



Asheboro Planning Board
Asheboro City Hall (146 N. Church Street)
Monday, September 14, 2015
7:00 PM
AGENDA

- I. Call to Order
- II. Approval of minutes from August 3, 2015 meeting
- III. Review of Cases
- IV. Planning Board Functioning as Board of Adjustment (Case No. BOA-15-03):
Variance from sidewalk requirements (Asheboro Zoning Ordinance, Section
322A): 1202 South Cox Street
- V. Items Not on the Agenda
- VI. Adjournment

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MEETING OF THE ASHEBORO PLANNING BOARD
CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.
MONDAY, AUGUST 3, 2015
7:00 p.m.

This being the time and place for the regular meeting of the Asheboro Planning Board, a meeting was held with the following officials and members present:

Van Rich) - Chair
James Lindsey) - Vice Chair

Ritchie Buffkin)
Lynette Garner)
David Henderson) - Members Present
Thomas Rush)
Dave Whitaker)

John Evans, Assistant Community Development Division Director
Justin Luck, Zoning Administrator/Planner
Bradley Morton, Planning Technician/Deputy City Clerk
Trevor Nuttall, Community Development Division Director
Jeff Sugg, City Attorney

One (1) citizen was present at this meeting.

I. CALL TO ORDER

Mr. Van Rich called the Asheboro Planning Board to order.

II. CONSENT AGENDA

Due to Ms. Garner's absence from the meeting on July 6, 2015, which is the subject of the consent agenda items, Mr. Rich entertained a motion to excuse Ms. Lynette Garner from the consent agenda vote. Upon Motion by Mr. Buffkin and seconded by Mr. Whitaker, the Board unanimously voted to excuse Ms. Garner from the vote. Mr. Rich then entertained a motion to approve the consent agenda items that were provided to the board members in advance of the meeting coming to order. Upon motion by Mr. Whitaker and seconded by Mr. Buffkin, the Board unanimously voted to approve the following consent agenda items:

a. Approval of Minutes from July 6, 2015 Meeting

A copy of the approved minutes are on file in the Secretary's office.

b. Approval of the General Account of a Closed Session conducted during the July 6, 2015 Meeting

A copy of the approved general account is on file in the Secretary's office. Due to the Board not acting to seal the general account, this document is available for inspection along with the minutes of the open sessions.

c. Approval of Findings of Fact, Conclusions, and Order for Board of Adjustment Case Number BOA-15-02 (Variance from front yard setback and front yard averaging requirements, Asheboro Zoning Ordinance, Table 200-1 and Section 305): Lawson Court and Homeplace Drive

A copy of the approved Findings of Fact, Conclusions, and Order are on file in the Secretary's office.

III. REVIEW OF CASES

Mr. Justin Luck informed the board of the zoning related cases that the City Council heard in July.

IV. Rezoning Case RZ-15-07: Rezone from R7.5 (Medium-Density Residential) to M (Mercantile): 1202 South Cox Street

Mr. Evans gave a presentation of the case using maps and photos from multiple directions to give staff's analysis of the rezoning request. He listed the surrounding uses and stated that South Cox Street was a transitional area between residential and office as well as some commercial activity. He stated that there were no extreme topographical areas of concern. He also mentioned that South Cox Street was a state maintained road and that the property was within Tier 3 of the Center City Planning Area. He stated the intent of the Mercantile district and gave a summary of the different uses that were permitted by right in the Mercantile district. He stated that the property was in a City Activity Center according to the Land Development Plan and was also in the Primary Growth area on the Growth Strategy Map. He listed several goals and policies that were in support of the request and had none that were negative to the request. He stated that staff's recommendation was to approve the request and gave a consistency statement that the request was in the public interest. He asked if the Board had any questions of him and then stated that the applicant, Mr. Rodger Chriscoe, was also present if the Board had any questions of him. The Board had no questions of the applicant or Mr. Evans. Mr. Rush commented that the request was appropriate for South Cox Street as the district was compatible with the area due to past development and activity. Upon motion by Mr. Henderson and seconded by Ms. Garner, the Board unanimously voted to approve the rezoning request.

V. ITEMS NOT ON THE AGENDA

Mr. Trevor Nuttall mentioned that applications for the Urgent Repair Program would be available to the public starting September 1, 2015. He then handed the Board brochures about the program and went over some of the key dates that would occur throughout 2015 and 2016. He encouraged the Board to share information about the program with members of the community.

In response to a request by Mr. Henderson, the Board Chair allotted time during the portion of the meeting set aside for items not listed on the agenda to engage in further discussion about the previously approved written findings, conclusions, and order for the variance case identified as Case No. BOA-15-02. The city attorney discussed the outline of the document and addressed any questions about specific items within the documents. At the conclusion of the discussion, no Board member expressed dissatisfaction with the accuracy of the written findings, and the Board's earlier action to approve the findings, conclusions, and order was left standing as an approved item with no modifications.

VI. ADJOURNMENT

There being no further business to discuss, Mr. Rich adjourned the meeting.

Bradley Morton, Secretary, Planning Board

Van Rich, Planning Board Chairman

Board of Adjustment Staff Report

Case: BOA 15-03

Date: September 14th, 2015

Requested Action: Variance from Section 322A of the Asheboro Zoning Ordinance, which regulates when sidewalk construction is required.

GENERAL INFORMATION:

Applicant: Rodger W. Chriscoe

Address: 6272 Foushee Rd.

Phone: (336) 953-7911

Location of Affected Property: 1202 S. Cox St. (PIN 7750879078)

Size: .31 Acres **Existing Zone:** R7.5

Existing Land Use: Vacant

Surrounding Land Use:

North: Office

East: Commercial

South: Commercial

West: Residential

Land Development Plan: Primary Growth/City Activity Center

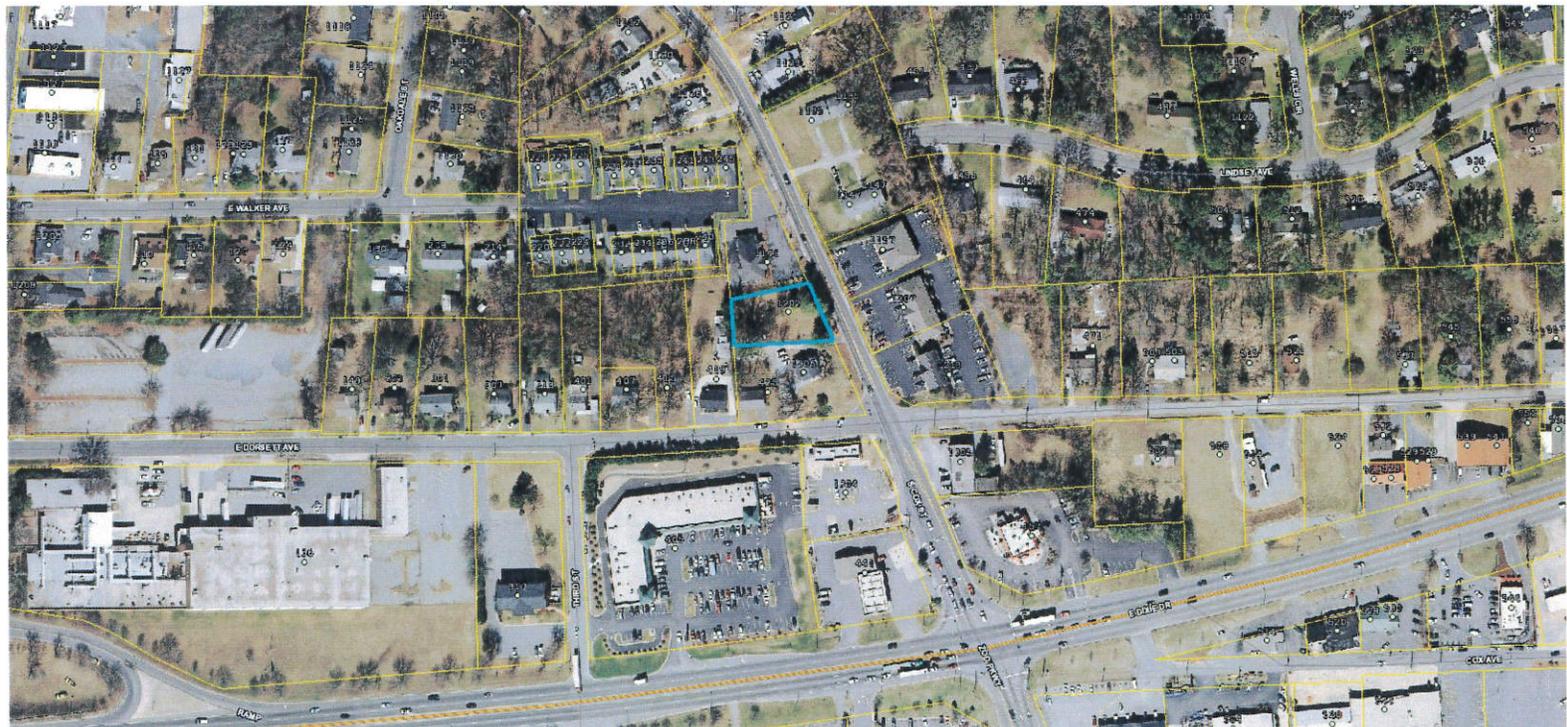
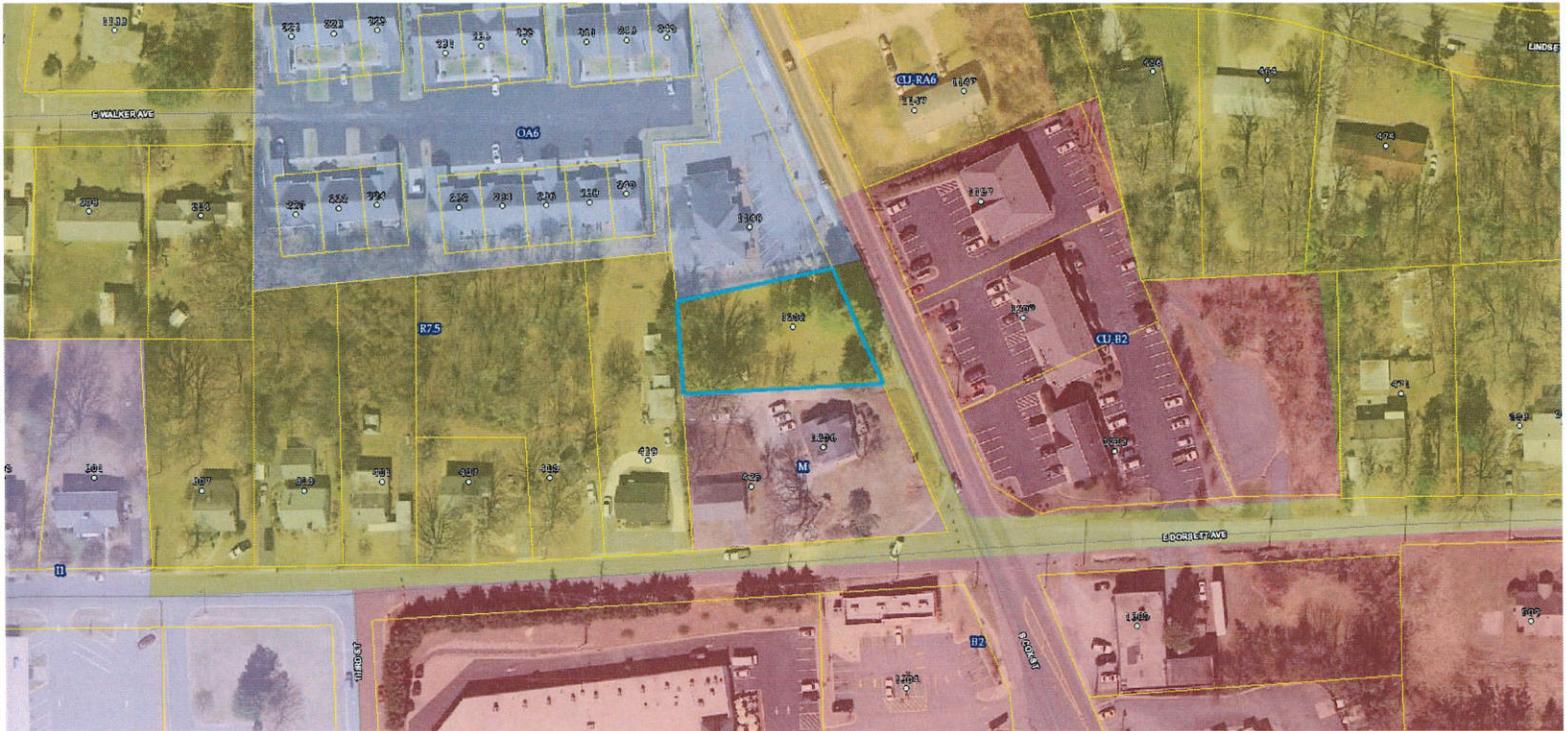
ANALYSIS

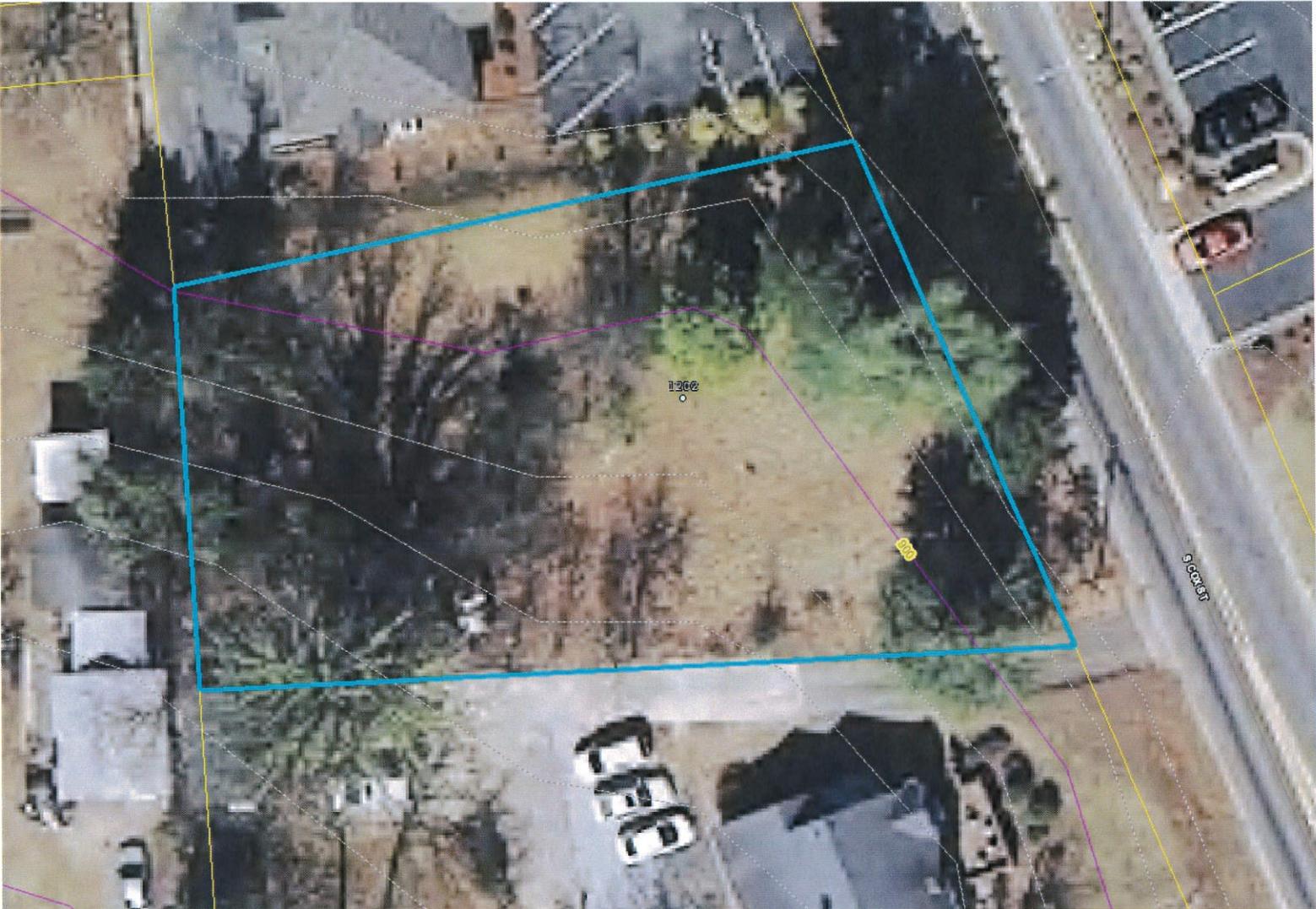
This is a legal-conforming R7.5 lot. The lot was previously used as a Single Family Residence. The Residence was removed in 2008. Mr. Chriscoe acquired the property in February of 2015. In July, Mr. Chriscoe applied to have the property rezoned to M: Mercantile to allow commercial development. The rezoning will be heard by the City Council in September.

The property is located in Tier 3 of the Center City Planning Area. The Land Development Plan describes the intent of the City Activity Center, which includes Tier 3 of the Center City Planning Area, as follows: "To create pedestrian-friendly, community focal points containing a mixture of commercial, office and institutional, entertainment, open space, and residential uses & housing types, with ample sidewalks, street trees, on-street parking, public amenities & open space" (p. 80). Tier 3 requires sidewalk construction for most new construction by

reference to Section 322A of the Zoning Ordinance. Section 322A requires construction of sidewalks for all new buildings in the Mercantile district along street frontages that possess curb and gutter and at least 8.5 feet of public right-of-way as measured from the back of curb to the outer boundary of the right-of-way. NCDOT has measured the right-of-way along the property and confirmed more than 8.5 feet exists.

Maps





- Legend:**
- Blue and Yellow Lines: Property Lines**
 - Green Line: Stream**
 - White Dotted Lines: 2ft Contour Lines**
 - Purple Lines: 10ft Contour Lines**

Case: BOA-15-03

Date: Sept. 14th, 2015

The concurring vote of four-fifths of the Board shall be necessary to grant a variance. (904.2)

When unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Board of Adjustment, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial evidence in the record of proceedings before the Board.

The Board may impose appropriate conditions upon the granting of any variance provided that the conditions are reasonably related to the variance. Violation of such conditions shall be a violation of this Ordinance. (905)

I have found all the findings of fact as listed above in favor of the applicant.

Variance: Section 322A: Sidewalks Required

Member's Vote: Yes _____ No _____

Signature _____

STATEMENT BY APPELLANT/APPLICANT:

In the space provided below and/or on the back of this form, please state the facts and line of argument that you believe support your appeal, request for a variance, or request for an interpretation of the Zoning Ordinance. In providing this information, please state the precise action that you would like to see taken by the Board of Adjustment.

The application of the ordinance has two adverse affects on the land owner: (1) loss of land to create the sidewalk (2) increased cost to build and maintain a sidewalk. The ordinance also increases a risk to public safety. Since 1999, I have observed people daily walking on Cox St. by this property. Consistently these pedestrians are walking on the grass or road opposite 1202 S. Cox St. If a sidewalk were installed for the 75-80 feet of road frontage: (1) Would those people cross the busy street just for 75-80 feet and then have to cross back because 1206 S. Cox does not have a walk. (2) Nor is it safe to walk in front of 1206 S. Cox. No sidewalk exists on Cox St currently from the corner of Taff to Dorsett. The hardship results from the lay of the land. 1202 is on a hill. If the sidewalk is mandated additional cost to build and maintain a retaining wall would be created. This hardship of ordinance was not created by the owner. The property was purchased with it. As previously stated the variance is consistent with surrounding property and such that public safety is best maintained. The action requested is to give a variance to the sidewalk requirement. Proper landscaping will be used on the right-of-way instead.

I certify that all the information presented by me in this application is accurate to the best of my knowledge, information and belief.

 - member for
Signature of Applicant
Chriscoe Properties, LLC

STAFF USE		
Received by: _____	Date: _____	Case Number: _____