

Board of Appeals Meeting  
700 Doug Davis Drive  
Hapeville, Georgia 30354

August 22, 2019 6:00PM

## MINUTES

### 1. Welcome and Introduction

Chairman Michael Simpson called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jan Bolien, Rod Mack, Larry Martin, Billy Slocumb and John Stalvey. City Planner Dr. Lynn Patterson and Secretary Adrienne Senter were also present.

Board of Appeals member Gabriel Cojocarescu was unable to attend the meeting.

### 2. Minutes of June 27, 2019

**MOTION ITEM: Jan Bolien made a motion, Rod Mack seconded to approve the minutes of June 27, 2019 as submitted. Motion Carried: 5-0.**

### 3. New Business

#### a. 1 Clay Place

#### Variance Request

Scott Meader authorized representative for Delta Airlines, Inc., requested a variance to allow an off-site parking arrangement using a parking lot at 1 Clay Place, Parcel Identification Number 14 0098 LL0138. The property is zoned U-V, Urban Village and is subject to the zoning regulations under Sections 93-23-10, 93-11.2-9, and 93-23-12 of the City of Hapeville Zoning Ordinance.

#### *Staff Comment:*

Delta is in the process of remodeling some of their office space and wishes to temporarily move some of their employees to 760 Doug Davis Drive. The parking lot will provide additional parking for 760 Doug Davis Drive. The current facility provides 124 off-street parking spaces, which Delta has determined is insufficient to meet their needs. An additional 91 parking spaces would be provided by the adjacent parking lot at 1 Clay Place. The arrangement is expected to be temporary, lasting approximately one year.

The applicant would have exclusive use of the lot, which is currently vacant. Historically, off-site parking arrangements involving exclusive access for an off-site user modified the site to meet vehicular use are requirements. The applicant is planning minimal upgrades to the existing parking lot, and the proposed improvements would not address the following nonconformities:

1. There is little interior and perimeter landscaping.
2. The property does not have the sidewalk requirement required by the U-V zone.
3. The use of barbed wire.

*Applicant Comment:*

The applicant stated that they intend to remove the interior fencing to allow for access. The use will be temporary lastly from six months to one year.

Mr. Mack inquired if security would be provided for the lot. Mr. Meader stated the employees will utilize the existing entrance and there is a security guard at the gate.

There were no public comments.  
The public hearing was closed.

**MOTION ITEM:** Larry Martin made a motion, Jan Bolien seconded to grant the short-term off-site parking arrangement at 1 Clay Place with the condition that if the parking arrangement exceed 18-months, the applicant must reapply for an off-site parking arrangement variance. Motion Carried: 5-0.

**b. 583-B North Central Avenue Variance Request**

Chandra Fowler owner of Sanskrit Moon Yoga Center requested a variance to increase the maximum area of a window sign from 12-square feet to 26.3-square feet at 583-B North Central Avenue, Parcel Identification Number 14 009500150463. The property is zoned U-V, Urban Village and is subject to the zoning regulations under Section 93-3.3-17 and 93-3.3-18 of the City of Hapeville Zoning Ordinance.

The window sign is spread across several windows and the entrance door, and has the following dimensions:

- Sign on door: 25.5" 17" (3-sf)
- Two mirrored panels on windows: 57" x 23.5" (9.3-sf) each
- Third panel: 29.5" x 23" (4.7-sf)

The total area of all window signs is 26.3-sf. The total area of all signs, including the approved projecting sign, is 31.3-sf. The tenant's frontage along North Central Avenue is 14'-3".

The intent, in part, of the sign ordinance is to "promote the use of signs that are aesthetically pleasing, of appropriate scale, integrated with surrounding buildings and landscape, and compatible with the character of the surrounding area." The City cannot allow or deny permits to applicants based on content without violating their First Amendment right to free speech. It can, however, control

non-speech aspects of signs, such as area. The two area limitations under consideration are both designed to reduce clutter and keep signs in scale with the downtown pattern of small street level store fronts without considering content.

The code has a specific prescription for the determination of sign, stating “The sign area of [window] signs shall be the net geometric area measured by the smallest possible rectangle or combination of rectangles enclosing the display surface of the sign, including the outer extremities of all letters, characters and delineations.” By this standard, the window sign is measured to be 26.3 square feet in area.

The window sign area alone is 116 percent larger than the Code permits (12-sf) and the total square footage of all signs exceeds the maximum allowable square footage by 119 percent.

*Applicant Comment:*

Mrs. Fowler expressed her excitement as a new business owner in the Arts District in historic downtown Hapeville. She explained that the sign is actually a mural and was completed by a local artist. Mrs. Fowler further explained that she was not aware that a permit was required for the mural and she believes the intent of the code was for safety and transparency and the current code is outdated. Mrs. Fowler stated that there are several businesses along North and South Central Avenue that are not compliant with the code and the sign code should be applied to all businesses.

Staff explained that a sign is defined in *Section 93-3.3-2*, “Sign. Every device, item, product, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark, or reading matter used or intended to be used to attract the attention of or convey information to the general public. For purposes of determining number of signs, a single display surface or a single display device containing elements organized, related and composed to form a unit shall be considered a single sign. Where information is displayed in a random manner without an organized relationship to other elements, or where there is reasonable doubt as to the relationship of elements, each element shall be considered a single sign.”

*Public Comment:*

Shawn Fowler, 3473 Orchard Street, expressed support of the variance.  
Joseph Shorter, 3157 Oakdale Road, expressed support of the variance.  
Alexia Ryan, 587 N. Central Avenue, expressed support of the variance.  
Travis Horsley, 3303 North Whitney, commented regarding Council’s desire to amend the sign code.  
Brendan Dalton, 3429 Rainey Avenue, commented regarding the constitution form for freedom of speech.

Carroll Frank, 3434 Orchard Street, expressed support of the variance.

The public hearing was closed.

There was discussion regarding the Council's direction for staff to amend the sign ordinance and possibility tabling the application pending adoption of the revised ordinance.

**MOTION ITEM:** John Stalvey made a motion, Rod Mack seconded to table the application pending Council approving a revised sign ordinance. John Stalvey rescinded the motion.

**MOTION ITEM:** Rod Mack made a motion to table the application until September 19, 2019, Motion died for lack of second.

**MOTION ITEM:** Larry Martin made a motion, Billy Slocumb seconded the motion to grant the variance on the basis that the measurement was erroneous as the side panels shall be defined as artwork and not a sign. Motion died: 2-3, Rod Mack, Jan Bolien and John Stalvey opposed.

**c. 3429 Rainey Avenue**

**Variance Request**

Melinda Dalton requested a variance to allow for a reduction in the minimum side yard setback from 5' to 3' for the property located at 3429 Rainey Avenue, Parcel Identification Number 14 012700030592. The property is zoned R-SF, Residential Single Family and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

*Staff Comment:*

The proposed project is a renovation and addition to an existing dwelling on-site. The existing dwelling sits in the setback on the north side by 2'. The provided site plan shows the new construction extending further into the northern setback by 0.7'. However, according to the applicant, the additional construction will be within the setback but will be on the same plane as the existing building and will not encroach any closer towards the property line. The applicant will submit a revised site plan to show the new construction along the same plane as the existing dwelling.

The Planning Commission approved the site plan on August 13, 2019, subject to the Board of Appeals approval of the reduced setback. Their recommendation was in support of the variance request.

*Applicant Comment:*

Mr. Brendan Dalton stated that the home was constructed in 1924 and the desire is to preserve the historic character of the home.

*Public Comment:*

Carroll Frank, 3434 Orchard Street, expressed support of the variance.

Shawn Fowler, 3473 Orchard Street, expressed support of the variance.

**MOTION ITEM:** John Stalvey made a motion, Jan Bolien seconded the motion to grant the variance request for 3429 Rainey Avenue subject to the conditions outlined in the staff report. Motion Carried: 5-0.

**4. Next Meeting Date – Thursday, September 26, 2019**

**5. Adjourn**

**MOTION ITEM:** Jan Bolien made a motion, Rod Mack seconded to adjourn the meeting at 7:33 p.m. Motion Carried: 5-0.

Respectfully submitted by,

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Michael Simpson, Chairman

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Adrienne Senter, Secretary