

MINUTES
CITY OF SUWANEE, GEORGIA
ZONING APPEALS BOARD MEETING
July 18, 2023

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

Jennifer Bowser was hired by the City and present for the entire meeting to serve an ASL Interpreter. She provided interpretation for the entire meeting.

CALL TO ORDER

Ray Brown called the meeting to order at 6:30 p.m.

ADOPTION OF THE AGENDA

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

APPROVAL OF MINUTES

Beth Lembo moved to approve the April 18, 2023 minutes, second by David Sullivan. Motion carried 3-0.

OLD BUSINESS

NEW BUSINESS

V-2023-003- Owner/Applicant: James and Shirley Harwell. The applicant requests a variance from the City of Suwanee Zoning Ordinance to allow for an accessory structure that does not meet the requirements of an accessory structure. The site contains approximately 1.11 acres in Land Lot 276 of the 7th District and is located at 4446 Bernice Court.

Alyssa Durden presented the staff report as follows: the applicant seeks a variance from Section 500A.1.c of the City of Suwanee Zoning Ordinance to allow for an accessory structure exceeding the maximum permitted square footage. The applicant seeks to construct an approximately 1,800 square foot accessory structure located at the rear of the property. The 1.11 acre parcel is located at 4446 Bernice Court and is zoned R-140.

The subject property contains a two-story brick and siding clad primary residence of approximately 2,660 square feet. The applicant is seeking to construct an accessory 36' by 50' metal structure that is approximately 1,800 square feet in size for the purpose of storing a recreational vehicle and a boat. Section 500.A.1.c of the City of Suwanee Zoning Ordinance (R-140 Zoning District Permitted Uses) states that an accessory structure “shall not exceed 800 square feet of gross floor area”, and for accessory structures the primary exterior material should match the primary

residence if the accessory structure is greater than 200 square feet. As such, a variance would be required in order to build the accessory structure as proposed.

The subject property is deep with large trees that obstruct the house from view from Bernice Court. The subject property is surrounded by single-family lots of varying sizes, some heavily wooded. The neighboring properties along Bernice Court and along Abbey Hill Road to the south, east, and west, are also zoned R-140. These adjacent properties are well screened by existing vegetation on the subject property and on the adjacent parcels, although the structure would still be visible through the trees from the adjacent lots. To the north, are 2 adjacent lots in the single-family detached neighborhood called Bayswater Common which is zoned R-100. The proposed accessory structure is not well screened and would be more visible from the Bayswater Common properties than the adjacent properties in the same neighborhood.

The subject lot is approximately 200 feet wide and the proposed 36' by 50' structure would be set less than 15 feet from the northern property line and approximately 10 feet from the western property line near the northwestern corner of the property. The property is heavily screened by existing trees to the west. The structure would be 16' tall. The concrete pad was installed with the intention to build the structure upon it. Approval for construction of the pad was given due to a misunderstanding and miscommunication of its intended use between the property owner and the Planning Department. A 36' by 50' pad would be allowed without any permit, but an accessory structure requires a permit and is subject to the size restrictions of the Zoning Ordinance.

Like many of the other neighborhoods that are zoned R-140, Suwanee's largest lot residential zoning district, the lots on Bernice Court are much larger than most lots in the city. The average size for adjacent lots within the same neighborhood is 1.54 acres. The average size for the adjacent lots in Bayswater Common to the north is 0.65 acres.

Accessory structures are permitted uses in all of the City's residential zoning districts. All of the residential zoning districts have the same standard for accessory structures in terms of maximum square footage allowed. However, a 1.1-acre lot is more capable of accommodating a larger accessory building with fewer negative impacts on adjoining properties than a half-acre lot in a subdivision. The City regulates the size of accessory structures, partially, to protect homeowners from the possible negative impacts of a large accessory structure. In this case, the closest home on a neighboring property inside the City limits is located about 50 feet from the proposed accessory structure. One of the adjacent properties to the north has 2 small accessory structures with the larger structure totaling approximately 175 square feet and apparently located approximately 5 feet from the proposed property line. The other adjacent property to the north has a swimming pool as an accessory use. Both properties have a fence with one being chain link and the other a solid wood fence.

Accessory structures should be clearly subordinate to the primary structure on the property and constructed of materials consistent with the primary structure. The primary structure on the property is a two-story brick house approximately 2,660 square feet. The minimum floor area for a home in the R-140 district is 1,250 square feet. An 800 square foot accessory structure is about

64 percent of the size of the minimum floor area allowed in the district. The proposed accessory structure in the case would be about 68 percent of the size of the existing structure. As such, it would appear that the proposed accessory structure would be subordinate to the primary structure.

The City of Suwanee's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. A variance may be granted if the conditions are unique to the property and/or are unlikely to cause substantial detriment to the public good or if the variance will not undermine the intent of the zoning ordinance.

Last year, the Planning Department conducted a review of variance requests related to accessory structures in Suwanee. The review found that the City had received and considered 35 variance requests related to accessory structures since 2000. Of those 35 requests, 34 were approved by the Zoning Board of Appeals. The review found that most of those requests were either located in the historic Old Town area or were accessory structures proposed on lots larger than 1.5 acres. As a result, the Zoning Ordinance was amended to allow for administrative variances for accessory structures on lots larger than 1.5 acres or located in the historic Old Town area. The subject property is smaller than 1.5 acres and is not located in the historic Old Town area. As such the variance request requires consideration by the full Zoning Board of Appeals.

It should be noted that the one of the previously considered and approved variance requests for an accessory structure was for an accessory structure located on Abbey Hill Road about 1,100 feet away from the subject property. That case was considered in 2019 (V-2019-008). The subject property in that case was 2.7 acres. It involved a request for a 2,500 square foot accessory structure that was going to be used to store a boat and cars. The request was approved with conditions.

The lots along Bernice Court are slightly larger than many of the residential lots in Suwanee. These larger lots can usually accommodate more development than a typical residential lot with less impact on nearby properties. In this case, the closest home located to the north of the subject parcel, is approximately 50 feet from where the proposed accessory dwelling would be located. The proposed accessory structure would be located approximately 20 feet away from the accessory structure on the adjacent property to the north. There is currently little to no existing screening between the two properties, although it appears that the neighbors recently planted a row of Leyland Cypress along the property line.

The City has approved a number of requests related to accessory structures over the last 23 years. However, screening is often an important component of the approval. Currently, the subject property does not have any screening between the proposed accessory structure and the properties to the north. In the space where screening might be installed, the property owner has created a gravel area to store a couple of trailers. If the request is approved, the applicant should be prepared to provide screening in the area currently covered in gravel and storing trailers.

In conclusion, while there does not appear to be a hardship, the lot is larger than a typical residential lot in Suwanee. Normally under such circumstances, exceeding the maximum permitted accessory

square footage is unlikely to negatively impact neighboring properties. However, the proximity of the neighboring properties to the north, the size of the accessory structure, and the lack of existing screening may be an issue in this case. This negative effect could be mitigated if appropriate measures to screen the accessory structure are taken. Therefore, approval of this variance should not be a detriment to the public good or undermine the intent of the zoning ordinance. As such, staff recommends approval with conditions of V-2023-003.

Ray Brown asked what the image on page 20 of the ZBA packet was showing. Alyssa Durden stated that it displays the northern property line shared between the applicant and neighbors that must be planted with evergreen trees.

Beth Lembo asked if the applicant filled out the Standards for Consideration or the Planning Department. Alyssa Durden replied the Planning Department filled out the Standards for Consideration.

Ray Brown called upon the applicant.

James Harwell, 4446 Bernice Court, Suwanee, GA. Mr. Harwell explained, through a sign language interpreter, when he first purchased his camper, he was 27 years old and had to remove and redo the driveway. He did this because he wanted to keep it off the grass. At a certain point, he had a generator running and the neighbors complained about noise from the generator. Mr. Harwell stated that these complaints caused Joe Alexander to go inspect the site, at which point he was told the camper could not be on grass. They then made the existing 36' by 50' pad to place the camper on. Mr. Harwell received some more complaints from neighbors, so he thought it would be best to get a structure to store the recreational vehicle and boat. This caused more disagreements, so he was not sure what to do. Mr. Harwell blames Joe Alexander because he never hired an interpreter. Mr. Harwell stated he would be happy to keep the pad, but he thought the neighbors would prefer the structure. He would prefer the structure be red because he is a fan of the University of Georgia.

Jason Harwell, 5752 Newberry Point Drive, Flower Branch, GA 30542, son of James Harwell. Jason Harwell explained he supports and helps his dad due to his physical condition. James Harwell used to use a tarp to cover the camper and boat, but he is unable to do that anymore. This is why they would like to build the structure. The son does not live with the parents, so he must go back and forth to help clean and store the camper and boat.

David Sullivan asked what the proposed material and color of the structure would be.

James Harwell responded saying the structure would be made of metal and he would prefer it to be dark red.

Ray Brown asked if the proposed structure would be 20 feet from the neighbor's accessory structure and if we knew where the boundaries for the property were.

Peyton Chiang stated that he visited the property to take measurements based on an aerial photo of the property lines. Based on these measurements, the proposed structure would be approximately 15 feet from the northern property line and 10 feet from the western property line.

Ray Brown asked the applicant what was the consideration for having a metal structure instead of using materials that matched the primary structure. Ray recommended vinyl siding because brick would be too expensive.

James Harwell stated he did not want any bugs to get inside and the metal they would use would be less likely to rust.

Jason Harwell stated the back end of the property is heavily wooded and things like tree sap would make the building harder to clean. Aluminum would make cleaning easier and can withstand winds of up to 140 miles per hour.

Beth Lembo asked if the applicant could make the structure less industrial, possibly adding wood.

James Harwell stated there was another similar aluminum structure on Abbey Hill Road that he wanted to copy.

Jason Harwell stated wood would put the structure at risk of termites so it was not an option.

Ray Brown clarified his previous question was not about maintenance, but the appearance and impact on neighboring properties.

Jason Harwell asked if the board members would prefer they use siding or color the structure to match the house. He asked what the board is looking for.

James Harwell stated he was planning to upgrade the paint on the house at some point to a dark grey, so maybe that would match better with the dark red on the proposed accessory structure.

Ray Brown called for opposition.

Linda Fritchlee, 102 Saint Martin Drive, Suwanee, GA 30024. Mrs. Fritchlee explained her and her husband have lived in Suwanee for 29 years. They chose to live in Suwanee because of the feel and nature of the City. The variance issue came about when the Harwells hired a contractor to build the accessory structure. Multiple trees were cut down to pour the existing 36' by 50' pad. All of this was done without a permit. Mrs. Fritchlee asked why the Code of Ordinances is in place if the board is able to just override it. She stated the structure will have a huge impact on the feel and value of the adjacent properties. It is a betrayal of the Code of Ordinances and the homeowners to allow for the structure to be built. She would prefer a win-win scenario. Mrs. Fritchlee stated that the structure would give the appearance of a commercial or industrial building and impact existing and future home values. Her first request is that no structure be allowed. Her second request is that if the structure is approved, it must be clad to match the primary residence. Mrs. Fritchlee stated that screening trees would take 10 years to mature and screen the building fully. Mrs. Fritchlee asked how would the board feel if an unsightly structure was built next to their home. Potential future buyers of the home would not want to see such an unsightly building. It could have a

negative effect on the entire neighborhood of Bayswater Common. Mrs. Fritchlee requested if the structure was approved, it must match the primary residence.

Trey Sullivan, 91 Saint Martin Drive, Suwanee, GA 30024. Mr. Sullivan stated he lives in the house on the adjacent property to the northeast. He understands and respects the Harwell's want the structure. The proposed building would be too large due to its close proximity to adjacent properties. He stated if the structure were to be approved, it should have a more residential look and feel. It does not have to be brick. His main issue is the properties adjacent to the proposed structure, not the view from the road.

Steve Sullivan, 112 Saint Martin Drive, Suwanee, GA 30024. Mr. Sullivan stated he can see the pad from his house in Bayswater Common. He was concerned about the materials required to build the structure. He prefers the structure be built with "sticks and bricks with siding". Mr. Sullivan also stated that because the structure would be 16' tall, it would block any potential screening trees from getting sun, causing them to not grow. He was not sure if the pad was inspected and stated it should be inspected if a building is approved.

James Harwell asked if there was time for rebuttal.

Alyssa Durden stated there was around 2 minutes left.

James Harwell stated that he has no HOA, so it would not be a concern for them.

Don Wade, 111 Saint Martin Drive, Suwanee, GA 30024 asked why no rendering was provided of what the structure would look like from the neighbors' property.

James Harwell stated he is 67 years old. He says they have seen many other people with RV's and boats who may want to buy the property. He would like to build the structure because Lake Lanier is 7 minutes from his house and it would give him a place to store his vehicles.

Beth Lembo asked if she had heard correctly that a similar structure was built around the corner.

James Harwell stated that is correct and it is even larger than the proposed structure.

Ray Brown asked if the applicant would consider a postponement of the meeting to consider a different design (size, materials, etc.). He informed the applicant the board could vote now or postpone and give time to come up with an alternative.

Jason Harwell asked if the structure could be kept aluminum, but a different color.

David Sullivan stated the board cannot tell the applicant what to do.

Jason Harwell asked the opposition why they were opposed. He stated the state of the property was much worse before the pouring of the pad and building of the retaining wall.

James Harwell asked why there were requirements when he does not have an HOA. He has lived here since 1993.

Alyssa Durden clarified the City Ordinance requirements are not the same as HOA requirements.

Ray Brown asked again if the applicant would like to postpone to come up with another proposal.

James Harwell asked how long they would have to come up with a new proposal.

Alyssa Durden stated that the next ZBA meeting on August 15.

David Sullivan asked how long the applicant would have to get their proposal into the City.

Alyssa Durden clarified it would be best to submit as soon as possible, but the applicant could submit any time before the August 15 ZBA meeting.

James Harwell asked if they could have 5 minutes to meet separately and discuss their options.

Alyssa Durden informed the board it would be best to make a determination before moving onto the next case.

James Harwell asked the board to vote on the proposal now.

Attached is the staff analysis for V-2023-003, background material, letters submitted by Linda and Jim Fritchlee all of which were provided to the members of the ZBA.

David Sullivan moved to deny V-2023-003, second by Ray Brown. Motion carried 3-0.

V-2023-004- Owner: WDG Suwanee, LLC. Applicant: Funky Chicken – Suwanee, LLC. The applicant requests a variance from Section 1611 of the City of Suwanee Zoning Ordinance to allow for an electronic sign. The site contains approximately 0.64 acres in Land Lot 193 of the 7th District and is located at 3463 Lawrenceville-Suwanee Road.

Alyssa Durden presented the staff report as follows: the applicant seeks two variances from Section 1611 of the City of Suwanee Zoning Ordinance to install one new electronic display menu board and one new electronic display pre-browser board. The subject property is located at 3463 Lawrenceville-Suwanee Road Suite A and totals approximately 0.64 acres. The property is developed with a fast food restaurant (Popeyes) that includes a single lane drive through. The proposed signs would serve the drive through lane. The property is zoned C-2A (Special Commercial District).

The City of Suwanee Zoning Ordinance does not allow for “electronic signs used for purposes other than traffic management and official government signs” (Section 1611). The request to install one electronic display menu board and one electronic display pre-browser board results in the need to obtain a variance. The applicant has indicated the menu board will display offerings with prices and only change when the “limited time offers” change every 6 weeks. The pre-browser board display will rotate through the latest offers from Popeyes and will change very 6-8 weeks.

The applicant is proposing to install a digital menu board measuring approximately 22 square feet and a digital pre-browser board measuring approximately 7.5 square feet. Because the City prohibits electronic signs, a variance is required in order to install the signs. Typically, the City allows for menu boards without sign permits because the message contained on them is conveyed in such a way (small print/symbols) that it is clearly targeting users on the property. Electronic

signs are capable of being used in such a way that the boards could convey messages out to the general public making them signage regulated by the Zoning Ordinance.

The surrounding area is characterized by a mix of commercial and light industrial uses. Across Lawrenceville-Suwanee Road to the west is a mix of light industrial uses including a chef uniform store, an electronics store, and a machine manufacturer (M-1). To the north and east is a collection of office condominium buildings (zoned a combination of M-1 and C-2). To the south is an IHOP (C-2A) and a shopping center (C-2A).

Electronic signs are prohibited as the continuously changing displays are a distraction to drivers. In this instance, it is important to note that the location of the signs and the layout of the property would mean that the signs would not be able to be seen from the right-of-way. Additionally, the message on the signs as proposed would be geared to the drivers in the drive through. The front of the building lies approximately 150 from the right-of-way and the electronic signs will be located in the rear of the building. They will only be visible from the private drive that gives access to the commercial uses behind the building. As such, the digital signs should not cause detriment to the people passing by in cars on Lawrenceville-Suwanee Road.

Since 2019 the City has considered three instances in which a commercial entity proposed electronic displays. In 2019, at the McDonalds on Lawrenceville-Suwanee Road, the applicant proposed 2 20 square foot menu boards and 2 10 square foot pre-menu boards. The board approved the requested signage with conditions. Later in 2019, at the McDonalds on Peachtree Industrial Boulevard, the applicant proposed a 28 square foot menu board and a 14 square foot reader board. The board approved the requested signage with conditions. In both instances, larger non-electronic menu boards were being removed. In 2022, at a gas station on the east side of I-85, the applicant proposed to remove a large roof sign and replace it with a ground sign that included an electronic display. The board approved the request. This case is not quite the same situation as the current request, but the two requests approved by the City in 2019 are very similar to the current request.

The City of Suwanee's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. A variance may be granted if the conditions are unique to the property and/or are unlikely to cause substantial detriment to the public good or if the variance will not undermine the intent of the Zoning Ordinance. In addition, a variance may be granted when such conditions are not the result of any actions of the property owner. In approved with appropriate conditions the signage would not undermine the intent of the Zoning Ordinance.

Although there does not appear to be a hardship, the proposed signs being located so far from the right of way and the size and orientation of the 2 requested signs should not cause substantial detriment to the public good or impair the purposes or intent of the Zoning Ordinance. The board has approved similar requests in the past. Therefore, staff recommends approval with conditions of V-2023-004.

Alyssa Durden proposed that a condition be added for the existing landscape island on site be brought up to standards determined by the Planning Department before allowing the installation of the electronic signs.

Mr. Patel, owner of the Popeyes stated he would love for the signs to be operable. They are using cardboard right now. He stated he would be happy to work with the Planning Department and the landscape island can be done in 3-4 weeks.

Alyssa Durden stated that the applicant has been given sufficient time to address the landscape island and it has still not been completed. Therefore, the new condition should be added if the variance is approved.

Mr. Patel stated that if the island were expanded as requested, it would soon be destroyed due to cars and trucks running over it. He stated there was not enough room for the expansion.

Ray Brown asked if a date needed to be set for the landscape island to be finished.

Alyssa Durden informed the board they are voting on approval with only the proposed conditions.

David Sullivan moved to approve with conditions V-2023-003, second by Beth Lembo. Motion carried 3-0.

The Planning Department recommends approval of a variance to allow for electronic signs subject to the following condition(s):

1. The property shall be limited to a maximum of 2 electronic signs.
2. One signs shall be no larger than 23 square feet.
3. The second sign shall be no larger than 8 square feet.
4. The signs shall be located in approximately the same location as shown on “Exhibit A”
5. The displayed message shall not change more than once per hour.
6. The size of the font and any symbols on the sign shall not be large enough to be clearly visible from the right-of-way.
7. The landscape island in front of the adjacent shopping center shall be completed to the satisfaction of the Planning Department prior to the installation of any electronic signs.

OTHER BUSINESS

ANNOUNCEMENT

ADJOURNMENT

David Sullivan moved to adjourn at 7:40 pm.