey
Brandon Ainsworth
Tim Shults

Approval of Minutes

Approval of the October 21, 2020 Regular Meeting minutes

The minutes of the October 21, 2020, meeting was approved on motion by John Proffitt with correction below; seconded by Wesley Kite; vote – unanimous

Mr. Proffitt approved the minutes with a correction on page 4. A correction needs to be made where the transcription says, "Mr. Proffitt said if he was selling, he would need a survey." He said he thought what he was trying to say was, "he will probably need a survey." Add the word probably.

Old Business

There was no old business to discuss.

New Business

1. **Variance request by Tracey Diehal** for an additional wall sign on parcel shown as Tax Map 056 Parcel 121.00 and addressed as 1511 Congress Parkway zoned B-3 Intensive Business District.

Chairman Hamilton swore in Ms. Diehal. He said to his understand the Aspen Dental building will be adjacent to the current PetSense building.

Ms. Diehal said yes.

Chairman Hamilton said the request is for a sign on the front of the building, a sign on the sided of the building and a sign on the rear of the building.

Ms. Diehal said yes. She presented a visual presentation. Aspen Dental Service is proposing to be at the approximate location next to the PetSense. The reason for the need of extra signage is if you look from the shopping center, the building has an entrance to left (the northwest), an entrance to the northeast from behind from the shopping center, and there is also and entrance to the shopping center from the south. When people approach the intersection of the Decatur Pike and Congress Parkway, there is also a need for them to be able to see the building from the North. When you are approaching from Decatur/Parkway you would not actually see the front of the building, when you are getting ready to make that turn. They do not have a good amount of distance to get into the left lane, so the sign on the side wall is necessary. When approaching from the back of the parking lot they will be able see back of the back of the building. Without that sign, there on the back of the building, people approaching through the shopping center would not be able to identify where they will be headed. When approaching from the road roadway you obviously see the front of the building. The signs are necessary for motorists approaching from multiple directions to be able to identify their destination. Aspen Dental is a national dental service and the people who are not from the area that may be using this service, will not be familiar with it. They are not just talking about local citizens; they are talking about transient motorists as well being able to identify this location under distress. If they have an emergency need for dental services, they have to be able to identify where they are going and how they are getting there. The change is not going to create an undesirable change to the character of the neighborhood. There are multiple locations that have multiple signs, Zaxbys, McDonalds (6 wall signs), Papa Johns has three signs, KFC has three signs, and Staples had three signs. What they are asking for is not inconsistent with what the other businesses in the area already have. Whether or not this goal can be achieved by some other method, this is affective for a dental service to be visible under all circumstances for all motorists traveling there. There is no other way for a motorist to identify destination without signage. The signage is necessary for these motorists to be able to find the structure, the points of entry, and prepare lane changes safely. They are asking for the minimum signs necessary. The signs are appropriate for the size of the structure and consistent in size so that there is consistency aesthetically.

They are consistent with what's in the area. She said they do not have a ground sign that she is aware of, so for the wall signs to be visible from the roadway is necessary and granting this variance is not going to alter the character of the neighborhood.

The signs that are proposed are for patrons and motorists to safely identify their destination from any vantage point. There is a unique shape to property and there is a unique circumstance with the dental service being a medical service. There are justifiable reasons for these signs to be proposed at this location.

Dr. Pelley asked where this was located.

Mr. Casteel said it is going to be built north of the PetSense Store between McDonalds. They are going to expand that building towards McDonalds and build an addition.

Dr. Pelley asked if they thought they really needed three signs. He said Aspen Dental is well known, and it seems the size of the building is going to be recognizable. He said he was having a hard time understanding her reasoning for having three signs.

Ms. Diehal said Aspen Dental is a nation dental service, so not everyone who is going to be looking for this building is going to be familiar with the City of Athens. Not everyone traveling to this destination is going to be familiar with this area. Having signage for the various points of entry into the shopping center and the various points of entry from the main roadway, it is important for those people that are unfamiliar with the area to be able to identify their destination and get their changing lanes, moving over, not missing it on a divided highway, and not having to make U-turns. It's really about motorist's safety and motorists being able to get there without having to cause a traffic hazard.

Chairman Hamilton asked Ms. Diehal if she could go back to the picture, she shared from Decatur Pike with KFC in the front. He said relatively speaking, he would be in the westbound lane. He did not think he would be able to see an Aspen Dental sign from that position no matter how big it was. The eye clinic building next KFC looks like it blocks it.

Ms. Diehal said that illustration, that image is presented to merely give an illustration. It is merely to let the people coming from the back of the shopping center know where to go.

Mr. Kite said he has been in that parking lot many times and when you look at the corner of that building, can you not see two sides of the building. If you look at the corner from the parking lot will they not be able to see sign "B"? He also asked what percentage of the customers are for emergency services only, and what percentage are out-of-towners only.

Ms. Diehal said she cannot effectively answer that because that would be a site-specific location question based on this location and when it is up and operational. She said at other locations, it is an average 20-25% urgent and emergent situations but she does not know what the case will be in Athens until it is up and moving. As far as seeing the corner of the building, sign "B" is more towards the front of the lot and there is existing treescape that they suspect will be blocking that sign. It is suspected that sign "C" is necessary. Aspen Dental is not the kind of business to put a sign up just to put it up; the put it up with reason. They don't want to spend money just to spend money. They do it because they feel it is going to be necessary. Sign "C" is where people are going to be entering if they are going to be picking up samples, materials, distributing medications, or delivering to the business, that would be the door they would be using.

Mr. Kite had her to go back to her pictures where she would be turning right from Decatur Pike onto Congress Parkway. He asked if she knew when the photos were taken.

Ms. Diehal said they were taken last year, 2019.

Mr. Kite said, none of those trees are there. All of those trees have been cut down.

Ms. Diehal said ok.

Chairman Hamilton asked if patients who came to the building will be using the rear door.

Ms. Diehal said it is identified as an entrance and she is not sure if it will be a patient entrance or delivery entrance only. She said she does know during the pandemic; they do have patients going in one entrance and out another. She does not know which, she just knows it is an entrance.

Chairman Hamilton said if it is an exit, the sign is not going to help any. He asked for Staff to way in.

Mr. Casteel said the zoning code establishes that the term "shall" shall always be mandatory and not discretionary. Under Section 6, it states the following, "There shall be no more than 2 wall signs per business and the maximum size per sign shall be no more than 200 square feet." He said based upon Tennessee State Law, he could not find anything, unless they think the emergency situation being the exceptional situation. There is nothing wrong with the property, there are no topographical challenges, and they will not be deprived of any use of land. He never did find anything under any of the questions in the Zoning Code or under State Law where he could say this was justified, that is why he asked it be denied.

Mr. Proffitt said it looked all their buildings use a similar design as he could from going online, using brick stone and stucco. He said the signs are about 20 feet long by about 3 ½ feet tall.

Ms. Diehal said that was correct.

Mr. Proffitt said sign "C", looks like it's actually facing the buildings in the strip. A & B are facing more where you will have traffic from those two major highways, Decatur Pike and Congress Parkway. Sign "C" looks like it will be a very specific customer or someone coming in for an emergency, he assumes they would be coming in from Decatur Pike or Congress Parkway, just knowing the traffic patterns in the City, so he too is wondering about the need for sign "C".

MOTION: To deny the request for an addition third sign.

MADE: John Proffitt

SECOND: Dick Pelley

VOTE: Unanimous

MOTION PASSED

- 2. Use on Review request** by ANC Lodge of Athens LLC, for 105 inclusive one-bedroom apartment units on a lot shown as Tax Map 039 Parcel 039.00 located on 115 Liberty Branch Lane zoned B-3 Intensive Business District.

Mr. Patel was not in attendance. He had no computer and under quarantine. Mr. Patel requested the meeting be postponed until the December meeting.

- 3. Variance request by Design Innovation Architects** for removal of dumpster enclosure requirement on a lot shown as Tax Map 065D Group D Parcel 001.00 and addressed as 203 Keith Lane zoned R-2 Medium Residential District.

Mr. Casteel said Item #3 is before them because it is part of the Landscape Ordinance and if they cannot come up with it administratively, they bring it to them to decide the issue. They would like the BZA to bless what they think is best.

Mr. Miller showed them the overall site plan. To the right side is the City Park Site. The school building is in the center. They have located the dumpsters at the loading dock. They do that because they use it frequently throughout the day and pickups are more than once a week so they try to concentrate that and get it up as close to the building as they can as well as try and hide it so they are not visible from outside. They are going be up against an elevated dock. These dumpsters are probably going to be in the

neighborhood of 6-foot tall and it will allow the staff to come out of the food service area, come out onto the dock and they can access the dumpsters from the openings on the sides or they can pull those lids back and open them from the top. They tried to concentrate all the backup housed stuff in this area. They got the cooling tower, which is a pretty tall piece of equipment, they have the transformer that comes into the building, and they have the loading dock which is where the tractor trailer trucks will come and backup and unload their materials and supplies. They built a retaining wall that goes around this area and it is pretty tall because they are trying to screen that area from one of the bus entrances. The buses will be coming in there and it will be used after hours to come into the gym and other spaces. It puts the wall almost 8-foot tall compared to the dumpsters which are about 4-foot. The wall is about 4-foot tall and once it gets to that elevation, it goes about another 4-feet to give that guardrail height. So, they kind of expanded the dumpster enclosure to where it actually kind of goes around that whole area to where the line of sight is right where vehicles come in.

He discussed the walls blocking the dumpster's view. He pointed out the trees on pictures that were provided. The dumpsters are about 300-350 off the road as well.

Chairman Hamilton asked if it was not reasonably legitimate to say those retaining walls for a dumpster enclosure.

Mr. Casteel said yes, the dumpster enclosure requires you to put the gate up; there is no doubt it is enclosed. He does not have to put the gate up; they do not want them to have to get out have to open the gate up every day when doing a delivery and everything else.

Chairman Hamilton asked if the variance they are being asked to grant was to alleviate the gate situation.

Mr. Casteel said yes.

Chairman Hamilton asked Mr. Proffitt and Dr. Pelley if that is the way they understood it and they said yes.

MOTION: To approve the request as presented.

MADE: John Proffitt

SECOND: Dick Pelley

VOTE: Unanimous

MOTION PASSED

4. **Variance request by Design Innovation Architects** for reduction of parking requirements on a lot shown as Tax Map 065D Group D Parcel 001.00 and addressed as 203 Keith Lane zoned R-2 Medium Residential District.

Mr. Casteel said this on is under the Zoning Code so they are back to State Law and what the Zoning Code says they can grant variances for.

Mr. Miller showed the members the parking layout. He said the school system provided them with a full list of the faculty count. He said the full building is which is a Pre-K – 5 is being bid out right now, but there is an alternate in there to reduce the 3-5th grade wing which takes about 600 students out and also reduces parking requirements and removes a gym. This variance is for the full design of the project. These counts are for the full design of the building. Once this thing is fully built, it will have 1340 students to support, and the school system said they need 100 faculty spaces to facilitate the student body. What they did with that was put that into their equation. They said they 35 spaces for Pre-K drop off; they will be dropped off differently. All the other grades will pulled up to the front door and let their kids out, but Pre-K has to be walked in, checked in, and out, so they have segregated that parking from the rest of the drives and parking. That is a designated area and they need 35-spaces for that to happen. There no student parking and no kids drive. They said they needed 24 visitor parking spaces, 12 at entrance of both sides of the school since they have two schools under one roof with two entries. They took those numbers and ran the calculations for zoning and the it said they needed 293 spaces. That means there is going to be 124 what they call overflow parking spaces so with that they went to plan. The site is about 12-acres. For that big of school, you really want to have somewhere around 20-acres, so they are running tight; they have recreation fields across the street. They have pretty much maxed out the area of the site. He showed the site plan on the screen and pointed out each designated color-coded parking area. Zoning requires 293 spaces and they show in the plan now 256, which makes them about 37 spaces short. They then looked at it from a whole campus approach. They went into the existing Middle School and they calculated what that school needed for current zoning and it came up to 175 spaces need there. When looking at the Middle School they looked at it on Google and it only has one parking lot that is striped and the other is a track. So, they went back and opened up the plan to see what they could get. They were able to get 70 spaces in the north lot. The existing one has 70, but with them restriping, they were able to get 81 so they picked up 11 spaces in that one. They were able to get 190 spaces plus another five space for the food service staff. That gets them to 195 spaces and they only need 175 for zoning. With the Pre-K – 5 being 37 they were able to pick up 20 additional spaces over there which brings them to being 17 spaces short for the overall combined school campus. The request is to ask to reduce the parking count by zoning by 17 spaces.

Mr. Casteel said he took that information the Mr. Miller already explained and went even further because of the two gymnasiums he mentioned in the application, that one

of them has bleacher seating, and one does not. He took out the square footage of just the floor itself on the plans which is 3415 sq. feet. He took that out of gymnasium parking calculation because the only place you can sit in this gym is if you bring your own chairs because it is the Pre-K gym.

Chairman Hamilton asked if this was the gym that was proposed, not the existing Middle School Gym.

Mr. Casteel said it is the new building.

Mr. Burchfield said asked if they were including the smaller gym as part of Phase I construction with the larger gym with bleach seating not being included.

Mr. Miller said yes. He said the 3rd – 5th grade wing would be built, and the gym would be built. When running the calculation, they are well over what they need for the project.

Mr. Proffitt asked if the parking spaces were 10ftx20ft.

Mr. Miller said yes.

Mr. Proffitt asked if there was some parking across the street on Matlock in the Middle School property.

Mr. Miller said yes. That will be a part of Phase I. The only parking that goes away with Phase I is the parking in front of the 3rd-5th Grade Classroom Planning. (He then showed the BZA on the diagram).

Mr. Sumner said City Council is funding Phase I.

Chairman Hamilton asked why they were doing this.

There was some more discussion.

Mr. Proffitt said that is good question because it looks as if they are talking about something that is not being proposed to be built.

Chairman Hamilton said he does not see a lot of problem authorizing the variance, but he does see confusion about doing it so far in advance.

Mr. Sumner asked Mr. Miller if there was any chance that the entire project comes inside of \$35 million.

Mr. Miller said he thinks it is going to be hard to get it under 32. They are trying to put everything up for a complete project. If the second part does not get built now, then they will need to make a modification with Middle School Parking. They just need know if that is the direction they are approving. He said now is the time to plan

There was more light discussion.

Mr. Sumner said right looking at this project, now is the time borrow the money if you are going to build something like that. Phase I is fully funded by City Council, and there is no funding for Phase II and Phase III. Other issues they ran into there is no funding for traffic mitigation in those areas. This is going to be millions of dollars. Without a plan by City Council and the School Board themselves, they do not have funding mechanisms to make this happen unless it comes in under \$35 million. The entire funding mechanism for Phase I is not in place because City Council chose not to increase property tax.

Mr. Miller said when the bids come out, they will have a good idea of what the next Phase is going to cost. He said he would like to go ahead and get the Middle School parking modification in there at least as an alternate so they can get the cost plugged into this so they can have a better idea of the total cost of where this thing is going to be down the road.

Mr. Sumner said the City Council can still do whatever they want to do; that is their will. It is wise to go ahead and plan for this because the Council's intention is in the next six years is to have this built.

Mr. Proffitt said his main concern is will the classrooms still look the same. Will it be a whole new way of teaching?

Mr. Miller said every single classroom has virtual learning capabilities, they are on a unit by themselves so they will not transfer air from on stage to the other, they have a lot of hands free, and have done a lot of things to counter Covid.

Chairman Hamilton asked Mr. Miller if they were including in parallel parking spaces going into Athens Jr. High.

Mr. Miller said they are trying to improve the circulation around the school. They proposed the parent entry to come in the southwest entrance and circulate to keep from having overload on Keith Lane.

There was some more discussion addressing the pictures presented.

Chairman Hamilton said it seems like they could pick up the number of parking spaces necessary if they did some parallel parking along the entrance road. You could make it no parking during school hours.

Mr. Burchfield said the main issue is parking for events. If it is a capacity problem, administratively, the school board and administrators will have to stagger events at the middle school and Pre-K – 5 so that they are not trying to do a full blown event at the same exact time and not have enough room.

Mr. Miller said another thing he was thinking about that they did not include in any of the counts was they are preserving the 13 parking spaces along the road on Powers Path. They are not included in any of the calculations that they have given thus far.

Chairman Hamilton said they are not on the campus.

Mr. Burchfield said the traffic flow had not been modeled. It was not included in CD & Smith's design consideration. They need to get some type of confirmation from the school administration whether or not that is going to change because that is going to change everything. It may drastically mitigate some of the issues at other entrances off of Prof Powers and Keith, but like Mr. Miller said, it is to be determined.

Mr. Miller asked if they were sure that CD & Smith did not model that because he thought he sent them something that may have shown that.

Mr. Burchfield said the way they have it wrote down the report shows they have entertained that in consideration, going in/out of that southwest entrance.

Mr. Miller said the other thing they were looking at, it would be striping on the existing pavement, it would not be cutting out and making this grass. He said they were trying to come up with a minimal amount approach as they could, to basically get striping down on the asphalt and leave it the way it is. The asphalt is in pretty bad shape. He said they were not proposing cutting it out and reduce footprint of the asphalt. They are trying to keep that the same.

Mr. Burchfield said he would love for Phase III of the middle school to remove as much asphalt as they can and do post curb and get some of that impervious area out, but that's for another day.

Chairman Hamilton asked if the lots are going to be pervious or impervious.

Mr. Burchfield said it is going to be asphalt. The cost will skyrocket with pervious material.

Mr. Miller said the maintenance of that would be a lot.

Chairman Hamilton asked where all the water was going.

Mr. Burchfield said next to the tennis courts area. It is being converted into a huge pond. He asked Mr. Miller to pull the plan up so they could see it.

There was some discussion on the detention pond that would run from there underneath Crestway and downstream.

Chairman Hamilton said it seems to him, 17 parking spaces is a pretty small consideration.

Mr. Proffitt said they are talking about less than 5% of the 293.

MOTION: Mr. Kite said based on what he sees and the Staff recommendation and Planning, he would put motion forward to approve with 17 space reductions, contention on Phase II being built as proposed.

MADE: Mr. Kite
SECOND: Mr. Proffitt
VOTE: Unanimous
MOTION PASSED



Tom Hamilton, Chairperson