

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 10, 2007 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
Stephen Davitt, Vice-Chairman
Martha Collier*
Vernon Coleman
William Guess
*supernumerary

MEMBERS ABSENT

Sanford Davis
J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Tiffany Green, Secretary I

OTHERS PRESENT

John Lawler, City Attorney

Chairman Cummings noted the number of members present constituted a quorum and called the meeting to order. Mr. Cummings advised all those in attendance of the rules, regulations, and procedures regarding Board of Zoning Adjustment meetings and votes.

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

At this time Mr. Cummings announced that in Mr. Davis' absence, Ms. Collier, supernumerary, would vote in that position. He also announced that today cases would be taken in order per the agenda and called the first case.

PUBLIC HEARINGS:

5426

(Case #ZON2007-01807)

Clearwire Technologies, Inc.

50 North Lawrence Street

North side of Saint Francis Street, extending from North Lawrence Street to North Hamilton Street.

Kimberly Adams, 512 Tombs Street, Palmetto, GA, represented Clearwire Technology. She stated that the company was in the process of building out a wireless internet network throughout the city and needed to attach two antennae to the WillTell Communications building for the following reasons:

- 1) the rooftop has a good deal of fiber network coming into the building; and,
- 2) it has "line of sight" communication to both the Cathedral Place rooftop, as well as the AmSouth building rooftop, which is necessary for the network

deployment.

Mr. Cummings stated that the city's Historical Development Commission and the Urban Forestry department had already given their approval to the project, and in hearing no further discussion, the Chair would entertain a motion.

Mr. Coleman moved to approve the variance subject to the following:

- 1) location of one antenna on the west wall and one antenna on the north wall as approved by the Mobile Historic Development Commission;**
- 2) the planting of one oak tree in the vicinity of the west wall antenna, with the location to be coordinated with Urban Forestry and the Mobile Historic Development Commission; and,**
- 3) subject to the conditions required by the Planning Commission.**

Mr. Davis seconded the motion.

The Chair called the vote, which carried unanimously.

5427

(Case #ZON2007-02041)

Anthony Richardson and Christopher Calhoun, Sr.

1907 Prichard Avenue West

Southeast corner of Prichard Avenue West and Summerville Street

Anthony Richardson spoke on behalf of himself and his co-applicant stating they wanted to open a convenience store at the above referenced location to provide needed staples to area customers who do not have reliable transportation. He stated the location had previously been zoned B-1 and utilized as a convenience store approximately 5 years earlier, however, it had reverted back to R-1 zoning due to lack of operation during that interval. He added that it was not suitable for residential use due to the fact it still had cash registers and soda coolers located on the first floor.

The Chair advised that the staff had recommended the case be heldover to allow the applicants sufficient time to submit a revised site plan indicating parking, maneuvering, landscaping and tree planting requirements.

Mr. Whistler stated the staff's reason for recommending the holdover was because the site has sufficient area on it for the reconfiguration of compliant parking, landscaping and possible ingress-egress control, and the staff has no problem with the use.

The Chair asked if the applicants were agreeable with the holdover and was told yes. The Chair then stated he would entertain a motion on the matter.

Mr. Guess moved to hold the matter over for a month, until the October 1, 2007, meeting. This was seconded by Mr. Coleman. The Chair called the vote on the matter, which passed unanimously.

5428

(Case #ZON2007-02068)

Jane Taylor Shropshire

677 South University Boulevard

Northeast corner of University Boulevard Service Road and Marmora Drive.

Doug Anderson with the Bowron, Latta, & Wasden Law Firm, spoke representing the applicant. He stated the applicant purchased the property in 2002 for the purpose of operating a financial planning services business at the location. While she did obtain the necessary building permits for interior renovations and a change to the driveway, she did not realize the need or obtain a business license for the location. He went on to say the property is located across University Boulevard from a high traffic strip center that is anchored by a Wal-Mart grocery store. Her business, by comparison, has minimum affect on the area. She has one part-time employee, never has more than one customer at the house at a time, with no more than eight customers per week visiting her office. He went on to state that a family would probably have a greater impact, create more of a disturbance than her business.

Ms. Collier asked if the applicant lived on the property at all.

Mr. Anderson stated she did not.

Ms. Collier stated that the house was then vacant when the applicant was on vacation or not there in the evenings.

Mr. Cummings said that it was clear that had an application for a business license been made in 2002 when this person first wanted to operate this business there, that the license would have been denied because it was not zoned for it, as it is located in a residential neighborhood. He went on to say that in as much as it is located in a R-1 zoned area and has homes located around it, there is no hardship on the property that would prevent its use as a home.

The Chair, hearing no further pertinent discussion, stated he would entertain a motion on the matter.

Ms. Collier moved to deny the variance, with second by Mr. Davis.

The Chair called the vote, which carried unanimously.

5429

(Case #ZON2007-02069)

Mujo Hasanovic

1062 Galoway Avenue

West side of Galoway Avenue, 600'± North of McMurray Street.

Mr. Hasanovic spoke on his own behalf, stating he had built the 12 X 12 shed in the back corner of his yard using his fence to the south for two of the walls. He was also planning to put in a decked surface for all of his equipment and bicycles. He also advised the Board that due to his wife's disabilities, they were looking in to the option of putting a swimming pool in the backyard as well.

Mr. Lawler spoke to the Board saying that a number of years ago a case came before the Board with circumstances almost identical to the one before them now. That Board granted the variance, however, the case was appealed by neighbors. The Circuit Court upheld the Board's decision, however, the Supreme Court overturned it saying that no hardship with regards to the property was shown. Mr. Lawler added that as it seemed to be plenty of room to put a storage shed within the property and not violate the rules and stated he thought it would be improper for the Board to be inconsistent with a particular court case that had considered facts just like this.

Mr. Cummings said he remembered a previous case where the property owner built a shed right next to the property line with plans on building a pool and the Board denied that variance. He also stated that had the applicant tried to get a building permit prior to beginning any construction on the shed he now has in place, the permit would have been denied. The Building Permit department would have advised the applicant that the proposed location for the shed was too close to the property lines.

Hearing no further pertinent discussion, the Chair stated that he would entertain a motion on the matter.

Mr. Davis moved to deny the variance which Ms. Collier seconded.

The Chair called the vote, which was unanimously supported the denial.

5430

(Case #ZON2007-02070)

Little Diversified Architectural Consulting

63 South Royal Street

East side of South Royal Street at the East terminus of Conti Street.

Russell Ash of Little Diversified Architectural spoke representing both the building owners as well as the proposed tenant, RBC Centura. The site in question is the Riverview Plaza Office Building located on Royal Street, which is not under the direction of or control by the owners of the Riverview Hotel and it's associated structures. He made the following points for the variance:

- 1) the Riverview Plaza Hotel and the associated parking garage wrap around the Riverview Plaza Office Building;
- 2) the large glass canopy structure situated between the office building and the hotel is part of the hotel property;
- 3) RBC Centura will operate a large retail bank on the first floor;
- 4) though signage has been permitted, there is currently no signage for the office building; and,
- 5) the structure has a two-story entrance façade, which in terms of allowable signage and the physical constraints of the location cause a hardship with regards to signage.

Based upon the physical constraints in place because of the location of the hotel and its associated properties, standard size and placement of signage for the office building would serve no real value to the property owner. Instead, they wish to add a second sign with a 50 square foot

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face for one single business on this multi-tenant site. He added that he felt the signage requested was very tasteful and an appropriate way for the tenant and the office building to get some much needed representation as they are situated between these other buildings.

Mr. Coleman asked for clarification with regards to the positioning of the signs, both the one already permitted and the proposed sign.

Mr. Whistler said the permitted sign would face directly out on to the street and visible when coming south on Royal. The proposed sign would be visible when going north on Royal.

The applicant said that both the permitted sign and the proposed sign would be the same size, interior lit, façade signage mounted flat against a wall. He also asked for confirmation from the staff, that based upon zoning, the site would be allowed a monument sign in addition to the face sign that had already been permitted. He then reminded the Board that they were not looking to create something that was cluttered and that by allowing the additional façade signage, it would eliminate their need for the creation of a street level monument sign that would block things up.

Ms. Collier asked if both signs would be redundant as you might see them both at the same time.

The applicant stated that there might be possible angles that both signs would be visible, but because of the nature of the angle and the way the building is positioned on the site at an angle, it would be a challenge for them to be redundant.

Mr. Davis addressed the fact that as it is a multi-tenant building, it might create a situation with many signs on the façade, each one representing a different tenant.

Mr. Cummings addressed the fact that they were allowed by right to have a free standing sign on site. Due to the fact that the area is paved from the curb to the building, any such sign would appear to be clutter on the sidewalk, even if it were not actually in the area legal defined as public sidewalk. He then posed the question of if one had to choose between their “clutter”, would it be more pleasing to have one wall sign and a free standing monument sign in a pedestrian area in opposition to two wall signs, as this was the applicant’s right to have such.

Mr. Guess asked how many tenants were proposed for the building and how are they identified with the building.

The applicant said that there were approximately 28 tenants who identified through an interior directory. He went on to add that the bank would have a large presence up in the office part of the building, in addition to the retail frontage (i.e. traditional walk-in, bank lobby.) This, he said, was the real difference in this tenant versus the other tenants up in the building.

Mr. Guess asked if the variance were to be granted, could the property owner put in the monument sign in addition to this signage.

Mr. Lawler advised the Board that they could include a condition that prohibited any further signage.

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Mr. Davis suggested the possibility of rather than putting both signs at approximately the same height, that one of them be placed higher, much like those seen on the former Union Planters building located near Bel Aire Mall.

Kathy Hudson, property manager of the Riverview Plaza Office building, addressed the Board saying that type of signage gave the impression of building ownership by an organization and she did not wish to have that. She stated she had a number of other tenants who might not be interested in exterior signage for themselves, but also might not be comfortable being in a building perceived to belong to a specific tenant.

Mr. Palombo asked the Chair if it might be possible to hold the matter over to allow time to get some illustrations, visual aids with regards to the proposed signage from the sign contractor.

Both Ms. Hudson and Mr. Ash stated they had had their sign contractor prepared exhibits just for that purpose and that those were on hand.

Ms. Hudson stated she also had pictures from where AmSouth bank had a sign on that 45 degree angle. She stated it had been removed approximately 8 to 9 years ago.

Hearing no further pertinent discussion, the Chair advised he would entertain a motion on the matter.

Mr. Coleman moved to approve the variance with the stipulation that no free standing sign be placed on the site.

Mr. Cummings seconded the motion and advised the property manager that if the variance was approved it would extinguish the possibility of any other tenants in the building having exterior and/or free standing signage, which she accepted as a condition.

The Chair called the vote, which passed with only Mr. Davis in opposition.

5431

(Case #ZON2007-02071)

Quality Sign Company

55 North Water Street

Northwest corner of North Water Street and Saint Francis Street.

Mr. Guess recused himself from the matter.

Rick Nichols, Quality Sign Company, spoke on behalf of the applicant, Wachovia, in asking for the addition of a 50 square feet free standing monument sign. He stated they have already gotten approval for such from RSA and the Architectural Review Board. He said they did have two approved, permitted signs on the property already, however, the problem is this is a multi-tenant site and they are asking for a free standing sign for one particular tenant, with no additional signage, free standing or otherwise.

The Chair confirmed that the request was for a third sign,

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Mr. Davis asked for the logic for having the new free standing monument sign.

Mr. Nichols advised that it will give them visibility for any southbound traffic on Water Street. The property is extremely close to the street and if someone is across Water Street, the sign on the east elevation is visible, but there is zero visibility if on the southbound side.

Mr. Davis commented that he felt passer-bys would see the Wachovia sign that faces onto North Water Street as they go southbound.

Mr. Nichols stated that as the passer-bys would be so close that there really is no visibility for drivers.

Mr. Cummings asked for clarification on the site plans regarding the location of the existing and permitted wall signs, at which point Mr. Palombo pointed them out on the screen overhead.

Mr. Davis stated that he personally did not see a need for another sign on the site as they already had two signs, one facing St. Francis and one facing Water Street. At this point, Mr. Davis move to deny the variance, with second by Ms. Collier.

The chair, hearing this, called the vote which passed with only Mr. Coleman voting to approve the variance.

5432/5226/810

(Case #ZON2007-02074)

William McGough

1751 Dauphin Street

Southwest corner of Dauphin Street and Hannon Avenue

Jason Darly spoke for the applicant. He stated that he, as well as Chris McGough, practiced law from the location, which is owned by Mr. McGough's father. He also corrected for the record a statement in the applicant of "the applicant began using the site as a lawyers' office in November of '05." Mr. Darly stated this was incorrect, that 2005 was the year they began practicing law. This was in an office located on Government Street across from the Chamber of Commerce Building. He stated that the building currently listed in the application was purchased December 14, 2006, with approximately three and a half to four months of necessary renovations and repairs done before they actually moved into the building some time in March. He said that the home was built in the late 1920's, early 1930's. In approximately 1958, he stated, it became a dentist office, then was used as office space for several attorneys. Mr. Darly said that at some point a Mr. Tim Wells came before the board and requested a variance for the property to establish an AccuStaff office at the location, which was approved. Due to all of this, the interior has been re-fitted for office use. He said it has no kitchen, half baths, the rooms have been made smaller as well, and the backyard is now completely parking lot. He said they have reviewed the staff recommendations and are in agreement with them, but sought clarification on the necessary specification regarding the fence.

Discussion ensued regarding the fence height and material. Mr. Roberts of Traffic Engineering stated they would prefer a fence of 3 feet or less in the front and agreed with wrought iron, as proposed by the applicant.

There was discussion regarding signage on the property. The applicant stated that they had already gotten approval on a sign from the Architectural Review Board.

Mr. Palombo said they were allowed their 1 foot square sign as it is now, attached to the structure.

Mr. Lawler asked if the applicants' currently had a sign in place and had that sign been approved by the Architectural Review Board, to which the applicant responded yes. Mr. Lawler spoke to the Board saying why not simply limit the applicant to the approved sign currently in place.

Hearing no further pertinent discussion, the Chair asked if there was a motion on the matter.

Mr. Davis moved to approve the variance subject to the following:

- 1) compliance with landscaping and trees to the greatest degree practicable, to be coordinated with Urban Forestry;**
- 2) relocation and construction of a 6' high true privacy fence, without open gaps between the vertical boards, along the South property line, not in the parking lot;**
- 3) the reconfiguration of the striped parking area to accommodate five stalls instead of four, to be coordinated with Traffic Engineering;**
- 4) installation of the bumper stops in the parking lot as previously required;**
- 5) any exterior improvements be approved by the Architectural Review Board;**
- 6) construction of a 6' wooden privacy fence along the West property line from the northwest corner of the building southward to the rear property line;**
- 7) full compliance with all municipal codes and ordinances; and,**
- 8) that the signage be approved by the Architectural Review Board.**

Mr. Coleman seconded the motion.

The Chair called the vote which was approved with only Ms. Collier voting against the variance.

OTHER BUSINESS

There being no further discussion, the meeting was adjourned in regular fashion.

APPROVED: August 4, 2008

Chairman of the Board

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