

ZONING BOARD OF APPEALS MINUTES MEETING

Tuesday, January 29, 2019
6:00 P.M.

Town Council Chambers
157 NW Columbia Ave, Chapin

Members Present: Chairman Jerry Shealy, Members Frank Mock, Walt Shealy, and Steve Wall

Members Absent: None

Staff Present: Director of Planning & Zoning Nathan Powell and Town Clerk Julie Hammond

Guests: Jaime Bohnke, John Thomason, and JJ Casey

Call to Order: Chairman Shealy called the meeting to order at 6:00 p.m. and determined there was a quorum. The appropriate notifications in compliance with the SC Freedom of Information Act had been met. Member Dan Smith resigned in January because of his appointment to the Chapin Architectural Review Board (a member can not serve on two boards).

Approval of Minutes: Member Walt Shealy moved to approve the Zoning Board of Appeals (ZBA) meeting minutes of September 28, 2017 as presented. Member Frank Mock seconded the motion. All were in favor, motion carried.

Old Business

None

New Business

Variance Request from Jaime Bohnke, Bohnkers LLC, for Mobile Food Vending Requirements for Property at 1200 Chapin Rd: Member Shealy provided a Recusal Statement “Exhibit A” from the proceedings due to being under contract with the applicant.

The ZBA reviewed a Notice of Appeals Application “Exhibit B” requesting a variance from the Mobile Food Vending requirements in Section 607 of the Chapin Zoning Ordinance for property located at 1200 Chapin Rd.

Jaime Bohnke asked not to be subject to the mobile food vending requirements for the following reasons:

1. Rescue of an iconic structure (70-year-old building);
2. Kitchen relative to expense;
3. CSX Property Lease;
4. Overriding CSX Insurance Rider; and
5. Repairs on the structure itself and hardscaping around the building on un-owned land.

She indicated her commitment to the building, the viability of Chapin, and beautifying to make 1200 Chapin Rd a viable site. To make this happen she will need to install a kitchen that is mobile in definition but will be permanently placed because it is on leased property.

Director Powell presented the variance request along with a proposed site plan and pictures of the previous and existing site. He explained the applicants desire to have a restaurant operation at this location. The current building does not have capacity for a kitchen and has limited expansion capabilities due to the size of the lot and location near the CSX Railroad. The property lease with CSX Railroad prohibits the lessee (Bohners, LLC) from erecting a permanent structure on the leased land. However, Bohners, LLC proposes a mobile food truck to serve as a detached kitchen that has permanent placement.

Director Powell indicated the staff produced report "Exhibit C" met the four-part test of a variance which requires proof of hardship:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property:

The applicant owns an existing building on a narrow lot between Chapin Rd and the CSX railroad line. With the inability to give up additional parking spaces for expansion, the owner is limited in creating a viable business at this location. A lease agreement with CSX has given the owner some added space to work with between the building and train tracks. One condition of the lease is that no permanent structure can be built on the leased land. A stationary/mobile food truck would provide the space for a restaurant while complying with the terms of the lease; and

2. These conditions do not generally apply to other property in the vicinity:

These exact conditions do not generally apply to other property in Chapin. The lease agreement with CSX is likely to be the only of its kind made with a commercial business in Chapin. The combination of the limited parcel area (.08 acre), a building worth adapting for re-use, and the cooperation from CSX with a specific limitation make this a very unique circumstance; and

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property:

Denying this variance may unreasonably restrict the use of this property making the leased area useless for the owner or by making it unduly expensive with the combination of property tax, mobile unit registration, potential food truck permit fees, lease payments, and business license. Other uses may not be able to utilize the existing space in the current building or the leased area from CSX without considerably more expense to the applicants; and

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district:

The applicant and family have a long history as business owners in Chapin. The parcel immediately to the west of this subject property is also owned by them. Authorization of this variance will provide for the adaptive re-use of the “Trucky’s” building that has become an unofficial landmark in the Chapin area and provide the Town with a unique building design. This plan is likely to be a nice addition to the various, day and evening events that take place on Beaufort Street and Clark Street as the subject property is within walking distance. The applicants have been known to follow the highest standards in design, use of materials and best practices and have plans for the mobile kitchen to aesthetically match the existing “Trucky’s” building to hopefully create a focal point at a popular intersection and perhaps an enviable eatery too.

Director Powell recommended approval of this request, with modifications to the detached kitchen so as to give the appearance that it is not a temporary fixture. If a change to the Mobile Food Vendor Permit Fee is made, it should be made with the consideration that applicants voluntarily relinquish the right to operate as a Mobile Food Vendor in that they will remain fixed at this location and they have also taken on the lease expense from CSX to make this entire project happen. Any annual or other variation of a permit fee should be in keeping with existing property tax and business license revenue combinations of traditional, Chapin area restaurants. This restaurant establishment will follow the rules and regulations of brick and mortar establishments but will maintain a current vehicle registration for the kitchen unit.

Public Comments: John Thomason, Chapin Historical Society (CHS), was in favor of the variance request. He indicated this building (old Trucky’s Building) will be included in the official Chapin Commercial District (designation should be finalized in September) and ties in nicely with what CHS sees for the future Chapin. He feels allowing this variance would further enhance the charm of Chapin.

Comments by Town Zoning Board of Appeals: Chairman Shealy wanted a guarantee that this would be a non-mobile, mobile kitchen and felt there should be no additional taxation since they are required to hold a business license.

Member Mock inquired if there were any other properties similarly situated (built on the right-of-way line) that back up to the CSX Railroad. Member Wall (a business owner that abuts the CSX Railroad) indicated others sit closer to the railroad and one in particular has a foot of their building on CSX property.

Jaime Bohnke personally guaranteed non-movement of the mobile kitchen, to make it aesthetically pleasing, and possibly even remove the wheels. The mobile unit will be a concession (not truck) version of a kitchen.

Member Mock moved to approve Variance Request #12282018 subject to the findings of fact and conclusions. Member Wall seconded the motion. Mobile Food Vendor Permit, Variance Request #12282018 was approved by a majority vote:

Chairman Jerry Shealy	Yes	Member Frank Mock	Yes
Member Walt Shealy	Recused	Member Steve Wall	Yes

Approve 2019 Zoning Board of Appeals Calendar: Member Wall moved to approve the 2019 Zoning Board of Appeals Calendar “Exhibit D” as presented. Member Mock seconded the motion. All were in favor, motion carried.

Adjournment: Meeting adjourned at 6:27 p.m.

ZBA APPROVED: April 25, 2019