



**WALKERTOWN PLANNING BOARD MEETING
WALKERTOWN LIBRARY AUDITORIUM**

JUNE 5, 2007 3:00 P.M.

MINUTES

CALL TO ORDER

The Planning Board meeting was called to order at 3:00 p.m. by Chair Peggy Leight. A quorum consisted of (1) Ms. Leight, (2) Robert Butler, (3) Don Whitaker, and (4) Al Slater. Also present were City-County Staff Member Aaron King, Town Clerk Lynn, Attorney Bo Houff, and Manager Bell.

On a motion by Al Slater and seconded by Robert Butler, the agenda was unanimously approved.

On a motion by Al Slater and seconded by Don Whitaker, the minutes of the meeting of May 1, 2007, were unanimously approved.

PUBLIC SESSION - Please limit your talk to 3 minutes.

Public Session was opened and closed at 3:03 p.m. with no speakers.

BUSINESS AT HAND

1. **PUBLIC HEARING:**
WA-031 – INNOVATIVE CONSTRUCTION, LLC
Advertised May 24, 2007
REZONING FROM: PB-S TO: PB-S (To be used
As a Restaurant – See attached for further information)

REMINDER: THIS WILL BE HEARD AT THE JULY TOWN COUNCIL MEETING.

DISCUSSION:

Aaron King, City-County Planning, gave a brief overview of this request from PB-S (Special Use Only) to PB-S to add uses to zoning. Currently the zoning is for Offices, Miscellaneous; Building Contractor, General; and Professional Office. Petitioner would like to add "Restaurant Without Drive-Through Service. The property was rezoned in August, 2005, from RS-9 to PB-S by both the Walkertown Planning Board and Town Council. The existing home would be replaced by a 1280 Square Foot building, which would be residential in character, to be used for a restaurant. There would be parking located to the side and the rear of the building – they've provided for 12 spaces. The site will be developed with less than the 24% impervious coverage – no SIDA is required. A 5-foot sidewalk will be next to Darrow Road to the building. Parking lot When this site was originally rezoned to PB-S to be used for a Construction Office, a gravel parking lot was specified,

which the Planning Staff. agreed to – low number of traffic, etc. Upgrading to a restaurant would bring an increase in traffic.

Mr. King said Staff was not supportive of this request for several reasons.

1. This request is not inconsistent with the Walkertown Area Plan (WAP). The Plan recommends office use for this area. It is not a general recommendation like is seen in other areas of the Area Plan, where there is just blanket general recommendation. This area was specifically noted in the Area Plan as Special Land Use designation – designated for office use area.
2. Approval of this request would set a precedent and lead to further rezonings of the same nature.
3. Approving rezonings which are not consistent with the WAP tend to weaken its own objectives of the Land Use Plan recommendations.
4. Original rezoning – Staff was supportive of the original rezoning (Office Use) because Staff thought it was a reasonable compromise given the surrounding commercial use because there is a shopping center across the street. Staff would not have recommended approval of the original request, had it included the restaurant use.

For all these reasons, Mr. King said the Planning Staff recommends DENIAL for this request.

Discussion among the Planning Board members elicited various questions and responses, generally about zoning requirements. Some of the discussion highlights included:

- 15' Buffer from property line
- Buffer includes 2 deciduous trees, 8 primary evergreens and 20 supplemental shrubs
- Sidewalk is shown on original plan – sidewalk to the door
- Building is approximately 30-feet(?) from the street
- New building would likely stay in same “footprint” as old building
- Size of building dictates amount of parking spaces

Ms. Leight then opened the PUBLIC HEARING at 3:15 p.m.

- (1) Dennis Gallimore (Petitioner)
4709 Kelleys Trail
Winston-Salem NC (Morris Farms Subd in Walkertown)

Mr. Gallimore stated that he was granted a zoning change in August, 2005, from RS-9 to PB-S. At the time he listed the uses as to what he thought he was going to use it for – he is a general contractor – he wanted a place to put his office. His wife was going to real estate school at the time and they wanted to make a combination real estate/construction office – and it was approved for such. In preparing to revamp the old house, he realized there was a lot of rot, a lot of termite damage, and a lot of structural problems and would cost too much to do so. He also did not like the way the house was situated on the lot. Then, the housing market hit a decline in the last half of 2006 and beginning of 2007 so he reconsidered his best use of the property. Negative articles on the housing market changed his mind. Then the Seafood Shack opened up and his interest changed. He said he watches this restaurant park people in the Rose’s back parking lot;

their parking lot is full; they're parking on the side of the street and the restaurant is doing very well. He decided to change his building to a non-drive-through restaurant and have a simple hot dog / hamburger type shop along with ice cream – something similar to Bill and Leah's or Doss's. He had an artist rendition of this type of restaurant drawn up.

Mr. Gallimore then passed out pictures of what the view was in looking out the front and side of his property – the Seafood Shack sign is within 100-feet of his front door and it's what he sees out his side door as well.

He stated that what Mr. King was speaking about – the WAP – office area – was actually adopted after his original request was approved. The areas close to his property are zoned for HB (Citgo, etc.). There is already a restaurant across the road and he doesn't see a conflict of his building being a restaurant. He said, "I just ask that you consider that. I've been paying mortgage on it for two years and I have not yet received any income off of this property. I pay taxes on it and it's just sitting there. I'm trying to decide what to do with it. If this request is denied, then, of course, I'll have to pursue something under the office.....I really think this would serve.....We've got the Walkertown Little League, the Wolfpack football, and I know my kids – your children – after a hot ball game, first I want to head is over to Doss' and get me some ice cream – take my children, sit down and eat!....."

More discussion on this property included:

- Enough parking for building? Had to reduce size of building because of size of lot so this reduced number of parking spaces.
- Seating will be limited inside building – but seating has not been established yet. Depends on kind of cooking equipment he'd have to purchase, counters, coolers for ice cream, restrooms, etc.
- Concern with traffic and parking is big issue – where will the overflow park?
- Additional room for parking in rear of building (???)
- Family members will "operate" restaurant.
- Turn-around is whole lot quicker with this type of restaurant than with a sit-down restaurant.
- No plans to pave parking lot.
- Handicapped parking space has to be paved.
- Asphalt paving is the same as gravel in parking lots.
- Parking in the grass would be a violation as far as Inspection Dept. is concerned. If somebody calls in because somebody parks in the grass, it would be a violation. It's a complaint basis – Inspections would go take a look at it and see what the issue it.
- State-approved material in parking lot is fine with the Planning / Inspections Staff – pervious material.
- Any time you have gravel spaces, you're required to have wheel stops – those wheel stops go all the way to that 15' buffer yard.
- Hours of Operation would be from about 10:30 or 11:00 a.m until about 9:00 or 10:00 p.m. (Attorney Bo Houff said that as this question is asked, he wanted to advise that Inspections is almost certainly not going to police issues relating to hours of operation so he can advise you about that. You could consider making a condition but you cannot count on that being a condition that would be enforced through Inspections.)

- Lighting – This would need to be done by an engineer but Mr. Gallimore doesn't know what will be supplied at this point. Mr. King referred the Board to Page 5 of his staff report where it states: b. If any lighting is proposed, an engineered lighting plan shall be submitted to Inspections for the proposed lighting demonstrating the use of full-cut off fixtures, light height @ 20' or less and no more than 0.5 foot-candles at the property line. Lighting shall be installed per approved lighting plan and certified by an engineer.
- Façade of building – petitioner could not recall seeing anything about brick or whatever. Mr. King said it was not in the Plan – except on Page 63 – Standards for Conversion of Existing Homes to Office or Commercial Use He said it was kind of the same principle – and it has Building Integrity and it mentions the exterior appearance of the single-family should be preserved as intact as possible to keep the residential character of the street. And it's important to provide the elevation and his elevation meets the intent of this section. No specific reference to building materials.
- A concrete apron will be put in at Darrow Road.
- Petitioner would be willing to pave instead of gravel. (Attorney Houff said once it's impervious, it's impervious – so you can pave.)
- Sidewalk – Public – front of Darrow Road with a connection to the building from there.
- Curb and guttering would not be put in. (Only set-back and sidewalk). (Discussion then concerned whether curb and guttering was for just new subdivision streets or for rehabbing other streets. Whether it was for the core area or not. Whether it was only when you install new streets (which the petitioner is not doing.)
- Dumpster (or trash receptacle) – Petitioner was not sure but if it's in the back of building, you could not get to the back with parking lot the way it is. Dumpster would take up one parking space.
- Will building have rear door? Petitioner said plans not drawn yet so doesn't know or is not sure where.

Public Hearing was closed at 3:35 p.m.

Ms. Gallimore asked a question of Mr. King: “You stated that if your staff had originally been presented with this rezoning request for a restaurant, that the staff would have approved that?” To which Mr. King replied, “I was stating our staff would not have recommended approval.”

Ms. Gallimore: From the beginning?

Mr. King: Correct.

Petitioner reiterated that construction business is very slow and he must come up with something to use this building for.

Peggy Leight said she had a couple of concerns – the site plans are incomplete and if it is approved, there is no definition of issues. Another is the fact that this is going against the Area Plan we have worked so hard for. The Plan specifies Office and you are fudging it a little bit and that fudge factor, you can't keep going. But she did like the drawing very much.

Robert Butler said that by the time you put a dumpster, you're going to lose part of your parking. You need all the parking spaces.

Attorney Bo Houff advised the Planning Board that if they are not comfortable with the completeness of the site plan and would like to see a revised version, the Board could continue the Public Hearing in order to depict where and how they're going to address a few things – one, if they've agreed to the paving – it would be appropriate to delete the wheel stops and show it as being a paved area as opposed to being a gravel area. If they use a dumpster, show where the dumpster pad is going to be. This is PB-zoning (Pedestrian) and that is why Staff is looking for a sidewalk to the entrance of the building that would accommodate pedestrians who might be walking in. It does still remain the issue of the Walkertown Area Plan. I'm not suggesting either one way or the other but I'm saying at least under the statutes, you are not bound by the Area Plan. What you are bound to do is make a finding as to whether this is consistent with the Area Plan.

He continued: "It's a demonstration of how the legislative process works down in Raleigh. Before the 2005 statutory amendments that we've talked about, before were enacted, the law was that even if you had a comprehensive plan, that by the act of zoning that was an implied modification to an area plan. When this legislation came in, it's pretty substantial modifications to zoning law – and one of the things that they had attempted originally to do was to say that you **must** zone in accordance with your comprehensive plan. Problem with that is that statutes also say that towns have complete latitude with regard to zoning. And so they said you have to have a comprehensive plan – you have a comprehensive plan – and you have to make specific findings – that's why your staff reports now talk about whether it's compliant with the area plan or not. And you have to make a finding as to whether the proposed rezoning is in compliance or not – but you don't have to abide by it! You can simply say, 'No, it's not in compliance but we're doing it anyway.' I'm not saying you ought to do that – I'm simply saying you have the latitude to do that. You have to decide whether it's one step too far in area plan consistency or you want to maintain the integrity of the area plan – those sorts of things. So, while you still have to make a finding about whether it's compliant, you don't have to remain compliant! The legislation backed off when it was finally enacted."

Al Slater commented that he would not want to live in a house where when he looked out the door or window, he saw all businesses and Ms. Leight responded that that's why it's set up for offices.

Ms. Leight stated the Planning Board's options as:

1. Recommend APPROVAL of request;
2. Recommend DENIAL of request; or
3. CONTINUE Public Hearing until more updated information is available.

**MOTION: TO CONTINUE PUBLIC HEARING UNTIL JULY 3, 2007
MEETING IN ORDER THAT PROPERTY OWNER CAN
BRING BACK MORE INFORMATION**
BY: AL SLATER
SECOND: ROBERT BUTLER
VOTE: MOTION PASSED UNANIMOUSLY

Petitioner agreed to make modifications and bring back to the Planning Board at July 3rd meeting. **Petitioner must take modifications to City-County Planning Staff before coming to Walkertown Planning Board**

Issues being addressed include:

1. **Dumpster location**
2. **Asphalt parking area**
3. **Sidewalk connection from Darrow to the structure**

**PUBLIC HEARING TO BE CONTINUED TO JULY 3, 2007
PLANNING BOARD MEETING**

PUBLIC SESSION (IF NEEDED)

Public Session was opened and closed at 3:59 p.m. with no speakers.

ANNOUNCEMENTS:

2007 MEETING SCHEDULE

LIBRARY @ 3:00 P.M.

July 3 rd	*Due to July 4 th holiday
August 7 th	
September 11 th	*Due to Labor Day holiday
October 2 nd	
November 13 th	*Due to Election Day
December 4 th	

ADJOURNMENT

MOTION: TO ADJOURN MEETING AT 4:00 P.M.
BY: ROBERT BUTLER
SECOND: DON WHITAKER
VOTE: UNANIMOUS

Respectfully submitted,

Lynn McKinnie
Planning Board Secretary