



ZONING BOARD OF APPEALS
MEETING MINUTES

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7 **1. CALL TO ORDER**

8 Chairwoman Livesay called the meeting to order at 6:30 p.m. Commission Members Ott,
9 Willm, Blair, Lanham and Dodge were present. A quorum was present. Staff present:
10 Clerk Pinnell, Building/Zoning Director Donevant and Attorney James Purvis.

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12 **2. PLEDGE OF ALLEGIANCE**

13 Chairwoman Livesay led the Pledge of Allegiance.

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15 **3. AGENDA APPROVAL**

16 Ms. Dodge made a motion to approve the agenda as presented. Mr. Blair seconded the
17 motion. **All members present voted in favor. MOTION CARRIED.**

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19 **4. MINUTES APPROVAL**

20 Mr. Willm made a motion to approve the August 25, 2008 meeting minutes. Mr. Ott
21 seconded the motion. **All members present voted in favor. MOTION CARRIED.**

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23 **5. PUBLIC HEARING**

24 ***ZBA2008-03: Daniel Gordon/Pit Stop Car Wash, 600 Highway 17 South***

25 Ms. Livesay stated that this is the portion of the meeting where the public can speak for
26 or against the variance. Ms. Donevant stated that the applicant is asking for a variance on
27 a property that is located in the highway commercial district and is currently a legal non-
28 conforming structure; it has an existing front setback of 68 feet and 8 inches. The
29 applicant is seeking a 23 foot 2 inch variance in a required 75 foot front yard setback in
30 order to build an addition and make improvements to the building. The new structure
31 would have a 51 foot 10 inch front yard setback. The structure being proposed is a roof
32 awning canopy and is not a habitable space. It was confirmed that the awning is included
33 in the setback requirement.

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35 There were no public comments.

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37 **6. BUSINESS**

38 ***ZBA2008-03: Daniel Gordon/Pit Stop Car Wash, 600 Highway 17 South***

39 It was confirmed by Ms. Donevant that an ad regarding the variance was run in
40 compliance with the requirements. Mr. Gordon was sworn in. Mr. Gordon stated that he
41 is looking to do a major overhaul and added that the building is very outdated. Mr.
42 Gordon stated that his intention is to make the building more aesthetically appealing and
43 went on to explain that during the summer months it is extremely hot for his employees
44 to be working out in the sun so the intention is to construct a shaded area in the front and
45 the back of the building. Mr. Ott asked if the awning would be considered a non-
46 permanent structure. Ms. Donevant answered that it has columns and a foundation and
47 would not be a removable structure. Mr. Blair asked if it would affect the current parking
48 and Mr. Gordon answered that it would not. Ms. Livesay stated that she likes the low
49 country design he presented and then asked if he had considered any type of detached
50 awning that would not be a part of the structure and added that there used to be a canopy
51 over the gas pumps on that same site. Mr. Gordon asked if that would have to conform to
52 the same setback rules. Ms. Donevant answered that it would and added that this is also

53 the location where the cars come in and the detached awning may cause a hazard. It was
54 confirmed that it was just the front awning that would not be in compliance with the
55 setbacks; the side and rear awnings presented in the design are in compliance. Mr. Willm
56 asked if Mr. Gordon had met with the Town Administrator on this adding that the
57 administrator is in the process of working with businesses regarding beautification of the
58 highway. Mr. Willm stated that one of his concerns is that he has not been able to answer
59 all of the required condition questions, one being that the condition of his property does
60 apply to some of the other properties in the vicinity; it is not a unique property. Mr.
61 Willm suggested that perhaps he could revise the plan to exclude the awning in the front
62 and perhaps just put it along the side of the building. Mr. Willm stated that it is not the
63 intention of the Board to put roadblocks up to prevent him from doing what he wants to
64 do but the committee must go by certain criteria to authorize a variance. Mr. Gordon
65 stated that it had been suggested to set up the drying space for the cars in another area but
66 his concern is that it may affect the traffic flow. Mr. Gordon also pointed out that the
67 holding tank for the water reclaim system is located in that side area and the extended
68 awning would be in the way of that. There would be a concern with cars going over it.
69 Mr. Willm stated that the awning may better be utilized on the side so that it could fit
70 more cars underneath at a time. Mr. Willm stated that he can see that the design being
71 presented would allow for a much nicer building than is currently there. Mr. Willm
72 asked Mr. Gordon if his renovation plan would cease if the variance does not get
73 approved. Mr. Gordon answered that it certainly would slow his process down. Mr. Ott
74 had questions regarding the colors. Mr. Gordon stated that the building would be off-
75 white hardiplank and the roof would be green and the plan would be to go green and
76 leave the water reclaim system and add solar panels on the roof to provide solar heat and
77 solar hot water. Mr. Willm stated that the committee must be careful as to what they
78 approve because once the variance is permitted then Mr. Gordon may not necessarily put
79 the awning up; they are not approving the plans presented they are just approving the
80 variance. Ms. Donevant added that the committee can approve it with conditions to
81 prevent this.

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83 Mr. Ott stated that the committee is bound by the State of South Carolina to answer four
84 questions and they are going to have a hard time answering them and added that if Mr.
85 Gordon would have worked with the Beautification Committee it could have helped
86 answer those questions. Mr. Willm stated that if the Town Administrator were to bring
87 this up to the Town Council then they could approve this sort of thing but once it is
88 requested as a variance it goes under a different set of rules. Mr. Gordon stated that he
89 was not aware that he could have pursued it that way. Mr. Willm added that one of the
90 things that the Administrator is trying to do is that he is trying to work with the different
91 businesses along 17 for signage and landscaping. Ms. Donevant interrupted and stated
92 that any variance request would need to go through the Zoning Board of Appeals. Mr.
93 Lanham asked for clarification that the Council and Planning & Zoning Committee could
94 not approve a variance. Attorney James Purvis answered that this was correct. Mr.
95 Purvis stated that an option is that this committee could table this variance and have the
96 applicant work with the Planning Commission on some of the presented ideas and then he
97 could bring it back to the Zoning Board of Appeals.

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99 Mr. Willm asked how long Mr. Gordon owned the property and how long the setback has
100 been in effect. Mr. Gordon answered that he has owned the property for approximately 2
101 years and Ms. Donevant stated that the setback were changed prior to the 2 years. Mr.

102 Willm added that the residents in town have the same issue where the homes are no
103 longer legally conforming. Mr. Willm stated that he does not want to undermine the
104 originally set ordinances by allowing these variances. Ms. Livesay stated that the Board
105 could add special conditions onto a motion adding that the Zoning Board is bound by the
106 four questions and if they can be answered then special conditions regarding
107 beautification could be added. Ms. Livesay stated that she feels that the applicant did a
108 fairly good job of answering some of the questions. The questions Ms. Livesay had were
109 regarding the peculiarity of the property, the size shape and topography of the property,
110 he is a business man who has certain conditions that are peculiar since he is a car wash
111 and his employees work outside. Ms. Livesay stated that it is a hardship for him that he
112 cannot keep employees; they do not want to stand out in 100 degree weather all day. Ms.
113 Livesay added that it is a public detriment; conditions could be placed on the granting of
114 the variance that would greatly improve the look of that corner. Ms. Livesay stated that
115 she would like the Board to think outside of the box a little but if they are not comfortable
116 answering the four questions then it should not be allowed. Ms. Livesay added that she
117 just wanted to make it clear to the Board that special conditions could be added to a
118 motion. Mr. Ott stated that he would like to consider making a motion to table the
119 request and have the applicant go to the Beautification Committee to see if they can come
120 up with some good ideas that could assist the Zoning Board in answering some of these
121 questions. Ms. Livesay stated that the Beautification Committee is not a committee that
122 creates any kind of variances or ordinances; they are a consulting committee and they
123 could present the applicant with ideas but the Beautification Committee would also need
124 the assistance from Ms. Donevant in answering those four questions. Ms. Donevant
125 added that they are a sub-committee of the Planning & Zoning Commission. Mr. Ott
126 asked if they had ideas for 17 Business and Ms. Donevant answered that they are not at
127 that point yet adding that they are in the process of working on this. Mr. Blair stated that
128 invariably this will come back to the Zoning Board of Appeals. Mr. Ott added that it
129 would come back with perhaps some additional beautification suggestions. Ms. Dodge
130 asked Mr. Gordon if he thought about using a temporary canvass awning; something that
131 could be let out and the retracted. Mr. Gordon stated that prior to deciding to design a
132 complete major overhaul they had entertained this idea for the back of the building but
133 feels that it would be difficult to make a canvass awning look good out in front of the
134 building. Ms. Dodge disagreed adding that she feels that it could be a very nice addition
135 and added that this Board may not even have to be involved and asked Ms. Donevant if
136 that was correct. Ms. Donevant answered that it would still need to conform to the
137 setbacks and a canopy on the front would not be conforming, you would still need a
138 mounted fixture to attach the awning and this would not be compliant. Ms. Livesay
139 asked if there was a motion to table the request for a variance. Mr. Blair stated that he
140 does believe that tabling this is the best course to take and added that the Board has still
141 not gone through the questions.

142
143 Ms. Livesay went through the rules of granting a variance. They included an unnecessary
144 hardship to a property owner; reason for the variance could not be self-imposed through
145 action or in-action by the applicant; the granting of a variance could not constitute or
146 create a zoning amendment; the fact that the other non-conforming uses are present in a
147 district are not grounds for granting a variance; the granting of a special condition that is
148 unavailable to others should not be used in granting a variance; a variance may not be
149 granted for a use not generally permitted in a district involved or specifically prohibited
150 by the zoning ordinance; and in granting a variance the Board may designate any special

151 conditions or safeguards that conform to the zoning ordinance; the fact that a special
152 variance was granted for another property is not grounds for a variance; the property
153 cannot be used for any other permitted uses without a variance. Ms. Livesay went
154 through the four questions that they had to answer. They had to answer “yes” to: was
155 there a condition that existed relating to the size, shape and topography of the property; is
156 there an unnecessary hardship, is it a peculiar property and they had to answer “no” to: is
157 it a public detriment? If these are not answered correctly then they cannot grant a
158 variance.

159
160 Ms. Livesay stated that she would like a motion and then there could be further
161 discussion. Mr. Ott made a motion to deny the application. Ms. Dodge seconded the
162 motion. Mr. Willm denied the application due to the fact that it is not a peculiar property
163 from other properties in the area and there was no condition that existed due to the
164 property itself only the business. He is already in business and this does restrict him from
165 doing business. Mr. Willm stated that it would not be a detriment to the area it would be
166 beneficial to the area. Mr. Gordon stated that it does not restrict him from washing cars
167 but it does prohibit his employees from producing as much as they could. Mr. Lanham
168 asked what the Beautification Committee would be able to do for the applicant. It was
169 confirmed by Ms. Donevant and Ms. Dodge who are members of the Beautification
170 Advisory Committee that this group would not be able to assist the applicant with his
171 request for a variance. There was some additional discussion regarding a moveable or
172 retractable awning and how this would probably not be a safe or practical alternative and
173 may still not be in compliance. Mr. Gordon stated that the Board may want to consider
174 the fact that the building was built prior to the changes in the setbacks. Mr. Willm stated
175 that it is the responsibility of the individual who is purchasing the property to look into
176 these things prior to purchasing. There was some discussion regarding special
177 conditions. Mr. Blair, Mr. Willm, Mr. Ott, Mr. Lanham, Ms. Dodge and Ms. Livesay all
178 voted to approve the motion to deny the application for reasons similar to those stated by
179 Mr. Willm. **Ms. Livesay stated that the Zoning Board of Appeals has denied the
180 variance for the front setback for ZBA2008-03: Daniel Gordon/Pit Stop Car Wash at
181 600 Highway 17 South.**

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183 Mr. Willm suggested that Mr. Gordon attend the next Planning & Zoning meeting and the
184 next council meeting to address them on this.

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186 **7. OLD BUSINESS**
187 There was no old business to discuss

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189 **8. PUBLIC COMMENTS**
190 There were no public comments.

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192 **9. BOARD COMMENTS**
193 Ms. Donevant addressed the Board regarding establishing a schedule of set meetings.
194 Ms. Donevant stated that Tom Britton from the Waccamaw Council of Governments would
195 be attending these meeting and it was suggested that the meetings could be held on
196 Wednesdays or Thursdays. Ms. Donevant stated that with the addition of Tom Britton
197 there would be some additional training arranged at Town Hall and this would limit the
198 trips for training in Georgetown.

199

200 Mr. Willm made a motion for Town Clerk Pinnell to look into a schedule that works best
201 for the Town and the Board and set up a regular meeting schedule. Mr. Blair seconded
202 the motion. **All voted in favor. MOTION CARRIED.**

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204 **10. ADJOURNMENT**

205 There was no other business to discuss. Ms. Livesay made a motion to adjourn. Ms.
206 Dodge seconded the motion. **All voted in favor. The meeting adjourned at 7:15 p.m.**

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211 Approved: 03/26/09

Sharon Pinnell, Town Clerk

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Lynn Livesay, Chairwoman

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Guy Lanham, Commission Member

Robert Blair, Commission Member

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Ron Ott, Commission Member

Darrell Willm, Vice-Chairman

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Holly Watson, Commission Member

Ann Dodge, Commission Member

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236 **Clerk's Note: This document constitutes minutes of the meeting, which was audio taped. In accordance with**
237 **FOIA, meeting notice and the agenda were faxed and/or emailed to local media and interested parties. A**
238 **complete list is on file in the clerk's office. The agenda was posted on bulletin boards outside council**
239 **chambers and in the town hall reception area. Meeting notice was also posted on the town marquee.**