



CITY OF SOUTH FULTON
VIRTUAL ZONING BOARD OF APPEALS
REGULAR MEETING
THURSDAY, February 18, 2021, at 1:00 P.M.

Present: Chair Aaron Johnson, , Roosevelt Hamb, Robert Dawson, Geneasa Elias, Michael Carson, Amethyst Harris, Brenda Jenkins

Absent: DeAndre Mathis, Robert Hamb

Chairman Aaron Johnson called the meeting to order.

Planner Dana Gray called roll.

Approval for Minutes from the January 21, 2021, Regular Meeting

Board Member Robert Dawson made a motion to approve the Minutes from the January 21, 2021. The motion was seconded by Board Member Michael Carson. The motion was unanimously approved.

1. OLD BUSINESS

None

2. NEW BUSINESS

a. V21-001 3825 and 3895 Jonesboro Road

Zoning Administrator Nathan Mai-Lombardo gives the power point presentation for this petition. He concludes that staff recommends approval of the applicant's request to grade and replant in the northern undisturbed buffer area due to the topography of the site and allow for part of the site stormwater retention area to be in the eastern undisturbed buffer due to topography.

Board Member Michael Carson made a motion to open public hearing. The motion was seconded by Board Member Geneasa Elias. The motion was unanimously approved.

Michele Battle with Battle Law explains that they intended these variances to be concurrent with a rezoning application and did clarify with staff at that time. She further states that is why she is here today before the ZBA. She explains that these variances are necessary due to the topography on the north side of the site and without the variance they would have to put in an extremely tall wall. She states that on the eastern boundary line they are proposing the retention pond at the lowest point of the property.

Board Member Brenda Jenkins made a motion to close public hearing. The motion was seconded by Board Member Geneasa Elias. The motion was unanimously approved.

Board Member Brenda Jenkins asks the applicant if she knew that the variance would be needed during the submission of the rezoning application.

Michelle Battle states that they did, and it was on the plans, and it was an oversight on their part.

Board Member Geneasa Elias states she is very concerned about this application and the applicant was very well aware that this should have been a two-part concurrent variance with the rezoning in January. The city just adopted the zoning code in December which defines that the concurrent variance should only be granted by City Council. She states that in their application they state that property is zoned AG-1, and this application has been filed simultaneously with a rezoning application for senior housing. She further states that there is an email from the city engineer from October 2020 stating there might be a need for a variance. She states that she does not understand how the rezoning got all the way to City Council without the two variances and this puts the board in a very difficult position. She concludes that there was plenty of time for the two variances to be submitted with the rezoning.

Michelle Battle states that they take responsibility for this oversight. She states that this project involved discussions with GDOT, and that everybody was focused and there was a time deadline as it is a tax credit deal. There was discussion with staff at the time of the rezoning. She further states that when they finished the planning commission and due to the tax credit, it was decided with staff to not go back through the process with the planning commission because of the time constraints. She states that there was a delay getting clarification of installing a light at Peters and Jonesboro Road which her client is willing to pay for. She explains that if they do not get the variance, they will not be able to proceed with the project. She concluded that the variance was discussed at the city council meeting.

Zoning Administrator Nathan Mai-Lombardo states he is in agreement with what Michelle Battle has stated and there was no intent to usurp the council authority and was an oversight by the applicant.

Board Member Brenda Jenkins thanks Ms. Elias for the information about the recent zoning change. She further states that the site is in her jurisdiction and is aware of the accidents on the Jonesboro Road. She states that she does not want it to sound like a situation of you give us this and we give you that. She concludes that she appreciates the applicant's humbleness and feels that the verbiage in the application which states the unconstitutional allegations statement to this case if it is denied is a threat.

Michelle Battle states that it is standard requirements and they put it in every application, and it is not a threat. She further states again the details surrounding their oversight.

Board Member Michael Carson asks if they are setting a precedence by allowing this and could allow others to approach this in the same way.

Zoning Administrator Nathan Mai-Lombardo states that there was no ill intent here. He further states that this petition was before the planning commission last year and Mayor and Council which they postponed multiple times based on the negotiation and redesign of the traffic light. He concludes that it was left out in the beginning and there will not be a precedence set.

Michelle Battle states that on the application page there was a part for a concurrent variance request which is no longer there. She concludes that was part of the confusion they had in completing the application.

Zoning Administrator Nathan Mai-Lombardo states that they will investigate that.

Board Member Robert Dawson states that the applicant is in good faith. He further asks for the engineer to weigh in on his review.

Bobby Bullard (project engineer) shows and explains how there is an 80-foot drop in the contours to the north on the property. He further explains that a replanted buffer is much nicer product in the end. He concludes that this is a good product and needed in the community.

Board Member Robert Dawson asks if there are any environmental impact.

Bobby Bullard states that there will not be, and they will install infiltration and possibly treatment of the water.

Board Member Robert Dawson asks if the variance is not granted what will be your plan B.

Bobby Bullard states that it will make really difficult, and they will have a lot of walls.

Board Member Branda Jenkins made a motion to approve the petition V21-001. The motion was second by Board Member Michael Carson. The motion was unanimously approved 3 yays and 2 nays.

Board Member Geneasa Elias made a motion to adjourn. The motion was seconded by Board Member Brenda Jenkins. The motion was unanimously approved.

Aaron Johnson
Chair, Zoning Board of Appeals

Shayla Reed
Director, Community Development & Regulatory Affairs