

**BOARD OF ZONING APPEALS  
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, July 13, 2016, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**POINTS OF ORDER:**

**PRESENT:** Chairman Pifer, Vice Chairman Crawford, Ms. Marchant, Mr. Whitacre, Ms. Anderson (alt.)

**ABSENT:** Mr. Lewis

**STAFF:** Aaron Grisdale, Erick Moore, Carolyn Barrett

**VISITORS:** Jeff Buettner, Carl Hales

**CONSENT AGENDA:**

Approval of Minutes of June 8, 2016:

Chairman Pifer called for corrections or additions to the minutes. Ms. Anderson made a motion to approve the minutes. Mr. Whitacre seconded the motion. Chairman Pifer called for a vote. Voice vote was taken and the motion passed 5-0.

**READING OF CORRESPONDENCE:**

None.

**PUBLIC HEARINGS:**

None.

**NEW BUSINESS:**

**BZA-16-400** Request of Buettner Tire Distributors LLC for a variance to the Winchester Zoning Ordinance, Section 18-22-1, pertaining to new above-ground electrical service at 1908 South Loudoun Street (*Map Number 252-01- -18A - > <01*) zoned Commercial Industrial (CM-1) District. The request is to authorize a variance to the underground burial requirement for a new utility service.

Mr. Grisdale reviewed the staff report and motions available. The applicant needs to add 400 amp electrical service as part of planned mechanical service upgrades.

**Chairman Pifer opened the public hearing**

Mr. Buettner explained the reasons for the request and gave a handout to the board members showing the layout of the property. He had spoken with Atlanta Construction

and they said there was no way to do directional boring through the limestone for underground burial. Snyder Environmental concurred with their findings. There is no other way to get electrical service to the back of the property.

**Chairman Pifer closed the public hearing**

*Vice Chairman Crawford made a motion to approve a variance to the Winchester Zoning Ordinance, Section 18-22-1, pertaining to new above-ground electrical service at 1908 South Loudoun Street (Map Number 252-01- -18A) zoned Commercial Industrial (CM-1) district, with the following conditions:*

- a. The variance is granted only for the proposed new electrical service, any subsequent new services or upgrades of service will be required to go underground.*
- b. Building permits for the proposed site improvements must be obtained within two (2) years of the date of this decision. Failure to do so will cause the variance for this property to expire.*

*The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

*Ms. Anderson seconded the motion. Roll call vote was taken and the motion passed 5-0.*

**OLD BUSINESS:**

**BZA-16-106** Request of Carl S. Hales for variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District. The applicant is seeking these variances to allow for re-use of several non-conforming structures on the parcel.

Mr. Grisdale reviewed the previous staff report from May 2016 and the current conditions of the property. There are several site improvements that have not been completed yet. He noted that this case was not a public hearing since it was completed at the last meeting. Any testimony would not be under the format of a public hearing.

Ms. Anderson asked about the tenants that were not in compliance. Mr. Grisdale said some are gone and some have not received proper zoning approval.

Mr. Hales said he had not been able to complete the parking spaces due to one tenant not moving vehicles and other items. They had been given until July 15, 2016 to move vehicles. If they do not comply by that date, they will be given a five day notice. If they don't comply by that date, he will file suit to have him removed. Two other tenants have been removed. Parking lot striping is almost completed except for the parts he could not get to.

Ms. Marchant asked what percentage of the spaces were done. Mr. Hales said there were about 30 spaces completed.

Ms. Anderson said she was surprised the third tenant was not out considering Mr. Hales had two months to have him removed. Mr. Hales said he had been given promises that everything would be done. When they were not fulfilled, he gave the tenant a 30 day notice and was told they would work to get it done.

Vice Chairman Crawford said it seemed progress was being made however it should have been done two years ago. If the applicant wanted to make improvements and come back at a later time, they will reconsider the case. Mr. Grisdale said he did not think there was a prohibition against Mr. Hales reapplying at some future date. Chairman Pifer said there has been plenty of time for the improvements to be done.

*Ms. Marchant made a motion to deny variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, for the following reason:*

- a. Any hardship that exists on the property is created by the applicant for the variances. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*

*Mr. Whitacre seconded the motion. Roll call vote was taken and the motion passed 5-0.*

**ADJOURN:**

With no further business before the Board, the meeting was adjourned at 4:22pm.