

MINUTES
BREVARD BOARD OF ADJUSTMENT REGULAR MEETING
Tuesday, February 7, 2023 – 3:00 PM

The Brevard Board of Adjustment (BOA) met for a regular meeting on Tuesday, February 7, 2023, at 3:00 PM.

Members Present: Kevin Jones, Chair
Judith Mathews
Allen Delzell
Peter Offen, Vice Chair
Tad Fogel

Staff Present: Aaron Bland, Assistant Planning Director
Janice Pinson, Board Clerk
Brian Gulden, Board Attorney

Others: Trent Hardin, Applicant/Agent – Midgard Self Storage

I. WELCOME

Chair K. Jones called the meeting to order at 3:01 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS

Board members, Board Attorney, and Staff introduced themselves.

III. CERTIFICATION OF QUORUM

Chair K. Jones had the Clerk certify that a quorum of the Board was present.

IV. APPROVAL OF AGENDA

Motion to approve the agenda by T. Fogel, second by J. Mathews, carried unanimously.

V. APPROVAL OF MINUTES

Motion to approve the minutes of the January 3, 2023, meeting by A. Delzell, second by P. Offen, carried unanimously.

VI. NEW BUSINESS:

- a) Consideration of application #VAR-23-001 by Trent Hardin, Agent, for a variance from UDO Chapter 10.5.G.2 to allow parking in the front. The property is located in the zoning jurisdiction of the City of Brevard in the Corridor Mixed Use (CMX) zoning district, further identified by PIN# 8597-43-0528-000.

Chair Jones went over the protocol for quasi-judicial proceedings.

He polled the board as to exparte communications and conflicts of interest, and there were none.

Applicant was polled as to conflicts with any board members, and there were none.

Trent Hardin, Applicant/Agent and Aaron Bland, Assistant Planning Director were sworn.

Chair Jones opened the hearing.

Aaron Bland, Assistant Planning Director presented his staff report a portion of which follows:

Background

The applicant, Trenton Hardin, agent for Todd Allen, owner of Midgard Self Storage, has applied for a variance for a parcel of land on Ecusta Road, which is located in the Corridor Mixed Use (CMX) zoning district within the corporate limits of the City of Brevard, further identified by the parcel identification number 8597-43-0528-000.

The applicant is requesting a variance from the requirement that off-street parking shall not be permitted between any principal structure and the street upon which the structure fronts, per Section 10.5.G.2 of the City's Unified Development Ordinance (UDO). The request is for a variance to allow parking between a future expansion of the storage facility and Ecusta Road. The subject parcel is a recombination of what was once three separate lots. The existing storage facility was built in two phases and now the owners desire to expand with a third phase built on the vacant portion of the land.

See Attachment 1 for the application materials and site plan, Attachment 1 for Section 10.5.G.2 of the UDO, and Attachment 3 for a vicinity map.

Discussion

The specific requirement that this request focuses on is 10.5.G.2 of the UDO. However, to fully understand the request and the development of this site, it is necessary to look at the context and history of this section of the UDO.

When the existing parking in the front of the building was permitted, there was an exemption in then-Section 10.5.G.3 for properties in the Corridor Mixed Use zoning

district, which this property is in. This is the same exemption that allowed the Aldi development to have parking in the front. At that time, Section 10.5.G.3 read as follows (emphasis added):

Except for properties located in the Corridor Mixed Use (CMX) zoning district, off-street parking shall not be permitted between any principal structure and the street upon which such structure fronts. Where a structure fronts upon two or more streets, parking may be permitted between the principal structure and the adjacent street of lesser classification when parking cannot reasonably be placed in another location.

Following the Aldi development, City Council instructed Planning Staff to initiate a text amendment to remove the CMX exemption in Section 10.5.G.3. This was completed in September of 2021 by Ordinance No. 2021-41, which removed the CMX exemption and combined Sections 10.5.G.2 and 10.5.G.3 into the 10.5.G.2 that exists today. The applicant's request is, in essence, a request to develop Phase III of the building so that it may match previously built phases.

There are also some physical characteristics of the subject parcel that are of note. There is a city sewer line with raised manholes running the length of the parcel to the rear of the existing building, as well as a steep slope rising from this property to the adjoining rear parcels. There is also an existing stormwater retention system on the site that the owner wishes to utilize to control the additional runoff created by the development of Phase III.

As a reminder, the Board may consider adding conditions of approval that are reasonably related to the variance and the standards for its approval.

A. Bland stated that the matter was properly advertised, property posted and letters mailed to adjoining property owners in accordance with NC law.

T. Fogel asked A. Bland to explain the history of the original exemption for parking in the front.

A. Bland explained that the exemption was meant to allow parking in the front in the CMX auto oriented commercial district using the example of the Asheville Highway Corridor fast food restaurants. When further development began to happen City Council decided they wanted to not allow parking in the front.

K. Jones asked the Applicant if he owned the property before the exemption was eradicated in 2021.

T. Hardin responded that he did.

P. Offen asked if the UDO would allow a parking lot to be built over a sewer line.

A. Bland explained that an encroachment agreement would be required and that the developer would have to agree to allow the City to make any necessary repairs to the sewer line and then they would be responsible for repairing the parking lot after the sewer line repairs were completed.

Trent Hardin, Applicant/Agent explained that he developed the prior two storage facility buildings and that he since sold them to Midgard. That Midgard would like to complete the project with a third building and want the project to be uniform with the existing buildings. That the steep slope and sewer line that runs along the rear of the property prevents that being a place to build parking. He also explained that with the new development additional bioretention will be required and the far side of the property is the ideal location. He explained that 6 parking spaces would be along the front of the property to keep uniformity with the current parking for the other two buildings and is really the only place to accommodate the parking area.

After some brief questions by the board the hearing was closed.

Motion by P. Offen:

With regard to variance request **23-001**, the application of Trent Hardin, Agent for Midgard Self Storage and NC Two, LLC, seeking a variance from Chapter 10.5.G.2 of the UDO for property located at 196 Ecusta Road, Brevard, North Carolina, within the Corridor Mixed Use (CMX) Zoning District, I move the Board to make the following findings of fact:

- a) that unnecessary hardship would result from the strict application of the regulations;

Building a parking lot on top of a sewer line could incur additional future expense. Not feasible to configure building any other way, due to current conditions and cost of construction.

- b) the hardship results from conditions that are peculiar to the property such as location size or topography;

Steep slopes and existing infrastructure.

- c) the hardship did not result from actions taken by the applicant or the property owner; and

UDO exemption was in place when the first two buildings were constructed.

- d) the requested variance is consistent with the spirit purpose and intent of the regulations such that Public Safety is secured and substantial Justice achieved.

Former exemption focused on the Asheville Highway Corridor and this property is outside that area.

Accordingly, I further move the board to **GRANT** the requested variance to allow for off-street parking within the front yard setback area of the subject property in accordance with and only to the extent represented in the application and plans.

Second by J. Mathews carried unanimously.

The hearing was closed.

VII. UNFINISHED BUSINESS

None.

VIII. REMARKS

None.

IX. ADJOURN

K. Jones moved to adjourn the meeting, seconded by T. Fogel. The motion carried unanimously. Meeting adjourned at 3:26 PM.

Kevin Jones, Chair

Janice H. Pinson, Board Clerk