



**Forest Acres Zoning Board of Appeals  
Minutes  
October 10, 2022  
City Council Chambers  
6:00 PM**

**I. Call to order**

Robin O'Neal, chair, called the meeting to order at 6:00p.

- 1. Determination of a Quorum** – There was a quorum with Pete Balthazor, John Kososki, Stephen Oliver, Shirley Fawley, Robin O'Neil, Ryan Newton, and Kate Usry present. Andy Smith, Assistant City Administrator/Finance Director and Keith Lindler, City Building Official, were also present.

Ms. O'Neil noted that Mr. Newton has recused himself in writing for purposes of discussion and action on the two New Business items as his law firm has the applicant as a client (see attached written recusal statement).

**II. Approval of Minutes –**

**1. August 8, 2022**

Mr. Balthazor made a motion to approve, with minor corrections unrelated to content of the hearing. Mr. Kososki seconded. Motion passed unanimously.

**2. September 12, 2022**

Mr. Balthazor made a motion to approve, with minor corrections unrelated to content of the hearing. Mr. Oliver seconded. Motion passed unanimously.

*Mr. Newton recused himself and left the room during discussion and action on the New Business items.*

**III. New Business**

**1. Variance request**

*5211, 5217 N. Trenholm Rd. (Shop-Vista TIC, LLC); TMS 14013-02-23, 14013-02-19 & 14013-02-25. Requesting a variance to reduce the street frontage by 19.8' after the three parcels are combined.*

Mr. Robert Fuller, attorney for the applicant Mr. Stan Harpe, began the discussion. Using a parcel map of the property with the street frontage highlighted, Mr. Fuller noted that the aggregate street frontage for the three parcels in question (plus a fourth also owned by the applicant) is 137'. The present configuration of the entire aggregation is therefore 3 feet shy of what would be necessary for two separate lots fronting Trenholm (i.e., a minimum of 70 feet each). The applicant is proposing a variance that would allow the owner to develop the entire four-parcel property as

two distinct parcels with one shared ingress/egress point that collectively have almost the total street frontage needed for two lots (i.e., 137 feet of street frontage, when two lots would need 70 feet each). Mr. Fuller noted that this proposal would actually reduce the number of lots (from 4 to 2) and would simplify the property from its historical use with multiple non-conforming parcels with multiple ingress/egress points to two non-conforming lots with one shared ingress/egress point.

Mr. Harpe noted that he has worked extensively with SC DOT to determine the appropriate ingress/egress for all of these parcels and that they have allowed one total curb-cut that has already been installed. He noted that, overall, he'd like to reduce the current four lots to two. This particular variance request combines three of the four lots into one, but leaves 19.8' feet less than the required 70-foot street frontage, hence the 19.8' variance as to street frontage.

ZBA members asked clarifying questions about the DOT's requirements as to curb-cuts, the effect of combining lots on the overall site, and why the request only includes three of the four lots owned by the applicant.

Ms. Fawley asked about traffic studies for Trenholm Rd. Mr. Harpe noted that he procured one in the DOT process and that it will be included in discussion about potential development of the site.

Mr. Balthazor returned to the original point raised by the applicant's attorney, that if you look at the entire site owned by the applicant, the effect of the 19.8' variance is not as large as it seems when you look at what the needed variance would be if the lot line were a little farther to the north (i.e., he would need less than 2ft variance for two separate lots if the lot line were farther north). Mr. Balthazor acknowledged that this is not what the applicant is asking for, but that its helpful for conceptual purposes.

Mr. Fuller discussed the hardships the applicant faces:

- Extraordinary circumstances are that the three parcels in this request are all non-conforming in different ways (two of them are even land-locked and have no street frontage, requiring access through the third lot). By combining them, only one non-conformity remains for the combined property (street frontage, requiring a 19.8' variance) and, with a variance, the combined property could be developed as a C-3 property.
- Conditions don't apply to other properties – The landlocked nature of two of the parcels is unique and presents significant problems in redevelopment. The lot with street frontage is irregularly-shaped, as well, and narrows as it approaches Trenholm Rd. The property has been historically used as commercial with numerous non-conformities and the proposal simplifies the use of the property and ingress/egress to the entire site.
- The conditions would prohibit development of the parcels individually (two of the lots don't have access to Trenholm Rd. at all and existing easements on the site don't provide adequate access to these two lots).

Ms. Fawley noted her concerns about traffic with the site remaining as two distinct parcels after combining. Mr. Harpe noted that, even with two parcels, there is only one DOT-approved curb cut that will have to be shared.

Mr. Kososki noted his concern about the fact that the request only addresses three of the parcels owned by the applicant, but a significant part of the analysis associated with the request (the 137 combined street frontage) involves a parcel (5219 N. Trenholm) that's not explicitly part of the request. Mr. Kososki noted that the two lots, after combination from four to two, could eventually be separately owned.

Mr. Harpe noted that this is a very complicated piece of property and that the request is to combine three of them and retain two overall parcels (rather than four).

Ms. Usry noted that the placement of the lot line or even whether there is one combined lot or two doesn't change the fact that only one DOT curb cut is allowed, that it's already in place and where it's going to be going forward, and traffic flow is already set.

There was discussion of the possibility of drive-thrus. Mr. Harpe noted that the DOT traffic study noted that the site couldn't handle the congestion of a drive-thru.

**Mr. Balthazor made a motion to approve the variance as requested.** He noting the hardships outlined by Mr. Fuller and the irregular nature of the lots. **Mr. Oliver seconded.** Mr. Balthazor, Mr. Oliver and Ms. Usry voted yes; Mr. Kososki and Ms. Fawley voted no. The chair did not vote. **Motion passed 3-2.**

## 2. Variance request

*5211, 5217, & 5219 N. Trenholm Rd. (Shop-Vista TIC, LLC); TMS 14013-02-23, 14013-02-19 & 14013-02-04. Requesting a variance to reduce the rear setback on all three lots to 5' (five feet).*

Mr. Fuller introduced this request. He noted that because of the unusual characteristics of this property, it is in the property owner's and City's interest to place improvements to the rear of the property. He noted the unusual topography with a significant cliff at the rear of the property; this means that the properties behind will not be impacted in a meaningful way, as they're so much higher in elevation than this parcel. He also noted the limitations to this property because of the floodway/floodplain in the front of the property, close to Trenholm Rd., meaning that development needs to be pushed to the rear (the high side) of each parcel, as much as possible. Ms. Laura Baker, engineer with Cox & Dinkins, confirmed these limitations to the property as they're looking to redevelop the site. The previous development similarly had placement of improvements to the rear of the property presumably for the same reasons.

Under C-3, the rear setback is 20ft.; the request here is for a 5ft setback (for a variance of 15ft) for each parcel.

**Mr. Balthazor made a motion to grant the variance request with the condition that there be no ingress/egress on the 5219 N. Trenholm parcel (TMS 14013-02-04).** **Ms. Fawley seconded.** There was some discussion about the proposed condition, with the board noting that granting this variance (i.e., looking at 5211, 5217, and 5219 N. Trenholm together for the purposes of this variance) does not thereby allow an additional ingress/egress beyond what the DOT has already allowed. Mr. Balthazor, Mr. Oliver, Ms. Usry, Mr. Kososki and Ms. Fawley voted yes. The chair did not vote. **Motion passed 5-0.**

*Mr. Newton returned to the meeting.*

#### **IV. Review of ZBA Rules and Procedures**

Mr. Smith noted that this is a continuation of discussion from the last few meetings about the board's rules and procedures. The version of the document under consideration tonight incorporates suggestions made by the ZBA at the last two meetings and input from the City Attorney. This version also includes the most recent guidance from the Municipal Association on recusal and maintaining a quorum.

There was brief discussion of the phrase 'special exceptions' in the document. Mr. Smith noted that this is a very specific zoning action and we currently don't use them. However, because we're currently engaged in a zoning ordinance re-write that may entail this option, we should leave this in the document.

Ms. Fawley asked about Article IV, Section 5, in particular the time limit for presentation by opponents (item d). The ZBA members agreed to place a 2-minute limit per opponent.

Mr. Balthazor recommended a slight amendment to item c in the same section, noting that it should end with "appealed from".

Ms. Fawley asked about the service of an order and the process for that. Mr. Smith noted that, to this point, we've issued the orders within 30 days and have not linked orders to the approval of the next meeting's minutes or specific approval by the board otherwise. Mr. Smith noted that he and the City Attorney have talked about this and that our process is appropriate, unless a hearing is particularly contentious or controversial. We can address this in the future if needed.

**Mr. Kososki made a motion to approve this document, with the two changes identified above (2-minute limit and "appealed from" typo). Mr. Oliver seconded. Motion passed unanimously.**

#### **V. Adjournment –**

The meeting was adjourned at 7:21PM.

Respectfully Submitted,  
Andy Smith, Asst. City Administrator/Finance Director  
*(Administrative support of Zoning Board of Appeals)*