

TOWN OF ELON BOARD OF ADJUSTMENT MINUTES

Via Zoom

February 23, 2021, at 5:30 PM

Board members present: Jim Beasley, Clark Bennett, Diane Gill, Ralph Harwood, Mark Podolle, and Phil Owens.

Staff Present: Pamela DeSoto

Item A - Chairman Beasley called meeting to order at 5:33 P.M.

Item B – Request for Variance from the Provisions of the Elon Land Development Ordinance Regarding Front Setback Requirements, Submitted by Irwin Properties, LLC.

Chairman Beasley introduced the item and opened the public hearing. He then proceeded to swear in anyone wanting to speak on the matter.

Ms. DeSoto then gave a summary of the project, as follows.

Mr. Chad Huffine, on behalf of Irwin Properties, LLC, has submitted a Variance application to request a variance from the provisions of the Elon Land Development Ordinance (LDO). The specific request is regarding front building setback requirements in the Industrial Planning District. The project, which received approval of a special use permit in June of 2020, proposes to develop a self-storage facility adjacent to the applicant's existing facility, Alamance Storage, on East Haggard Avenue. Mini-warehouse and self-storage facilities are only allowed in Elon's Industrial District, and only with an approved special use permit. The project has received feedback following review by Elon's TRC, during which it was revealed that the proposed plan is complicated by the front and rear setback requirements in the LDO. Mr. Huffine added that the adjacent two properties to the East were built prior to the adoption of the Town of Elon LDO in 2004.

The applicant is requesting a reduction in the front setback requirement for buildings in the Industrial Planning District (Section 3.11.4 of the LDO), from 50' to 25'. No relief is being requested for side and rear setbacks of 30'; however, the building must meet requirements to avoid the RR right-of-way of 100' and will thereby exceed the rear setback requirement by more than three times. Were it not for this site constraint, the building could be pushed back to comply with the 50' front setback requirement. The properties were rezoned to the Industrial Planning District in 2019 in order to allow the self-storage/mini-warehouse use. All other properties in this Industrial zone are either built upon and/or have pre-existing encroachment into the railroad right-of-way.

Ms. Desoto then went through the findings of fact that were detailed in the Board of Adjustment staff report and described the variance procedures. During this time, Mr. Huffine expressed to the Board that the LDO is silent on provisions to allow proposed facilities to match existing facilities as intended at the time of conception. Mr. Huffine also addressed the 3rd hardship, asking the board to refer to the date of purchase as further testimony whether the property was purchased with or

without the knowledge of setback requirements. He pointed out that none of the dimensions for the property have changed.

Mr. Huffine addressed the 4th hardship, stating that during the TRC process, he and the property owners have gone through a lengthy process to take inventory and match buildings adjacent to them within 500 feet to make sure they are consistent with the atmosphere of that end of Haggard Avenue. The property owner Mr. Brit Irwin also testified that he feels that he greatly improved the aesthetic of Haggard Avenue, and that building anything smaller than the proposed building would not be financially viable.

The Board of Adjustment options were as follows:

1. The Board of Adjustment may:
 - a. Approve the variance request in whole, with or without conditions;
 - b. Approve the variance request in part, with or without conditions;
 - c. Deny the variance request.
 - d. If any of the findings (shown as recommended motions on the following slide) are decided in a manner that does not support the variance request, the request may not be approved.
2. If any of the findings (shown as recommended motions on the following slide) are decided in a manner that does not support the variance request, the request may not be approved.
3. A four-fifths majority is required to approve a variance request.
4. The Board may consider applying conditions to any approval decision limiting the variance to the specific requests, or any other or additional conditions they deem to be appropriate.

Motion #1- A motion was offered by Mr. Bennett that unnecessary hardship would result from the strict application of the ordinance. The motion was seconded by Mr. Harwood and received a vote in favor by a margin of 6 to 0.

Motion #2 – A motion was offered by Mr. Harwood that the hardship related to the requested variance does result from conditions that are peculiar to the property, such as location, size, or topography. The motion was seconded by Mr. Owens and received a vote in favor by a margin of 6 to 0.

Motion #3 – A motion was offered by Mr. Podolle that the hardship related to the requested variance does not result from actions taken by the applicant or property owner. The motion was seconded by Mr. Bennett and received a vote in favor of 6 to 0.

Motion #4 – A motion was offered by Mr. Owens that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is received. The motion was seconded by Mr. Bennett and received a vote in favor of 6 to 0.

Motion #5 – Mr. Podolle offered a motion that, based on the findings of fact and the evidence presented, the Elon Board of Adjustment issue approval of the requested variance, in whole, without conditions. The motion was seconded by Mrs. Gill and received a unanimous vote in favor.

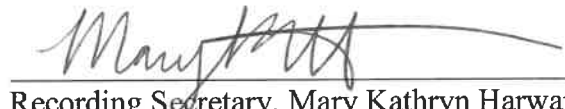
Item C – Approval of Minutes of the July 21, 2020 Meeting. A motion to approve the minutes from the July 21, 2020 meeting was offered by Mr. Bennett and seconded by Mrs. Gill. The motion was approved by unanimous vote.

Item D- Motion to Adjourn

The meeting was called to adjourn by Chairman Beasley at 6:40 PM.

Respectfully Submitted,


Chair Jim Beasley


Recording Secretary, Mary Kathryn Harward
Town of Elon Planning Department – Planner I
(The minutes were based off a recording of the meeting)