

**Zoning Board of Appeals Meeting**  
**Monday, November 14, 2022**  
**7:00 p.m.**

**PRESENT:**

**Chairman – Robert Potts**  
**Member – Roslyn Crider**  
**Member – Sandra Cherokee Hill**  
**Assistant City Attorney – Patrick Stough**

**Director – Anthony Alston**  
**Assistant Director – Janna Keller**  
**Planner I – Chanelle Campbell**  
**Administrative Assist. – Kristen Bosah**

**ABSENT:**

**Member – Antonio Andrews**  
**Planner Record TCF – Carletta Singleton**

**I. CALLED TO ORDER:**

The meeting was called to order at 7:00 p.m.

**II. APPROVAL OF MINUTES:**

**Monday, September 26, 2022**

On motion of Roslyn Crider, seconded by Sandra Cherokee Hill and carried, the Zoning Board of Appeal approved the agenda. Vote was unanimous.

**III. OLD BUSINESS:**

None

**IV. NEW BUSINESS:**

- A. Item #0001 Case Number 2022V-001-08 A request by Greystar c/o Julie Sellers comprising approximately 10.64 acre +/- acre tract of land (Parcel 09F120100560391) located south of Jonesboro Road and north of Interstate 85 for the relief to consider a request to reduce parking requirements from 585 parking to 404 parking spaces.**

**1. PRESENTATION AND/OR COMMENTS:**

- A. Presentation by Community Development Department, Planner I, Chanelle Campbell. A request by Greystar c/o Julie Sellers comprising approximately 10.64 +/- acre tract of land (Parcel 09F120100560391) located south of Jonesboro Road and north of Interstate 85 for the relief to consider a request to reduce parking requirements from 585 parking to 404 parking spaces. This property is located beside the Kroger off Jonesboro Road; the aerial map illustrates commercial properties on the North, West, and East – while industrial property on the south closer to the interstate. Union City’s zoning ordinance Section 10-7, Part A - states “all apartments and multifamily dwellings shall have two spaces per dwelling unit plus one space for each 200 sq. of clubhouse.” In order to ensure proper and uniform development of public parking areas throughout the jurisdiction, staff recommends a denial. The applicant has a request for 276 units, which would be 552**

parking spaces plus a clubhouse with a space of 6470 sq. ft. for an additional 33 parking spaces and for a total of 585; for these reasons we request a denial for the variance. This request has circulated through all departments and have been reviewed. Staff has not received any opposition of this variance request. The applicant is present, and has a presentation.

Applicant Baxter Russell, Attorney with Julie and Dillard Sellers, address is 1776 Peachtree St NW, Atlanta, GA presents on behalf of the applicant Greystar. Craig Gearheart, Director of Development was also present to answer questions.

**2. REMARKS FROM THE PETITIONERS:**

- **Baxter Russell – In August, Mayor and Council voted unanimously to approve Greystar’s request to rezone this property to TCMU, Town Center Mixed Use in order to develop a 276 multi-family community. The request tonight is to go from requiring two spaces per unit to 1.46 spaces per unit; requiring two spaces per unit, leads to severely over parked multi-family development.**

**3. THE COMMISSIONER’S HAD QUESTIONS ABOUT THE FOLLOWING TOPICS:**

- **Robert Potts (Chairman) – (Question) I have a legal question Mr. Patrick. According to this, the applicant is Greystar c/o Dillard Sellers. But the current owner is Regal Entertainment Group?**
- **Patrick Stough (Attorney) – (Answer) Yes. I would assume there is an authorization to apply for this variance on their behalf.**
- **Robert Potts (Chairman) – (Question) Once the variance is granted there is no appealing it?**
- **Patrick Stough (Attorney) – (Answer) No, unless they came and asked for a change in the rezoning or the variance.**
- **Robert Potts (Chairman) – (Question) My real question is, if this is granted to Greystar and it goes with the property parcel, and then Greystar for whatever reason backs out of the deal, that variance is then still granted to Regal. Is that correct?**
- **Patrick Stough (Attorney) – (Answer) Keep in mind that the parking ratio is based on the number of apartment units they would like to put in place. If Regal wants to come in and do something different than apartments, then we would be reviewing a different situation.**
- **Robert Potts (Chairman) – (Question) I understand that, but once you’ve already granted that variance to reduce that parking, whether it’s an apartment complex or a strip mall; that variance is still there to reduce parking?**
- **Patrick Stough (Attorney) – (Answer) It is, but it’s the nature of the variance that is not going to be applicable to the situation. If they want to come in and propose for a strip mall, the variance is not going to apply to that. The variance is based on the number of units, and not on whatever requirements we have on commercial parking.**

**4. REMARKS:**

**5. PUBLIC HEARING OPEN TO THE PUBLIC (2 MIN.):**

**6. PUBLIC HEARING CLOSED TO THE PUBLIC:**

**7. REMARKS FROM PETITIONER AND OTHERS:**

**8. VOTE ON ITEM #0001; Case Number 2022V-001-08**

On motion of Sandra Cherokee Hill, seconded by Roslyn Crider and carried, the Zoning Board of Appeal denied the request to reduce the parking requirements in case 2022V-001-08. Vote was unanimous.

**B. Item #0002: Case Number 2022V-002-08 A request by Dodson Development LLC, Parcel ID 09F21000970020, 09F200000960212, 09F2000100900381, 09F210500890363, 09F200100900456 & 09F200100900415 for the relief of Development Regulations; Section 4.12 pedestrian sidewalks along street frontage.**

**1. PRESENTATION AND/OR COMMENTS:**

**A. Presentation by Community Development Department, Assistant Director, Janna Keller. An application submitted by Dodson Development, to seek a variance request from Union City Development Regulations Section 4-12 - Sidewalks “Sidewalks shall be provided along both sides of streets, both public and private, for any development and in such other locations as deemed necessary by the City for safe pedestrian movement.” This request is currently zoned residential medium density. The total acreage is 15.1 +/- acre tract of land. The applicant submitted plans for an LDP and construction plans back in 2019; the LDP and construction plans were approved by Public Works and ATLAS Engineering. In February 2022, the applicant submitted for the Final Plat and this request was denied due to the lack of sidewalks. The preliminary plat was also approved in 2019. The applicant states sidewalks cannot be installed due to existing culverts in the ROW. After reviewing the variance request of Section 4-12 by the Zoning Board of Appeals, Community Development is requesting the applicants provide the city with the costs or estimates of differences for the constructions of the sidewalk, and addition of landscaping such as flower bedding, bushing, and other planting to beautify the corridor if the request is approved. Staff recommends conditions to approve the submitted preliminary plat upon approval of the final plat, with the case number of the variance request listed on the plat if this variance is also approved. At this time, staff recommends denial of this request. This request has circulated through all departments and have been reviewed. Staff has not received any opposition of this variance request.**

**Applicant Christopher Pike with Urban Pulse Universal, representing the applicant at 2597 Lake Shore Drive, College Park, GA 30337. Christopher Pike presents.**

**2. REMARKS FROM THE PETITIONERS:**

**3. THE COMMISSIONER’S HAD QUESTIONS ABOUT THE FOLLOWING TOPICS:**

- **Robert Potts (Chairman) – (Question) Was Dodson Development the original developer of this property?**
- **Christopher Pike – (Answer) Yes, Dodson was the original developer.**
- **Robert Potts (Chairman) – (Question) So what they’re actually trying to do is sell the development to someone else?**
- **Christopher Pike – (Answer) They are trying plot the lots, which they can’t do because the City won’t allow them because the sidewalks are not in. So they can’t actually sell the property to the actual home builders until they get the lots plotted.**
- **Robert Potts (Chairman) – (Question) Okay, but you’ve said the City already approved the site plan?**
- **Christopher Pike – (Answer) The developer had the plans, and the City has the plans as well, and plans were stamped and approved without the sidewalks. They have put in infrastructure based on the approved plans, but now they are not able to get the lots**

plotted because they do not have the sidewalks. We are trying to get the variance so they can move forwards with getting the lots plotted, so we can begin building homes.

- **Robert Potts (Chairman) – (Question)** Everyday day sidewalks are placed over water mains, sewers, gas lines, etc., what is the problem with the request to include sidewalks?
- **Christopher Pike – (Answer)** You can build anything anywhere, but it's the cost associated. If you had done those costs in the beginning, it would be different; unlike now where we would have to relocate utilities, and go back to reengineer everything. Which is why we created the alternative route, it still provides sidewalks, just not along Dodson Road.
- **Robert Potts (Chairman) – (Question)** Wouldn't you think that fall on the engineer?
- **Christopher Pike – (Answer)** The City is the one who approves the plans. The City is the one who says these plans to do not meet our standards or our specifications.
- **Robert Potts (Chairman) – (Question)** But if I'm not mistaken the preliminary site plan just shows the outline of the property?
- **Christopher Pike – (Answer)** No, anything the developer would've had to do – should've been in those initial plans. If the city wanted to require or request sidewalks that would've been the appropriate time to do that.
- **Robert Potts (Chairman) – (Question)** You are talking about having sidewalks without the lots being plotted? That would be putting the cart before the horse?
- **Patrick Stough (Attorney) – (Answer)** That's the general process, at some point in the approval process, it should've been caught at the city level, and it was not. That's why we are here now. It's appropriate for the sidewalks to be installed in this manner in the way that they're describing. There was a step along the way where someone did not catch that it hadn't been done.
- **Roslyn Crider – (Question)** In other words it should've been done before now with the original approval or original plan? When they were presented to the City, the City went ahead and approved them as we see them. Except for that red strip is supposed to be a sidewalk. Is that correct?
- **Christopher Pike – (Answer)** The red strip is already there, that's for Liberty Point Elementary, those sidewalks is already exist.
- **Robert Potts (Chairman) – (Question)** Just to clarify sidewalks will be on both sides of the roads inside the subdivision?
- **Christopher Pike – (Answer)** Correct, everything you see here will be in the development.
- **Sandra Cherokee Hill (Member) (Member) – (Question)** Out of curiosity when were the apartments approved by the City? Do you know?
- **Christopher Pike – (Answer)** They're single family homes, it was in 2019.
- **Janna Keller (Assistant Director) – (Answer)** Yes, the preliminary plat and the construction plans were approved in 2019, along with the LDP.
- **Robert Potts (Chairman) – (Question)** Says here the staff recommends denial of the variance request though?
- **Anthony Alston (Director) – (Answer)** That's because of the code of sidewalks must be on both sides of the street. It is not a true hard denial, it is more a soft denial.
- **Roslyn Crider (Member) – (Question)** If I was the developer, would I not entertain the notion to sue the City for the extra costs of the project?
- **Patrick Stough (Attorney) – (Answer)** I do not think it would get to that level but I think they would probably bring such a lawsuit before they do the sidewalks.
- **Roslyn Crider (Member) – (Question)** Okay, so they would do the lawsuit before the sidewalks?

- **Patrick Stough (Attorney) – (Answer) Yes.**
- **Robert Potts (Chairman) –I can't imagine an engineer designing a set of plans for a subdivision in the Metropolitan Atlanta area that has no sidewalks, especially with a school around the corner. We usually do not grant variances because of monetary reasons.**
- **Patrick Stough (Attorney) – If I may, there is a bit more than a monetary issue. Given the City's role in the approval of plans.**
- **Robert Potts (Chairman) – (Question) I understand that, but I'm sure it falls under the engineer. The engineer should know what the city code is, and the engineer should draw those plans accordingly; he has a seal he puts on there that he bonds himself with.**
- **Patrick Stough (Attorney) – (Answer) That's correct.**
- **Robert Potts (Chairman) – So therefore I cannot see why the petitioner cannot work with the City Planning and work with Director Alston to get the proper plans. I'm willing to table this. If not we will go on with the vote.**
- **Patrick Stough (Attorney) – (Question) What would you be looking for in a table situation?**
- **Robert Potts (Chairman) – Well, really in a tabling situation to come back with a set of plans.**
- **Anthony Alston (Director) – As Attorney Stough has previously stated, the applicant also present their topography, hardship, and other situations that staff would consider as part of the variance. That is, one of the analysis and evaluation criteria staff use to write the staff reports, and in all honestly the city should've caught that at the time the plans were submitted. That's the point of the review process, they should've caught that; especially given that the subdivision regulations require sidewalks on both sides of the streets.**
- **Robert Potts (Chairman) – (Question) Well, this was done by your predecessor, correct?**
- **Anthony Alston (Director) – (Answer) Correct.**
- **Robert Potts (Chairman) – You do realize what my situation is, ignorance is no excuse for the law. Engineers have to study all the codes when they draw up these plans?**
- **Christopher Pike – Well, I would suggest to you if every engineer submitted perfect plans, then you would not have a need for Planning and Zoning department. That's the purpose of having someone on the city side, to address issues the development side miss. City staff who is well versed with the ordinances are for that municipality – I've worked for many municipalities, they have an obligation to protect the City's interest. We are trying to find a way to get past this, in a way that is equitable and logical for both the City and the developer. This is not about money, this is about doing what's right on both sides. The City's attorney and the Director of Community Development have both stated that this is something that was dropped, and we're trying to figure out a way to move forward and fix it tonight.**

**4. PUBLIC HEARING OPEN TO THE PUBLIC (2 MIN):**

**5. PUBLIC HEARING CLOSED TO THE PUBLIC (2 MIN):**

**6. REMARKS:**

**7. REMARKS FROM PETITIONER AND OTHERS:**

- **Roslyn Crider (Member) – Chairman Potts since they obviously have a sidewalk that runs the entire length of the subdivision, that runs parallel to where the sidewalks side would have been, I do not see where it would be a real detriment to not have the sidewalks along Dodson Road.**

**8. VOTE ON ITEM #0002; Case Number 2022V-002-08**

**On motion of Roslyn Crider, seconded by Sandra Cherokee Hill and carried, the Zoning Board of Appeal approved case number 2022V-002-08. Vote was unanimous.**

**C. Item #0003; Case Number 2022A-001-08 A request by Vinny Patel to appeal the decision of the Zoning Administrator and to permit the applicant to apply for a variance from the conditions that apply to hotels in the GC, General Commercial zoning district.**

**1. PRESENTATION AND/OR COMMENTS:**

- **Presentation by Community Development Department, Director Anthony Alston. The last case this evening is in the nature of appeals. The applicant Vinny Patel wishes to appeal the decision of the Zoning Administrator which would permit the applicant to apply for a variance from the conditions that applies to the extended stay hotel in the General Commercial zoning district. The applicant is seeking to establish an extended stay located off Royal South Parkway. The applicant's original intent was to come forth with a four part variance; for each guest room, 300 sq. ft. and the lobby size, providing a fitness recreational center with 400 sq. ft., as well as having a meeting facility conference. Extended stays typically do not have meeting facilities that is typically found in larger hotel chains. After examining the ordinance and speaking with the legal team, it was decided that because these were conditional uses and not permitted uses allowed by the zoning ordinance, the only avenue of relief required coming before this Board to request an appeal to overturn the decision of the Zoning Administrator. Should the Board grant this appeal, the applicant would return to the Board to request a variance.**

**Applicant Vinny Patel represent on behalf of Neal Patel, residing at 122 Richardson St, Atlanta GA 30312. Vinny Patel presents.**

**2. REMARKS FROM THE PETITIONERS:**

**3. THE COMMISSIONER'S HAD QUESTIONS ABOUT THE FOLLOWING TOPICS:**

- **Robert Potts (Chairman) – (Question) Do we have any site plans?**
- **Anthony Alston (Director) – (Answer) This is just the appeal, we do not have any site plans, this is just for him to have permission to come and request the variance. If the Board appeals that decision, Staff will have the full packet with the site plans, variances, and everything for the Board to consider at that time.**
- **Robert Potts (Chairman) – (Question) Is the petitioner asking for us to table this?**
- **Patrick Stough (Attorney) – (Answer) No, the decision had been made by the Zoning Administrator that the applicant cannot seek these variances because it's not allowed by the zoning ordinance for the applicant. He's asking you to say no that is an incorrect decision, and instead allow him to seek these variances.**
- **Roslyn Crider (Member) – (Question) Is he just asking permission to be heard?**
- **Anthony Alston (Director) – (Answer) Correct.**
- **Robert Potts (Chairman) – (Question) He is asking to be exempt from the code, correct?**
- **Patrick Stough (Attorney) – (Answer) The language and code that is applicable here when it talks about a variance, "A variance shall not be granted for a use or land of building a structure that is prohibited by this ordinance district in question." The use the applicant is asking for is a hotel, and within this district, a hotel has certain conditions attached to it. It's only allowed in this district with those conditions attached to it. The applicant is asking to vary those conditions which runs against the language of what was just read.**

**4. PUBLIC HEARING OPEN TO THE PUBLIC (2 MIN.):**

**5. PUBLIC HEARING CLOSED TO THE PUBLIC:**

**6. REMARKS:**

- **Patrick Stough (Attorney) – There is another option available to the applicant; if they do not like the conditions associated with a particular use and particular district they can also apply for text amendment. Which would go to the planning commission and ultimately decided by Mayor and Council.**

**7. REMARKS FROM PETITIONER AND OTHERS:**

**8. VOTE ON ITEM #0003; Case Number 2022A-001-08**

**On motion of Roslyn Crider, seconded by Sandra Cherokee Hill and carried, the Zoning Board of Appeal denied case number 2022A-001-08. Vote was unanimous.**

**9. ADJOURNMENT:**

**On motion of Roslyn Crider, seconded by Sandra Cherokee Hill and carried, the Zoning Board of Appeal adjourned the meeting 7:57 p.m. Vote was unanimous.**