

**MINUTES
CITY OF SUWANEE, GEORGIA
ZONING APPEALS BOARD MEETING
June 21, 2022**

PLANNING AND ZONING APPEALS BOARD MEMBERS: Present: Donald Lee, David Sullivan, and Beth Lembo. Staff members present: Alyssa Durden and MaryAnn Jackson. Absent: Ray Brown and Paul Altnauer

CALL TO ORDER

David Sullivan called the meeting to order at 6:30 p.m.

ADOPTION OF THE AGENDA

Donald Lee moved to approve the agenda as presented, second by Beth Lembo. Motion carried 3-0.

APPROVAL OF MINUTES

Donald Lee moved to approve the amended May 17, 2022 minutes, second by Beth Lembo. Motion carried 3-0.

OLD BUSINESS

NEW BUSINESS

V-2022-006- Owner: John T. Barrett. Applicant: Mulch-It LLC. The applicant requests a variance from Section 610 of the City of Suwanee Zoning Ordinance to allow for a chain-linked fence in a yard abutting a public street that exceeds the maximum height. The site contains approximately 8.85 acres in Land Lot 235 of the 7th District and is located at 265 Brogdon Road.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 610 of the City of Suwanee Zoning Ordinance in order to allow for a temporary chain link fence along a public road. The subject property is located at 265 Brogdon Road. The business is a landscape materials business. The business enclosed their property in 6-foot tall chain link fence, including along Brogdon Road. The applicant indicates that they are leasing the subject property for 2 years with the lease set to expire in November of 2023.

Section 610 of the City of Suwanee Zoning Ordinances regulates fences and walls in the City. Section 610 states, “In a yard abutting a public street only decorative fences or walls shall be allowed. No fence or wall within a yard abutting a public street shall be constructed of woven wire or metal fabric (chain-linked, hog wire, barbed wire, or razor wire, etc.)” (pg. 113). The Ordinance also states, “In a yard abutting a public street no fence or wall shall exceed 4 feet in height...” The Ordinance then proceeds to list several exemptions all of which apply only to residential lots. The fence on the subject industrially zoned property is 6 feet tall and constructed of woven wire. As such a variance is required in order to keep the fence.

The City of Suwanee does not require a permit in order to install a fence. However, fences are required to comply with City ordinances. In this case the applicant installed the fence without

understanding the regulations. The City identified that the chain link fence installed on the subject property does not comply with the requirements of the ordinance and asked the applicant to remove the fencing. The applicant is seeking to keep the fencing for the remainder of their lease on the property. Keeping the chain linked fence would require approval of a variance to deviate from the Zoning Ordinance prohibition of woven wire or metal fabric fences constructed in a yard abutting a public street.

The subject property is located along the industrial Brogdon Road Corridor. The subject property abuts the Norfolk Southern rail line to the south. To the north/west of the subject property, across Brogdon Road, is a large light manufacturing facility zoned M-1. To the east of the subject property, along Brogdon Road and off Capital View Drive, are several light industrial uses all zoned M-1.

The applicant indicates that the reason for the fencing is to ensure the security of the materials stored on site and to prevent people from dumping garbage on the property. The City has previously approved variances for fencing in yards abutting a public street taller than 4 feet in height for security purposes. In the prior cases, the applicants requested fencing that is 8 feet tall, but agreed to a decorative style. These fences can be seen on the south side of Satellite Boulevard between Lawrenceville-Suwanee Road and McGinnis Ferry Road. The applicant is proposing a shorter 6 foot tall, chain link fence, but they are only wanting to keep the fence for the remainder of their lease, which is set to expire in November of 2023.

The subject property does not appear to have a situation which rises to the level of hardship. There are no apparent unusual or extraordinary conditions that would warrant approval of a variance. The fencing regulations are available for all property owners to review and staff is available to explain the regulations if you do not understand them. While the chain link fencing is unsightly, it is located in a less visible area that is also a more industrial area of Suwanee. The applicant is not intending to keep the fencing indefinitely. Provided the applicant is willing to remove the fencing prior to the end of their lease in November of 2023, staff does not object to the temporary fencing. Therefore, staff recommends approval with conditions of V-2022-006.

Donald Lee asked if the City needs anything from the owner, John Barrett. Alyssa Durden stated that the owner is required to sign the variance application.

Beth Lembo noted that condition number 5 states that the property owner shall provide a right of entry to the City.

Discussion ensued amongst the Zoning Board of Appeals members and staff regarding removal of the fence.

David Sullivan called upon the applicant.

Noel Sesmas, 316 Sharon Industrial Blvd, Suwanee, GA. Mr. Sesmas stated that he installed the fence for security reasons. His equipment was being stolen. The property had been burglarized six times.

David Sullivan called for opposition. There was none.

Donald Lee moved to approve V-2022-006 with staff conditions, second by Beth Lembo. Motion carried 3-0.

1. No additional fencing shall be installed on the property.
2. Fencing shall be maintained. Damaged or rusted fencing shall be replaced or repaired in a timely manner.
3. If the fencing remains in place as of December 1, 2023, then the City shall be authorized to enter the property and remove the fence. The City may place a lien on the property or cash a performance surety in order to recover the cost of removing the fence.
4. Prior to January 1, 2023, the property owner shall provide a right of entry to the City for the purposes of removing the fence if it is still in place on December 1, 2023.
5. A surety in the amount of \$5,000 shall be provided to the City. The purpose of the surety shall be to ensure that the fencing is well maintained and to ensure that the fencing is removed prior to the end of the applicant's lease in November of 2023. This surety shall be provided within 60 days of variance approval.

V-2022-007- Owner: Kyoung Ho Lee. Applicant: Kyonghun Chong. The applicant requests a variance from Section 1612 of the City of Suwanee Zoning Ordinance to allow for an additional sign. The site contains approximately 4.45 acres in Land Lot 151 of the 7th District and is located at 80 Horizon Drive.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 1612 of the City of Suwanee Zoning Ordinance to allow for one additional wall sign in excess of the maximum number of wall signs permitted for an individual tenant space. The tenant space is occupied by two separate medical office businesses in an existing shopping center at 80 Horizon Drive.

The subject property is located within the highly commercialized area near the intersection of Lawrenceville-Suwanee Road and Old Peachtree Road. Across the street to the south, is a shopping center and a restaurant zoned for commercial uses. To the west of the subject property, across Horizon Drive is a gas station. To the north of the subject property is an undeveloped commercial property. To the east of the subject property, along Old Peachtree Road, are office/warehouse businesses zoned for light industrial uses in unincorporated Gwinnett County.

Section 1612 of the Zoning Ordinance regulates the amount of wall signage a tenant in a planned shopping center is allowed based on the square footage of the façade that is proposed to accommodate the sign. This section also regulates the number and type of signs permitted per business. Section 1612(C)3.b states:

Signs for individual tenants within planned commercial, industrial, office, and shopping centers:

Maximum Size per Sign Allowed: maximum of 5% of wall area per business, measured by using the leasable exterior wall area per business. Maximum of 200 square feet per sign.

Number and Type Permitted: One (1) per wall per business.

The applicant is a tenant in a shopping center located at 80 Horizon Drive. They own and operate J and J Therapy, a medical office that shares the same lobby as Hope Family Medicine. Both businesses are accessed through separate doors of a shared lobby. Because the two businesses are not completely separated by a demising wall they are considered to be occupying a single tenant space. For the purposes of the sign ordinance they are only entitled to one sign. As such a variance is required if each business is going to have a separate sign.

J&J Therapy is seeking a 21 square foot sign to be placed on the exterior wall at the front of the tenant space. The total square footage of the exterior wall for the J&J Therapy portion of the tenant space is 462 square feet. Hope Family Medicine is already permitted for a 34.6 square foot sign. They provided a calculation of 700 square feet for the exterior wall for their portion of the tenant space. If the spaces were completely separated then based on the measurements provided J&J Therapy would be entitled to 23.1 square feet and Hope Family Medicine would be entitled to 35 square feet. Both signs would fall within the 5 percent wall sign area allowed by the Sign Ordinance (Article XVI).

The City has approved similar variance requests in the past. Walmart has several sign variances approved for the front of their building. They have 3 entrances, 2 at the front and one on the side. It's a very large building with multiple entrances. The approval of sign variances allowed the retailer to clearly indicate which services are most easily accessed by each entrance. The Board also approved a variance request for a much smaller retailer on Lawrenceville-Suwanee Road. In this case, 2 closely related, but separate businesses created an opening in the demising wall between the 2 tenant spaces in order to allow customers to travel from one tenant space to the other more comfortably. This then meant that they were only entitled to one sign even though the businesses were separate.

In both cases, the variances were approved but did not allow the business more signage as an overall percent of the wall area. So, while they did have a larger number of signs, they did not have a larger percentage of wall space. Additionally, in both cases the resulting signage did not create the appearance of clutter on the wall of the building. The signage was orderly, did not appear excessive, and did not detract from the overall appearance of the building.

The subject property does not appear to have a situation which rises to the level of hardship. There are no apparent unusual or extraordinary conditions that would warrant approval of a variance. However, the addition of the second sign would not alter the appearance of the shopping center, since each suite has one entrance and one sign. From the road the signs size would be consistent with signs for other suites in the shopping center. As such, it is likely that approval of this variance would not cause substantial detriment to the public good nor impair the purposes or intent of the Zoning Ordinance. Therefore, staff recommends approval with conditions of V-2022-007.

David Sullivan called upon the applicant.

Kyonghun Chong, 5096 Akord Court, Suwanee, GA. Mr. Chong stated that he has lots of patients coming to the office. The signage will help the patients find the office. Mr. Chong indicated that he is in agreement with the proposed conditions.

David Sullivan called for opposition. There was none.

Beth Lembo moved to approve V-2022-007 with staff conditions, second by Donald Lee. Motion carried 3-0.

1. The total square footage of the two wall signs shall not exceed 59 square feet.
2. The signs shall be located on the building approximately as shown on the submitted variance exhibit "A".

V-2022-008- Owner: Cynthia Lanois. Applicant: Crill Construction & Contracting. The applicant requests a variance from Section 500 and Section 604 of the City of Suwanee Zoning Ordinance to allow for an accessory building exceeding 800 square feet located outside of the rear yard. The site contains approximately 4.59 acres in Land Lot 213 of the 7th District and is located at 3686 Suwanee Creek Court.

Alyssa Durden presented the staff report as follows: The applicant seeks a variance from Section 500A.1.C and Section 604A of the City of Suwanee Zoning Ordinance to allow for an accessory building exceeding the maximum permitted square footage outside of the rear yard. The applicant seeks to construct an approximately 1,200 square foot accessory structure located to the side of the primary structure on the property. The subject property is located at 3686 Suwanee Creek Court and is zoned R-140.

The subject property is approximately 4.59 acres. The parcel contains an approximately 6,842 square foot primary residence that is one story with a basement and a pool. Access to the home is provided via a driveway off Suwanee Creek Court. This driveway runs in front of the house, but also continues to run to the side of the house on the south. The applicant is proposing to situate the garage where the driveway currently ends on the south side of the home.

Section 500.A.1.c states that an accessory building, "shall not exceed 800 square feet of gross floor area." Section 604.A states that accessory structures, "shall be permitted only within the required rear yard unless specifically exempted in this Ordinance." The applicant is proposing a 1,200 square foot detached garage located in the side yard to the south of the main dwelling. As such a variance from these two requirements is needed in order for the structure to be permitted, as proposed.

The main dwelling is 66 feet from the nearest property line, to the south. The 30 foot by 40 foot garage would also contain a small office area and be located within the approximately 66 foot gap between the home and the southern property line. The applicant proposes to use siding on the accessory structure that would match the siding on the primary structure. The primary structure is a mix of brick and siding.

The property has steep topography that slopes down approximately 62 feet from Suwanee Creek Court at the front of the property to the location of the house, where the topography is less steep. Behind the house, the lot continues to slope another 51 feet to Suwanee Creek. Suwanee Creek runs along the rear property line, and much of the rear of the lot is located in the flood plain. There is also a septic field behind the home. The proposed location for the garage would be less impactful on the tree cover and topography of the property than locating the garage behind the home.

The property is heavily wooded and the house is not visible from the street or adjacent properties. The subject property is surrounded by large, heavily wooded, single family lots. The property is located within the Smithtown Road character area. This area of Suwanee is characterized by these large rural lots, many of which have accessory structures. The neighboring properties along Suwanee Creek Court are also single family homes on lots zoned R-140. The average lot size on this street is 2.4 acres, which is much larger than the minimum lot size of $\frac{3}{4}$ acre for the zoning district.

In the R-140 zoning district, accessory structures are permitted only within a rear yard and may not exceed 800 square feet of gross floor area; therefore, the applicant requests a variance from sections 500A.1.C and 604 of the Zoning Ordinance, which regulate accessory structures. The City regulates the size and location of accessory structures to protect homeowners from possible negative impacts of accessory buildings on adjacent properties. The requirements of an accessory structure to not exceed 800 square feet and only be permitted in the rear yard are intended to provide adequate separation between accessory structures and adjacent properties and to ensure that the accessory structures are clearly subordinate to the primary structure.

The lots on Suwanee Creek Court are much larger than most residential lots in Suwanee and are heavily vegetated. These larger lots accommodate more development than a typical residential lot without negative visual impacts on nearby properties because of the greater distance between structures on adjacent lots. In this case, the closest home on a neighboring property would be located roughly 60 feet from the proposed accessory building with much of that area being wooded; therefore, the impacts on adjacent properties should be minimal. The proposed accessory structure would be consistent with the character of the surrounding area and should not undermine the intent of the Zoning Ordinance.

While there are no extraordinary or exceptional conditions on the subject property due to its size, shape, or topography that would create an unnecessary hardship, exceeding the maximum permitted accessory square footage is unlikely to negatively impact neighboring properties. Larger accessory structures are compatible with the character of the area, and the acreage of the subject property allows for substantial distance between the proposed structure and neighboring homes. Therefore, with appropriate conditions, it is unlikely approval of this variance would cause a substantial detriment to the public good or undermine the intent of the Zoning Ordinance. As such, staff recommends approval with conditions of V-2022-008.

David Sullivan called upon the applicant.

JD Crill, 1474 Carter Drive, Buford, GA. Mr. Crill stated that he will be constructing an garage/hobby shed for the owner. It will not be visible from the street.

David Sullivan called for opposition. There was none.

Beth Lembo moved to approve V-2022-008 with staff conditions, second by Donald Lee. Motion carried 3-0.

1. The accessory building shall be a maximum of 1,200 square feet in size.
2. The accessory building shall use cementitious siding that matches that used on the main house.
3. The accessory building shall be located approximately as shown in Exhibit “A” and be located a minimum of 10 feet from the south property line.
4. Prior to completion of the final inspection for the accessory garage, the City will review the visibility of the accessory structure from 3676 Suwanee Creek Court and determine if additional vegetative screening is necessary. Additional shall be provided as directed by the City prior to completion of the final inspection. The screening may include a mixture of trees and shrubs.

OTHER BUSINESS

ANNOUNCEMENT

ADJOURNMENT

Donald Lee moved to adjourn 7:08 pm.