

intersection of South Berkeley Lake Road and Buford Hwy. It is used by the Atlanta Best Used Car business as its location for washing and detailing vehicles that are being prepared to be sold. The property is long and narrow and once the vehicles have been cleaned, they are placed in the parking spaces located along the perimeter of the property adjacent to the existing landscape strip. There are 36 trees in the landscape strip around the perimeter of the property. In this case, the business owner finds that the leaves, twigs, and other things that drop from the trees create a hardship for him because they land on the clean cars which must then be washed again. The business owner's solution to this problem was to have all the tree limbs and leaves pruned from all 36 trees. The result is a row of tree trunks lining the edge of the property. Six of the trees have died. The applicant proposes to remove and replace the six dead trees. He would like approval to keep the remaining trees as they are and has offered to purchase a landscape bond to replace any additional trees that might die over the next two years. The applicant believes that the surviving trees will grow back and would like the two years' time to see if that is the case. After reviewing the applicant's proposal and the variance criteria, it appears that the applicant has a hardship; however, much of it may be self-imposed. Although this site is narrow and the parking is situated under the trees, these factors were known to the business owner when he leased the property. And while these site issues are a nuisance to this business, they would not pose a problem for many other businesses. There is a further concern that when a poor site selection occurs, using tree topping as the solution creates an undesirable precedent.

The applicant's representative, Mr. Eric Johansen, was present at the meeting. Mr. Johansen stated that the current tenant has been using this location as a detailing facility for the past two years. The applicant topped 36 trees because they were causing the clean cars to become dirty from the leaves falling. From the 36 trees that were topped all but the exception of six (6) have all come back with a full canopy of leaves and new limb growth. The applicant is proposing to replant the 6 trees and add six more tree to fill in the gaps along the road frontage of Buford Hwy. Additionally, it would offer the City a two (2) year Landscape Bond for the entire property to cover the new trees planted and the existing trees only that were topped.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. There were no comments.

A motion was made after discussion concerning, among other items, there was no actual hardship to grant variance.

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND DENY THE APPLICATION BEFORE IT ON THE BASES THAT (1) THERE ARE NOT EXTRAORDINARY OR EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION; AND, (2) THE CONDITIONS OF THE ZONING RESOLUTION TO THIS PARTICULAR PIECE OF PROPERTY WOULD NOT CREATE AN

UNNECESSARY HARDSHIP; AND, (3) SUCH CONDITIONS ARE THE RESULT OF ACTIONS OF THE PROPERTY OWNER.

By: James Blum

Seconded: Matthew Gries

Vote: (4-0) (Blum, Gries, Knox, Regmi)

- 2. V2017-001 Storage Facility. Consideration of a variance from Zoning Code Sec. 1310 a., in order to allow a self-storage facility within the Central Business District contrary to Ordinance 2016-01-64 for property located at 4779 Peachtree Corners Circle (across from The Forum) in Dist. 6, Land Lot 301, Peachtree Corners, GA**

Diana Wheeler, Community Development Director, provided background information regarding the applicant's request. The applicant would like to build a self-storage facility on property located within both the Peachtree Corners overlay district and Central Business District on Peachtree Corners Circle across from The Forum. The property is zoned M1 and that classification prohibits the development of self-storage facilities within the Central Business District (see attached Ordinance 2016-01-64). In 2013, the owner of 4779 Peachtree Corners Circle applied to rezone a portion of his property to accommodate a self-storage facility. The self-storage building had previously been approved in Gwinnett County, but had not been built prior to the incorporation of the City. After public hearing, the City Council approved the plans for the self-storage facility in July, 2013 subject to several conditions. (See Ordinance 2013-06-17, attached). Over the next few years, the City undertook several studies to identify, among other things, the way in which growth and development should best occur. Among the follow-up projects resulting from the study and listed in the Town Center LCI work program was a directive to, '*Develop overlay standards specific to the Central Business District.*' This directive was implemented by the City in the form of Ordinance 2016-01-64 which stipulates that certain light industry type uses, including self-storage facilities, are prohibited from being developed within the Central Business District. This provision specifically addresses situations where a use was allowed but never developed, as is the case with the applicant's property. In other words, the zoning hearing and approval alone, do not vest a property with the right to a use that is no longer allowed in the Central Business District. After reviewing the applicant's request and the variance criteria, staff finds that a hardship would be difficult to justify since there was ample opportunity to develop a self-storage facility prior to the enactment of O2016-01-64.

The applicant, Mark Gary, was present at the meeting. Mr. Gary indicated that his hardship derived from the fact that the building plans have already been developed and approved for the facility. He also stated that without relief from the Zoning Board of Appeals the property would have little to no current market use and that he, as the current applicant, desires to build the same facility as anticipated from the original zoning in 2013. Mr. Gary stated that the property owner did not create the hardship through any actions of himself, but rather the changing of the "Overlay District" restrictions has placed an

unnecessary hardship to this individual piece of land.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. There were no comments.

A motion was made after discussion concerning, among other items, there was no actual hardship to the property.

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND DENY THE APPLICATION BEFORE IT ON THE BASES THAT (1) THERE ARE NOT EXTRAORDINARY OR EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION; AND, (2) THE CONDITIONS OF THE ZONING RESOLUTION TO THIS PARTICULAR PIECE OF PROPERTY WOULD NOT CREATE AN UNNECESSARY HARDSHIP; AND, (3) THE LITERAL ENFORCEMENT OF THE ZONING RESOLUTION WILL NOT RESULT IN UNNECESSARY HARDSHIP TO THE APPLICANT.

By: James Blum

Seconded: Matthew Gries

Vote: (4-0) (Blum, Gries, Knox, Regmi)

CITY BUSINESS ITEMS:

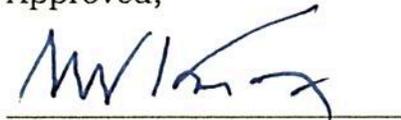
Diana Wheeler, Community Development Director, informed the Board that there would be no meeting in February.

COMMENTS BY BOARD MEMBERS:

None.

The Zoning Board of Appeals meeting concluded at 8:22 PM.

Approved,



Wayne Knox, Chairman

Attest:



Rocio Monterrosa, Deputy City Clerk

