

**Town of Amherst  
Board of Zoning Appeals  
May 3, 2012**

A meeting of the Town of Amherst Board of Zoning Appeals was called to order by Chairman Mays at 7:30 PM on May 3, 2012 in the Council Chambers of the Town Hall. Members Willie Diggs, William Iseman, William Hopkins, Gary Mays and Teresa Tatlock were present. Town Manager Jack Hobbs was present in his capacity as Secretary to the Board.

The Chair noted that a quorum was present and welcomed everyone to the meeting. Mr. Diggs gave an invocation.

Mr. Hopkins made a motion that was seconded by Mrs. Tatlock to dispense with the reading and approve the minutes from the April 16, 2012 meeting with one clerical correction. The motion carried 5-0 with Messrs. Diggs, Hopkins, Iseman, Mays and Mrs. Tatlock voting in favor.

**Variance Application: M & M Properties - 192 S. Main Street**

The Board received an application by M & M Properties for variances to two sections of the Zoning and Subdivision Ordinance for property located at 192 S. Main Street (TM#96A4-3-F), zoned Central Business District CBD, as follows.

The first is a variance to Section 18.1-804 of the Ordinance. If approved, an addition to an existing building could be built up to the side property lines instead of maintaining a 25' separation between the proposed construction and a lot on which a residence exists.

The second is a variance to Section 18.1-602.06i the Ordinance. If approved, no parking spaces will be required for the existing building or the proposed expansion.

The property is owned by Delores Booth and the applicant's representative is Paul Kilgore.

Mr. Kilgore came forward to explain the history of the property, the proposed use and construction, and various aspects of the proposed variances. He introduced owner Delores Booth, her son Hunter Booth and proposed building tenant dentist Dr. John Howard.

Factors favoring the approval of this proposal include the recent conversion of an upstairs area to a residence in the adjoining building which has rendered the whole existing building nonconforming as to setbacks. For the parking situation, heretofore it was understood that there was enough off-street parking available to accommodate the number of spaces required by the ordinance on the portion of the site that is located across

the alley at the rear of the building, but now there is some confusion as to who owns that land.

Mr. Hopkins discussed the setback requirement for one-story construction versus two-story construction.

Mr. Diggs discussed the imposition of increased setbacks caused when a neighbor installs an apartment in a business building.

The Secretary reported that Planning Commission reviewed the proposed variances per §18.1-1006.02 of the Town Code on May 2 and recommended approval of both items.

Mrs. Booth said that she thought the expanded building would make a nice addition to the Town and that the proposed dental office would bring people into the Town.

A duly advertised public hearing on the application was opened at 7:42 PM.

Mr. Kilgore explained the difficulties in finding a dentist who is willing to operate a business in the Town.

Dr. Howard expressed his desire to locate his business closer to downtown Amherst.

There being no one else who wished to speak, the public hearing was closed at 7:44 PM.

During the Board's discussion on the application, Mr. Diggs noted the hardship that was created by an adjacent landowner who had no intent to do so.

Mr. Iseman made a motion to grant the setback variance as proposed, which would allow construction of the building addition up to property lines, due to (a) the very narrow 15' width of the property, (b) the fact that setback requirements were not considered when the land was originally subdivided and (c) the Booth building is the only nearby building that has not been extended to the rear property line and, as such, is the only one with such a hardship. The motion was seconded by Mr. Hopkins and carried 5-0 with Messrs. Diggs, Hopkins, Iseman, Mays and Mrs. Tatlock voting in favor.

Mr. Diggs made a motion to grant the parking space variance, which would have the effect of relieving the requirement that the existing building or the proposed addition on the property from all off-street parking space requirements, since (a) the size and shape of the property does not allow for any parking spaces and (b) enforcement of parking standards on the property would unreasonably limit the use of the property. The motion was

seconded by Mrs. Tatlock and carried 5-0 with Messrs. Diggs, Hopkins, Iseman, Mays and Mrs. Tatlock voting in favor.

The Chair explained the appeals process to those present.

There being no further business to discuss, and it being understood that the Board would meet on call if and when required, Mr. Hopkins made a motion that was seconded by Mr. Diggs to adjourn the meeting at 7:52 PM. The motion carried 5-0 with Messrs. Diggs, Hopkins, Iseman, Mays and Mrs. Tatlock voting in favor.

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Gary Mays  
Chairman

ATTEST:

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Secretary