

Town of Wallburg, North Carolina
BOARD OF ADJUSTMENT Meeting
Wallburg Town Hall
Tuesday 7:00 P.M.
SEPTEMBER 6, 2011

MINUTES
BOARD OF ADJUSTMENT
APPROVED 10-04-11

CALL TO ORDER Dean Coe
At 7:02 p.m., Chairman Dean Coe called the Board of Adjustment meeting to order.

DETERMINATION OF QUORUM
Present constituting a quorum were: Dean Coe, Van Reece, Chris Driggers, Wayne Wall, and Brent Martin. Also in attendance were: Town Clerk Lynn McKinnie and Planning Supervisor John Mendenhall.

SWEAR IN WITNESSES AND SPEAKERS FOR PUBLIC HEARING

Chairman Dean Coe swore in the following participants as witnesses/speakers at the Public Hearing:

Mr. Coe: "Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth?"

1. Melinda Nguyen (I do.)
2. Kevin Young (I do.)
3. John Mendenhall (I do.)

OPEN - - - PUBLIC HEARING:

Advertised August 19th and 26th, 2011

By motion of Chris Driggers, seconded by Van Reece, and unanimously approved by the Board, the Public Hearing was opened at 7:04 p.m.

****Statement of case presented by John Mendenhall.....**

Request by General Security for a Variance to Section 7-5c, Sign Placement in a CS (Community Shopping District).

Said property is located on the west side of North NC Highway-109, approximately .2 mile south of the Gumtree Road intersection.

Said property is further described as Abbotts Creek Township, Tax Map 2, Lot 39

– containing .99 acre more or less.

PRESENTATION OF CASE:

Mr. John Mendenhall, of Davidson County Planning, spoke first, giving a synopsis of the variance request.

“Mr. Chairman, we have a request by General Security for a variance of Section 7-5(c) Sign Placement in a CS (Community Shopping District). Said property is located on west side of North NC-Highway 109 approximately .2 mile south of the Gumtree Road intersection. Said property is further described as Abbotts Creek Township Tax Map 2, Lot 39, containing .99 acre, more or less. This came about due to this company got a permit to put a sign there at the entrance, that driveway or road entrance into the property there and on the permit it was stated on the permit that they had to be five-foot (5') from the property lines. However, the sign was placed there right beside – about 3-foot off of the asphalt pavement there – on the north side, which is approximately right on the property line. One of the sign legs is directly on the property line – the other one’s just a little bit off. But, anyway, I received a complaint in the office about it so that’s when I found out it was not placed in the correct place. There’s two ways to correct the violation. One is to remove it - the other is to apply for a variance – to see if you can get a variance from the rules. So that’s what General Security did. And, I handed out a couple of photos showing where the property line is in proximity to the sign and also the little grassy area, and the flower bed area there between the sign and the edge of asphalt. I didn’t get up there and measure it – I should have – to measure the width of that driveway. It’s approximately about thirty five feet wide – or maybe forty – I’m not sure what it is. It’s actually pretty wide – I should’ve done that. I measured it on the aerial and it came out to about 35 or 40 foot wide. Anyway, they do have limited space to put a place there. You know, this business here is off the road – the frontage it has is the strip where the road’s at. They actually own that strip – comes out to the road. It’s kind of what we call a “panhandle lot” where it’s a narrow strip and then it goes back to their property that widens out. The other two businesses use the road to get in – they have access to use the road to get in. They are the businesses on either side of the driveway. They didn’t have the place to put a sign other than somewhere right there beside that driveway that can be seen from 109, like the other two businesses have. They both have signs out in front of their businesses. The sign company that put it up did come in and apply for the variance and the sign is approximately about three foot off that pavement. There’s about 3-foot in there. They got a flower bed around it and all but as far as the size of the sign, it’s legal. Of course, I checked that before we sold the permit and worked with the sign company on that. I’ve got some more photos if ya’ll need to see it. I think the one I gave you is the best photo showing where the property line is with the sign. That’s what this company has done to apply for this instead of just going ahead and taking the sign down. On the other side of the entrance is mailboxes and there is not any more room over on that side to put the sign and with the mailboxes there, I thought that might be a little more dangerous – you know, like hitting a kid or something. The applicant, Ms. Nguyen, is here – she’s the one

that has worked on this variance for the General Security. She's with the sign company. If you have anything else, I'll be glad to try and answer."

Mr. Coe: If there's nothing else, we'll go on to the applicant's request for variance.....Ms. Nguyen – if you'd like to speak now.

IN FAVOR:

(1) Melinda Nguyen – General Security

135 E. Dayton Ave
High Point NC

We just really want to try to get this variance. The company is about 300-feet off the road so they're really not seen from the road. I mean, you can see the building from the road but to be able to see and see what they do – what type of business – is back there. Nobody knows what they do and what they're back there and that's why we have that sign up there. We originally put it there to begin with because we thought we had paperwork showing an easement – that we had like a 5-foot, 3-foot easement – and that's why we put it there. We didn't realize we were three or four inches onto his property line because what we had was an easement showing that we had 3-foot on each side of the driveway. It's like John said, there's really no other place to put it. I mean, on the other side, you've got the mailboxes and I even had it located on the other side and there's nothing but power lines, pipes and everything on the other side so we can't really drill over there if we could, if there was one – to put the sign. But they've got to have a sign to get known. If they don't have their sign out there, they're going to end up losing business. They lose business – the people that's in with the shopping center with them, in that little strip back there – they're going to end up losing business, too. They've got to be seen back there. I think that's it.

SUMMARY OF WHAT COULD BE HEARD:

Mr. Coe: Okay. Anyone have any questions for her?
Mr. Driggers: Is the sign post actually on someone else's property?
Ms. Nguyen: It is on Young's Cleaners property side, about five inches, maybe? But, like I said, we thought – and we've got paperwork for an easement that did have a three-foot on each side. And that's why we put it there because we thought we had that easement to cover.
Mr. Martin: Is the property actually on the driveway itself?
Mr. Coe: Yes.
Mr. Mendenhall: One driveway serves three businesses.
Ms. Nguyen: There is another reason we need a sign is we're there back about 300-feet off the property and in case of emergency, nobody's going to know the address. So on that sign they have their building address to where if the fire department needs to find an address they can.

Mr. Coe: Okay. We'll hear from anyone opposing this.

OPPOSING:

(2) Kevin Young – Young’s Cleaners
158 Fonsbrook Rd. (??)

I own Young’s Cleaners and to kind of clarify the – when, we talked to D.O.T. about putting in a driveway, I believe Marvin Walters was the property owner of this parcel that they’re _____ which was split up later one. D.O.T. said that we could only have one driveway and Marvin and I agreed that we would share a driveway and that’s where it would be and then he subsequently sold the property to the new owners. Ok. So D.O.T. was only going to give us one driveway – period! As far as the sign goes, I understand ya’ll got a hard decision to make. My fear is, the sign is already ---- on the side that it is on, as you turn in, you are turning in that sign is right there to the right of you. So, you’ve got cars coming in, maybe 20 – 25 miles per hour, maybe faster, turning in that driveway. Well, right now, part of the sign is on my property. So, you’re going to end up moving that sign closer to the edge of the driveway, which is going to put it more at risk of being hit or causing an accident. And this is not the only sign that they have that is on my property. There’s also another sign that’s back down by their building that’s also sitting on my property, so, you know, it’s.....I don’t have anything against these people. I just am aggravated because they just seem to decide this is what we’re going to do – and do it and then that’s kind of the way it goes. This Spring, I also had some trees cut down by a landscaping company they were using. Heard chain saws, went back to see what was going on and the guy was cutting trees down off my property. I said, “What are you doing?” And he said, well, General Security wanted to have some grass right there. So, you know, like I said, ya’ll have a hard decision to make – whether the sign stays or whether it goes, or, you know – as far as the granting the variance, you know, the ordinance was put in originally for a reason. That’s kind of all I’ve got to say and if ya’ll have any questions....?

Mr. Wall: Does this sign block your vision?

Mr. Young: I don’t know that it blocks – no, sir – it doesn’t necessarily block the vision coming in but it is right – I don’t know whether you got a picture of it -

The Board and others look at photographs and discuss the issue.

REBUTTAL VIEWS:

Mr. Coe: Melinda, is there anything you’d like to say?

Ms. Nguyen: I would. That second sign he was talking about – it’s gone. It’s removed. They had it installed about four years ago. The sign company that did it, did not – he thought they got a permit for it. He didn’t realize they didn’t because he hired the sign company to do it anyway. It wasn’t us. We did not do that one. But it is removed – that one is removed – it’s no longer there. And as for pulling into the driveway hitting a _____, that driveway is almost 40-foot. I mean, there’s enough room for you to pull in, and miss that sign completely. You’ve got 40-foot to see the _____. And, of course, turning into that driveway

25-30 miles per hour.....I mean, granted, it is a big driveway but they're not really turning in 25-30 miles per hour. And for the trees he's talking about that got cut down.....a bad storm come across and some stuff landed on his property. They never

Mr. Coe:Trees don't matter – that's not a part of this.

Ms. Nguyen: But, I mean – I don't think it's going to be in the way here. We're going to put it probably about a foot from the driveway, but the driveway is 40-foot. There's plenty of room for a car to pull in there.....When you're coming off that road, everybody is going to slow down to pull in. They're not going to be speeding when they're trying to get in there because it's a small little strip area. But that's it!

Mr. Coe: Kevin, do you have anything else you'd like to say?

Mr. Young: Is the easement 40-foot? The driveway is not.

Mr. Coe: Thirty foot.

Mr. Mendenhall: Probably 35 – or something like that. I didn't measure it. The driveway is not all the way to the edge of the property line. It's maybe about 3-feet from the side of the property.

Mr. Martin: The thing is, that sign is going to be moved because part of it is on the property.....

Mr. Mendenhall: They'll have to either get the variance to move it or take it down because they can't meet the 5-foot without putting it out in the asphalt.

Ms. Nguyen: We can get it on to our property if we can move it about a foot. It will be on our property.

Mr. Mendenhall: What we're asking for is a four-foot variance. That way the sign will be a foot from the property line - in between the property line and the asphalt.

SUMMARIZATION:

Mr. Coe said the sign company was asking for a four-foot variance. The sign is required to be 5-foot off property line and the driveway is approximately 35-feet wide and they cannot move it. They don't have any other place for the sign. It is approximately 3-feet from the side of the pavement. There are mailboxes and utilities on the other side of the pavement. The applicant's building is approximately 300' from NC-109 and a sign is needed for clients and address for 9-1-1. Opposition did not want sign on the property line and was afraid someone would run into it so close to the driveway.

CLOSE – PUBLIC HEARING

By motion of Wayne Wall, seconded by Van Reece, unanimously approved, the Public Hearing was closed at 7:29 p.m.

FINDING OF FACTS:

#1 – Due to location of applicant's property, and of pavement width of driveway, alleged hardships and practical difficulties are unique and singular with property

similarly located.

MOTION: TO ACCEPT THIS FACT
BY: BRENT MARTIN
2ND: VAN REECE
VOTE: UNANIMOUS VOTE

#2 – Failure to grant variance will prohibit the applicant from placing a sign that can be seen from NC Hwy 109 in a practical location.

MOTION: TO ACCEPT THIS FACT
BY: CHRIS DRIGGERS
2ND: WAYNE WALL
VOTE: UNANIMOUS VOTE

#3 – Granting a variance should not interfere with rights of contiguous properties.

MOTION: TO ACCEPT THIS FACT
BY: BRENT MARTIN
2ND: WAYNE WALL
VOTE: UNANIMOUS VOTE

#4 – Permitting an on-site sign placed on front (road side) of a commercial property is expected. However, due to extra wide paved driveway at this location is creating a hardship. Granting a variance due to hardship would serve the general intent and purpose of ordinance.

MOTION: TO ACCEPT THIS FACT
BY: VAN REECE
2ND: CHRIS DRIGGERS
VOTE: UNANIMOUS VOTE

#5 - Due to aforementioned reasons, substantial justice would be done by granting the variance.

MOTION: TO ACCEPT THIS FACT
BY: CHRIS DRIGGERS
2ND: BRENT MARTIN
VOTE: UNANIMOUS VOTE

The Board of Adjustment will need to vote on the 4-foot variance request:

**MOTION: TO APPROVE THE 4-FOOT VARIANCE REQUEST OF
GENERAL SECURITY
REQUEST BY GENERAL SECURITY FOR A VARIANCE TO
SECTION 7-5C, SIGN PLACEMENT IN A CS (COMMUNITY
SHOPPING DISTRICT).
SAID PROPERTY IS LOCATED ON THE WEST SIDE OF NORTH
NC HIGHWAY-109, APPROXIMATELY .2 MILE SOUTH OF THE
GUMTREE ROAD INTERSECTION.**

SAID PROPERTY IS FURTHER DESCRIBED AS ABBOTTS
CREEK TOWNSHIP, TAX MAP 2, LOT 39 – CONTAINING .99
ACRE MORE OR LESS.

BY: VAN REECE
2ND: WAYNE WALL
VOTE: UNANIMOUS VOTE

ADJOURNMENT:

BY MOTION OF CHRIS DRIGGERS, SECONDED BY BRENT MARTIN,
UNANIMOUSLY APPROVED, THE BOARD OF ADJUSTMENT MEETING
WAS ADJOURNED AT 7:42 P.M.

SUBMITTED BY:

LYNN MCKINNIE
TOWN CLERK

ANNOUNCEMENTS:

- 1 **PLANNING BOARD MEETINGS** (1st Tuesday of the month)
7:00 P.M. AT WALLBURG VOLUNTEER FIRE DEPARTMENT

VISIT THE TOWN'S WEBSITE: **www.townofwallburg.com**