TOWN OF GEORGETOWN - BOARD OF ADJUSTMENT

Meeting Minutes
January 4, 2017

ATTENDANCE

Board Members
Jane Hovington
Eric Evans - absent
Shirley Hitchens
Ray Hopkins

Staff
Jocelyn Godwin
Jamie Craddock
John Paradee, BOA Solicitor

1. **CALL MEETING TO ORDER**
Chairperson Hovington called the meeting to order in the Town Hall at 5:04 p.m.

2. **APPROVAL OF SEPTEMBER 6, 2016 MEETING MINUTES**
Member Hopkins moved, seconded by Member Hitchens, to approve the September 6, 2016 regular meeting minutes as presented. **APPROVED (UNANIMOUS)**

3. **Public Hearing: BOA CASE #2016-13**

An application by Pennoni Associates, Inc., on behalf of Jerry and Maria Hammond, requesting from the Code of the Town of Georgetown (1) a special exception from §230-152 (A) for a waiver of the required loading space and (2) a special exception from §230-151 (F) for a reduction of the required 25' interior drive width to the proposed 24'. The property is located at 511 North Bedford Street, identified as Sussex County Tax District 135 Map 14.16 Parcel 20.00 zoned UB1 (Urban Business).

Mrs. Godwin confirmed that the application had been duly advertised. Two letters were received and included with the Board packets.

Carlton Savage, of Pennoni Associates, presented the application. The applicant gave reference to Code §230-182 allowing the Board to provide Special Exception to loading requirements. A loading space is required of 12' x 40'. The prior loading space was in the front of the building; however, there is not 12' x 40' available. The logical location is in the rear, which is being used for parking. The restaurant will be open for lunch and dinner and deliveries will be made before business hours. There is adequate space within their back parking area for a truck to be off the street and unload safely. There is no need for an additional 12' x 40' space and more impervious area.

For item 2. There is not adequate width to the parcel to provide 25'. 24' is typically required by other codes, including by the Fire Marshal, and 24' is more than adequate for a fire truck or for cars backing up and out.

Chairperson Hovington asked for any comments from the public either for or against. Ethel Rockemann, lives across the street from the proposed restaurant, and is opposed because of the trouble getting in and out of her driveway. There is too much traffic and it bottlenecks. She also submitted a letter. (Correspondence Exhibit #2)

The applicant presented a letter (email) from Terry Megee in support of the application. Chairperson Hovington read the correspondence. (Correspondence Exhibit #3)

Correspondence was also received from Donald Wayne Alexander in opposition of the application for basically the same reasons as Mrs. Rockemann. (Correspondence Exhibit #1)

Member Hopkins clarified that the road is a state maintained road and that the zoning of UB1 allows the business. Concurrence was given of the traffic issue.

Mr. Paradee, Town Solicitor, explained the two exceptions requested and asked if the concerns are driven by the exceptions or the overall use of the property. Mrs. Rockemann confirmed her concerns would be the same if no special exceptions were requested.

Mr. Paradee addressed the applicant with the three provisions of Code (§182.A.) that apply. The applicant stated that three of the surrounding properties are in favor and are not adversely affected. DelDOT and stormwater agencies have no objections. The building is 2,122 sf, just over the 2,000 feet requirement. It is impractical for the applicant to meet the loading requirement due to the size of the lot, location of building and entrance location.

The Board questioned the parking calculation and the applicant confirmed there would be four on staff, one space per two required, and then the 1,100 sf for patron use requires one per 50 sf, for a total of 24 required. A reduction was approved by the Town Manager of four spaces, less than 20%.

The applicant confirmed that their intent is to have deliveries made early in the day and to have the trucks pull in to the back entrance and park in the parking lot.

The Board questioned the need for insurance if unloading were to occur from the street. Mr. Paradee clarified that any exposure to liability by the Town is covered by the Municipal Tort Claims Act. The Town would be immune. There is also sovereign immunity by Delaware statute for municipalities.

Jerry Hammond, the property owner, stated that deliveries are made every day in Town and liability insurance is not required.

Mr. Paradee restated that the exceptions do not create an adverse consequence that isn't caused by the use itself. The applicant satisfies the criteria set forth in §230-182.A.2. and A. 4. in regard to the loading space. For the interior drive width, a 12" difference is relatively minor and is not going to change the nature of the concerns.

Member Hitchens stated the applicant had shown it can be done and that the traffic is terrible everywhere. Yes to approve.
Member Hopkins stated yes to approve. He is pro-business. The code does not prohibit a restaurant there.
Chairperson Hovington stated her support would warrant a condition of loading and unloading to be done in the parking lot and not in the street.

Charles Hodgson, co-applicant, stated yes, they could meet the condition and that the biggest truck would be Sysco and they would make arrangements to have them deliver before opening hours.

Member Hopkins moved, seconded by Member Hitchens, to approve both special exceptions with the stipulation that the loading and unloading will be done from the parking lot. APPROVED (UNANIMOUS).

4. ADJOURNMENT

Member Hopkins moved, seconded by Member Hitchens, to close the meeting at 5:46 p.m. **APPROVED (UNANIMOUS)**

APPROVED: _____
Jane Hovington, Chairperson

ATTEST: _____
Jocelyn Godwin, Planning Department