

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, JANUARY 3, 2013  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Eric Welsh, Vice Chairman Stephen Lee, Members Jim Mortimer and Walter Monestere; Alternate Members Jim Jiles, Jeanne Moore and Cecil Sumners; Attorney Robert Blythe; Senior Planner Jay Camp and Town Clerk Lori Canapinno

**ABSENT:** Member Derek Morgan

**CALL TO ORDER/INVOCATION**

Chairman Welsh called the meeting to order at 7:00 pm and gave the invocation.

Vice Chairman Lee made a motion to approve the minutes of the August 23, 2012 meeting. Mr. Monestere seconded and the motion was unanimously approved.

Mr. Monestere made a motion to approve the minutes of the September 13, 2012 meeting. Mr. Mortimer seconded and the motion was unanimously approved.

Mr. Sumners was appointed to act as a voting member.

**VARIANCE REQUEST: Case 2013-1; 547 West Charles Street**

**SWEARING IN**

The following were sworn in: Jay Camp, Roger Martin, Sandra Privatte Robinson

Senior Planner Jay Camp explained the applicant originally requested a variance of four feet to the minimum ten foot buffer, however staff had some concerns so the recommendation to the owner was to request a nine foot variance to the fifteen foot required screening yards instead. The request is to have only a six foot wide planting strip between this site and the adjoining residentially-zoned parcel.

The subject parcel, ID 193-251-10, is currently zoned R-20. A rezoning application is in progress to rezone that to office – O-9(CD) – for the construction of an approximately 4,200 square foot office building. The Town Board of Commissioners is scheduled to vote on the rezoning application on January 14 but they cannot render a decision without an approved variance or a redesign of the site.

The subject parcel is adjacent to one of the last residentially-zoned properties in this portion of West John Street. The Downtown Master Plan recommends office use for the area and many of the older homes have been preserved and renovated for office use.

The purpose of screening adjacent to residential areas is to provide relief from the sights, sounds and light that can accompany office or commercial uses. The Town requires better quality, taller, denser and more numerous evergreen plant materials than what would be found in other commercial locations such as shopping centers. In screening versus typical landscaping, typically 50% of the plants should be evergreen and should achieve opacity of 75% within four growing seasons.

Should this Board approve the request, staff feels it would be reasonable to place conditions on the variance to assure that a greater percentage of plant materials used are evergreen in nature, thus creating a year-round screen. The variance should apply only to the buffer width – the plant material standards and required number of plants should still apply. The total lineal feet of property line between the two parcels is approximately 75 feet, thus the requested variance affects only this portion of the overall site.

Mr. Camp explained that since the property has yet to be developed, it could be redesigned by reducing the width of the drive aisle and number of parking spaces. As a result the site may be less functional. This application also assumes that the adjacent property will be rezoned in the future. The property owner will speak regarding that issue but there are no guarantees that what is assumed will come to fruition.

The Downtown Master Plan does call for office uses on West John Street. The buffer requirement as it exists today may or may not exist in future years should the adjacent home be rezoned as most others in the area have.

The hardship is really a result of the specific site plan that has been created. It is a rather small infill site and staff recognizes the occasional difficulty in building within these constraints.

The variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. Staff recommends that measures be taken to mitigate the effects of the planting strip width reduction by requiring a greater number of evergreen plantings.

There are no apparent issues with public safety or welfare.

There was some discussion of the site's layout. There is a jog in the property line on the lot's northern boundary and the requested variance would cover the area of that jog down to Lois Street – a length of approximately 75 feet. That jog has created some difficulty in the site planning process although it is not insurmountable.

Mr. Mortimer asked if any comments from neighbors had been received. Mr. Camp explained that notice was provided to adjoining as required by statute and Ms. Private Robinson, the owner of the adjacent residential property, is in attendance and may wish to speak later in the meeting.

Roger Martin represented the property owner, Plantation Carolina LLLP (PC) and addressed the Board. He explained that PC has owned the property since 2008. The property is currently zoned R-20. They would like to develop the site for office use and have requested a rezoning to O-9(CD). There are ordinance requirements that must be met and they determined the offset/jog in the property would cause some issues. In addition, the property is located within the Downtown Overlay so additional conditions must be met.

PC recognized that this variance would be needed in order to fully utilize the site for the next 50-100 years. After speaking with the adjacent property owner, it was determined that there would probably be no objection to the request.

The site plan currently shows eight parking spots are potentially affected but it has been discovered through the zoning process that one will need to be removed. That leaves seven parking spaces that will be affected by this

area. If the variance is not approved, those seven will be lost. It is possible that two spaces could be regained through the use of parallel rather than head-in parking. Parking is a great premium when there is a smaller structure. Mr. Martin has found that the more parking that can be had the better off everyone is.

The alleyway between the two rows of parking currently measures about 26 feet across. 24 feet is doable. 22 feet, which is what the alleyway would have to be reduced to if this variance is not granted, is problematic. A significant number of drivers cannot safely and correctly function in a 22 foot alleyway. Generally 24 feet is okay but expansion to 26 feet reduces confusion and maneuvering difficulty within the parking lot.

It is believed that the adjoining parcel will be placed for sale at some point in the near future. At such time, it is very likely that a developer would request business/office zoning on that parcel. If the requested variance for the subject parcel is denied, it is possible that Mr. Martin would have to build a parking lot in one manner but a few years down the road a new commercial structure will be built on the adjoining property which will eliminate the need for the requested variance. He believes the requested variance is a short-term solution with the long-term solution being answered in the near future with the redevelopment of the adjacent property.

Mr. Jiles questioned the width of the planned parking spaces. Mr. Martin said they are 8 feet 8 inches wide – a bit tight for pickup trucks and SUVs but just fine for the smaller vehicles that are becoming more popular with drivers now.

Chairman Welsh asked about required parking. Mr. Camp confirmed that the plan meets general office parking requirements but medical uses require more spaces so the building could not be used solely for medical uses. A split medical/general use mix would be fine. Mr. Martin said about three quarters of the building will be able to be used for medical with the proposed plan.

Mr. Mortimer noted that the discussion regarding the future rezoning of the adjacent parcel is speculative. Mr. Martin said that property owner was willing to address that if called to do so by the Board.

Sandra Privatte Robinson owns the adjacent residential property in question and addressed the Board. She said she is in full agreement and supports the requested variance. It is her intent to convert her parcel – 556 West John Street, parcel ID 19325111 – to business at some point in the near future. She and her sister also own the adjacent parcels at 542 West John Street and the unnumbered narrow lot right next to it. Those have already been rezoned to commercial use and there is a renter in the home that was converted to business use some years ago. She does not see any problem with the requested variance since her now-residentially zoned property will be rezoned to commercial and the problem will become a nonissue.

There was some discussion of the future of the buffer. If the adjoining property is rezoned then this variance becomes moot. Chairman Welsh asked about conditions that may be placed on the variance. Mr. Camp explained that the general requirement for buffers between commercial uses is six feet, so it wouldn't need to change if the adjoining property is rezoned. Attorney Blythe explained that any conditions that are placed on a variance will remain in effect in perpetuity.

## **DELIBERATIONS**

Vice Chairman Lee said he has no problem with this request. It looks like there are a good number of existing plantings and the proposed plan calls for a decent mix of vegetation.

Chairman Welsh said a lot of his initial concerns regarding the adjacent land owner have now been satisfied. He

does wonder if there is a need for some additional plantings on top of what is required by ordinance as a possibly temporary measure while the adjacent property is still zoned residential. Mr. Mortimer said he had similar concerns but wasn't sure what would be reasonable. Vice Chairman Welsh noted that the planting bed's six foot width doesn't offer a lot of area to work with. If the intent is to get to a-greater-than-75%-opacity in four years then it would have to be a row of Leyland cypresses which would look odd years later. He said he doesn't have a problem with requiring materials that achieve more opacity but suggested that a mix of shrubs, midsize trees and evergreens would look more natural.

Mr. Jiles said he feels that the adjoining property will not remain residential, so planting a row of trees back there would mark a noncontinuity in that area. He feels that staff should be allowed to handle the landscape requirements. Mr. Mortimer agreed that staff is held in great confidence but there is a question about how long it might take for the adjoining property to be rezoned. Mr. Jiles agreed but said he'd hate for the Board to set conditions for specific landscaping when none of them are landscape engineers. He said the suggestions provided by Mr. Camp in the staff report are good enough. Chairman Welsh said he was okay with not requiring any more landscaping.

Vice Chairman Lee made a motion to approve the variance to reduce the rear screening buffer width from fifteen feet to six feet. Chairman Welsh seconded.

Vice Chairman Lee read the findings of fact:

If the applicant complies with the provisions of the ordinance, he can secure a reasonable return from or make reasonable use of his property. However, because of the odd property lines/plotlines on the adjacent property, it creates a difficult situation regarding parking that is safe and usable now and in the future.

The hardship is due to unique circumstances relating to property lines and the site's inclusion in the Downtown Overlay. As indicated by the property owner, those unique constraints provide a hardship. In addition, the consent of the adjacent property owner and her intention to rezone her property helps minimize the effects of the hardship.

The hardship is a result of the applicant's proposed site plan. However, the spirit of what is being proposed and evidence provided by the property owners of both the subject site and the adjacent property, in addition to the requirements of the landscape ordinance, serve as determining factors in the decision.

The variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. The narrower buffer doesn't negate the ability to appropriately landscape and buffer the area to the extent that it would be a detriment to the property in general.

The variance will secure public safety and welfare by providing a safer parking area that allows for easier movement in and out of the lot.

The motion to approve the requested variance was made and seconded and passed unanimously.

## **MISCELLANEOUS**

Mr. Camp explained that Lori Canapinno has accepted the position of Town Clerk. Mary Jo Gollnitz has accepted the position of Zoning Technician/Deputy Town Clerk will be Clerk to the Board starting with the next meeting.

Attorney Blythe noted updated the Board on the case involving Premier Plastic Surgery. The Board of Adjustment denied the requested variance long ago and had to review the case for more precise findings of fact in September 2012. The attorneys for each side will meet to discuss those findings shortly. The case will not be coming back to be heard by this Board but its members may be asked to review and approve those findings from September.

## **ADJOURNMENT**

Vice Chairman Lee made a motion to adjourn. Mr. Mortimer seconded the motion and the meeting adjourned at 7:56 pm.

Respectfully submitted,

Lori Canapinno  
Town Clerk