

**Town of Amherst
Board of Zoning Appeals
March 7, 2017**

A meeting of the Town of Amherst Board of Zoning Appeals was called to order by Chairman Gary Mays at 6:00 PM on March 7, 2017, in the Council Chambers of the Town Hall at 174 S. Main Street. Members Kevin Akershoek, Marvin Hensley and Gary Mays were present. Member Ed Carton arrived late as noted below and member Teresa Tatlock was absent. Town Manager Jack Hobbs, in his capacity as Secretary to the Board, and Deputy Town Clerk Vicki Hunt were present.

The Chair noted that a quorum was present and asked for a moment of silence.

Mr. Hensley made a motion that was seconded by Mr. Akershoek to dispense with the reading and approve the minutes from the September 1, 2015, meeting. The motion carried 3-0-2 with Messrs. Mays, Akershoek and Hensley voting in favor. Mr. Carton and Ms. Tatlock were absent.

By consensus, election of officers will be deferred to the next meeting.

Mr. Carton entered the meeting.

Variance Application Review: Clemson Investments, LLC – 195 Mt. Olive Road

The Secretary provided a report on a variance application as follows:

Clemson Investments, LLC, through signatory James W. “Jeep” Newman, Jr. and representative Tommy Brooks, has applied for variances for property located at 195 Mount Olive Road (TM#96A3-2-5), zoned Light Commercial District B-1.

The application pertains to the conversion of an existing accessory building into a multifamily dwelling. If approved:

1. The 25’ yard on the right side of the lot required by Section 18.1-804 of the Town Code would be reduced to 7’, and
2. A gravel parking lot and driveways for the proposed total 7 dwelling units on the site (adjusted to 10 as outlined below) would be allowed instead of being constructed from concrete, asphalt, brick or paving stones as required by Sec. 18.1-602.04.1 of the Town Code.

Factors favoring the approval of this proposal involve the desire of the property owner to improve the old building on the site and convert it to a more usable state. The impact of a reduction in actual setback on the adjacent property which is currently being used as a cowpasture is expected to be minimal. Gravel surfacing allows stormwater to infiltrate into the soil instead of running off, concentrating and creating potential downstream erosion and flood control problems as is the case with “hard” surfacing.

A significant consideration that is not favorable to the petitioner is the theory that the Town should work towards conformity with established ordinances. This case is similar to many variance requests in that the Board of Zoning Appeals must be concerned with the preservation of the integrity of the ordinance. From a practical perspective, adjusting setbacks and waiving paving requirements would be somewhat harder to justify in the case of a proposed new building.

The state code was recently changed so that a variance must be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the

property and the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance (in addition to other criteria).

The Planning Commission reviewed this application per §18.1-1006.02 of the Town Code during its March 1 meeting at which time by a vote of 4-0 a motion carried to recommend that the Board of Zoning Appeals approve the Clemson Investments' proposal as requested.

As always, the Board should pay close attention to the state law and the Town's Zoning and Subdivision Ordinance in addition to the testimony during the required public hearing. As a procedural note, three affirmative votes by Board members will be required to approve this request. Everyone involved should also remember the "one year" rule at §18.1-1006.05 which indicates that "substantially the same petition affecting the same land shall not be considered within any twelve (12) month period."

Thomas Brooks, Sr., from Acres of Virginia, representative for Applicant/property owner James Newman came forward to explain the application.

Applicant/property owner James Newman was present to answer questions.

Mr. Carton asked for clarification on the use of property being multifamily housing instead of single family as stated in the application. Mr. Newman advised that there would be a total of 10 apartments which includes 7 units in the repurposed garage building in addition to the three that currently exist in the former Bobby Yancey house.

It is the consensus of the Board that it will hold a public hearing on the application per the following advertisement:

PUBLIC HEARING NOTICE

The Town of Amherst Board of Zoning Appeals will hold a public hearing at PM on April 4, 2017 at 7:00 PM in the Council Chambers of the Town Hall at 174 South Main Street. The subject of the hearing is a variance application by Clemson Investments, LLC for property located at 195 Mt. Olive Road. (TM#96A3-2-5, zoned Light Commercial District B-1) that would support the conversion of an existing accessory building into a multifamily dwelling. If approved:

1. The 25' yard on the right side of the lot required by Section 18.1-804 of the Town Code would be reduced to 7', and
2. A gravel parking lot and driveways for the proposed total 10 dwelling units on the site would be allowed instead of being constructed from concrete, asphalt, brick or paving stones as required by Sec. 18.1-602.04.1 of the Town Code.

Documents relating to the request are available for public inspection at www.amherstva.gov and in the Town Hall during normal working hours.

The Board discussed the adequacy of the number of parking spaces shown on the submitted drawings as both a practical matter and for compliance with the Zoning Ordinance.

There being no further business to discuss, Mr. Carton made a motion that was seconded by Mr. Akershoek to adjourn the meeting at 6:46 PM. The motion carried 4-0-1 with Messrs. Messrs. Mays, Akershoek, Carton and Hensley voting in favor. Ms. Tatlock was absent.

Gary Mays
Chairman

ATTEST: _____
Secretary