

A meeting of the Zoning Board of Appeals was held on **February 26, 2018 at 5:30 p.m.** in City Hall Council Chambers, 1911 Boundary Street. In attendance were Chairman Josh Gibson, board members Joe Noll, Nigel Stroud, Tim Wood, and Jody Caron, and Libby Anderson, planning director.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Chairman Gibson called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance. He read the notice of compliance with the requirements of the Freedom of Information Act.

MINUTES

Chairman Gibson made a motion, second by Mr. Caron, to approve the minutes of the January 22, 2017 meeting as submitted. The motion passed unanimously.

Chairman Gibson reviewed the procedure at ZBOA meetings.

REVIEW OF PROJECTS

2338 BOUNDARY STREET, identified as District R122, Tax Map 29, Parcel 204 Variance

Applicant: David A. Burre, Burririan, LLC (ZB18-02)

The applicant is requesting variances in order to install a driveway on Boundary Street.

Ms. Anderson said the property had an Applebee's restaurant on it until recently. The lot is currently served by a driveway off of Pickpocket Plantation Drive; the applicant is requesting approval for an additional driveway on Boundary Street, she said. The SCDOT has issued an encroachment permit for the driveway. Access will be right in/right out. There is no median crossover because of the new raised planted median, Ms. Anderson said.

The Beaufort Code also regulates access points, Ms. Anderson said, and she read from the section of the code pertaining to this. The property already has access from a side street, and a variance is required to allow Boundary Street access, too, she said.

The new access is proposed to be immediately adjacent to a 42" live oak that is in a tree island, surrounded by impervious surface, Ms. Anderson said. There is a "tree root protection zone" (TPZ) requirement, according to the Beaufort Code; for a tree of this size, a 21' TPZ radius is required; some of this zone "is already compromised," she said, but new work would be within the TPZ, so a variance is needed to allow it.

Ms. Anderson reviewed staff questions and comments for the applicant:

- What type of signs are proposed to indicate to drivers that the driveway is right in/right out?
- Is the “consulting arborist a certified arborist?”
- According to the SCDOT “Access and Roadside Management Standards” (ARMS) manual, driveways can cause a conflict point for traffic on public highways. The manual also says that in large developments, access for outparcels should be provided only internally, Ms. Anderson said.
- It appears the driveway will conflict with a new streetlight that is proposed as part of the Boundary Street project; it would need to be removed or relocated at the applicant’s expense.
- The applicant is also proposing to add another driveway off Pickpocket Plantation Drive, Ms. Anderson said. The street is privately owned, so SCDOT approval is not needed, but city approval is. The existing Pickpocket driveway is, according to SCDOT standards, “too close to” Boundary Street, she said, and it doesn’t meet SCDOT’s spacing standards. Staff’s recommendation is that if the ZBOA approves the Boundary Street driveway variance, and the applicant requests an additional access on Pickpocket Plantation Drive, the existing driveway there should be closed.
- The consulting arborist doesn’t appear to have a City of Beaufort business license.
- While the live oak is currently surrounded by impervious surface, the site around the tree hasn’t been disturbed since about 1995. There is concern that this new construction will disturb the tree, Ms. Anderson said. There are indications on the curb and pavement of upheaval where its roots are.
- Another issue, Ms. Anderson said, is that the Boundary Street project provides a multi-use path for bicyclists and pedestrians. It starts on the north side of Boundary Street and crosses it, coming along the front of this property. There is concern about how the applicant plans to address pedestrian and bike safety on the path in front of this property, she said. Drivers may only look west on the one-way street, but the city wants to ensure the applicant will take safety measures to protect non-motorists.
- The City of Beaufort is responsible for maintaining all improvements outside the travel lanes on Boundary Street. Typically, the city doesn’t review and approve construction plans for projects within the right-of-way, Ms. Anderson said, but the city will own this sidewalk, so the city engineer should review construction plans for this project, including the right-of-way work, and inspect the final work to ensure it was done according to the approved plans.

Ms. Anderson said standard public notice was made about this application. A number of public comments were received and are in the board’s packets.

Ms. Anderson enumerated staff’s opinions on the findings the board needs to make to approve this application for a variance:

1. **Exceptional and extraordinary conditions are attached to the property:** Ms. Anderson said there might be extraordinary and exceptional conditions in that the median has just been installed, and it's currently a vacant property.
2. **Conditions don't apply to other properties in the vicinity:** This finding could be made, she said.
3. **Conditions are not the result of the applicant's own actions:** The applicant did not construct the new median.
4. **Granting the variance would not conflict with the Civic Master Plan or the Comprehensive Plan:** Ms. Anderson asked if it is a conflict with the city's plans to approve a new curb cut on a street on which the city is completing a \$33 million improvement that was designed to improve traffic flow and safety, and included closing excess curb cuts and installing a multi-purpose path.
5. **Application of the ordinance is an unreasonable restriction on the utilization of the property:** Ms. Anderson asked if it is unreasonable to require access to the property to be maintained from Pickpocket Plantation Drive. The applicant would make a better case for "hardship" if there were a prospective tenant who would only agree to locate there if a Boundary Street access were allowed.
6. **Granting the variance would not be a detriment to adjacent property and the public good:** Ms. Anderson said staff has concerns about the impact of a new driveway on pedestrian and bike safety and the impact of construction on the live oak.

If the board finds in favor of the variances Ms. Anderson said, staff recommends the approval include the following conditions:

- If additional access on Pickpocket Plantation Drive is granted, the existing driveway off Pickpocket should be closed.
- Signs and other measures should be taken to ensure the safety of pedestrians and cyclists on the multi-purpose path.
- During the construction, the contractor should expose all roots along the edge of the curb with an air blade or knife, and those roots should be cleanly cut, with the cuts occurring within a specified area of the new curb location; the tree should be fertilized twice a year, in the spring and fall; if something goes wrong with these measures, after 3 years, the property owner should have a certified arborist inspect the tree's health, and if it's stressed, recommend how to improve the tree's health or recommend its removal.

Ms. Anderson said the city does not have a certified arborist on staff at this time, but it does have a landscape architect, as well as working with a certified arborist who typically works with the city on a pro bono basis.

Ms. Anderson told Chairman Gibson that the "bumpy" material he referred to is a "sort of sensory device" that is an ADA requirement for sidewalks that cross street intersections, not driveways, so it might be required when the sidewalk crosses Pickpocket Plantation Drive. She feels certain that "other measures...could be taken,"

including a sign telling drivers to “look...for pedestrians” and cyclists.

Chairman Gibson asked, when the Boundary Street project is completed, if on its north side, “between Pickpocket Plantation and Ribaut” Road, there will be any right-hand turns except into Wendy’s. Ms. Anderson said, “Currently there is the former United Way building...then Wendy’s,” followed by “at least one access point” at 16 Gates Cemetery, and then the CARS auto repair shop.

There was a discussion about the planned lights on Boundary Street. Ms. Anderson said the applicant would have to deal with DOT about this matter.

David Burre, the property owner, said the building is empty because he found out the tenant’s business model had changed, and there had late-night entertainment. The police, the hotel behind the property, and Mr. Burre didn’t think “it was a good use for Beaufort,” so he worked out a severance agreement. Now he wants to improve access to the property, so he can put in a national chain restaurant that the community wants.

Mr. Burre said he doesn’t design signs, but to indicate that the driveway is right in/right out, he will put up whatever the city thinks is appropriate.

Mr. Burre said the consulting arborist is not a certified arborist; he’s “a registered consulting arborist,” which Mr. Burre said is “about 5 tiers above a certified arborist,” and he’s “highly credentialed.”

Mr. Burre said the registered consulting arborist does not have a business license; he lives on Hilton Head, and Mr. Burre didn’t know he needed a business license, but he would be glad to purchase one for him.

Mr. Stroud asked if there had been communication with the businesses and property owners about the median and curb cuts in the Boundary Street project. Mr. Burre said he had extensive communication with **David Coleman**, the original project manager. Mr. Burre lives in Roswell, and he said a similar project had failed because of its planted median, so he’d suggested to the city that it should do something different. He also met with the city manager to try to help with this. The Boundary Street project is beautiful, Mr. Burre said; the plants may be more durable than those used in Roswell, and he hopes they are.

Chairman Gibson said there is already a driveway to get to the restaurant from Pickpocket Plantation Drive. He asked what the advantage is of having another right turn 150’ from the existing one. Mr. Burre said the idea came more from management at the hotel behind his property. When people from out of town are staying at the Hampton Inn for military graduations, for example, or they’re visiting residents of the “elderly care facility,” they may have already driven past the entrance before they see the signs. Now, if they miss the sign for the hotel, they will have to do multiple U-turns

to get back to it because of the median, he said. Mr. Burre told the Hampton Inn people that he could help with that, at his expense. He feels it would help all the businesses on Pickpocket Plantation Drive, which all approved and supported this access. If people pass Pickpocket, they will see the right in/right out driveway, he said.

Mr. Stroud asked about eliminating the existing ingress/egress on Pickpocket Plantation Drive. Mr. Burre said the better the access is, the better he will be able to market this site. There have been no accidents at Pickpocket Plantation Drive and Highway 21; before he gets a tenant, he is not willing to close that access. He will monitor the police reports, he said, and if this existing access causes traffic issues, he would be willing to close it because of liability.

Jared Fralix said he is the project engineer on this project, and is also “the project manager on behalf of the city and the county on the Boundary Street improvement project.” A SCDOT permit for the Highway 21 driveway has been submitted and approved, he said. The ARMS manual reference to the new Pickpocket Plantation entrance proposed off Highway 21 “is less than the existing demand that’s required for separation.” However, “they reviewed this proposed location,” and required “a site distance study,” Mr. Fralix said; they do not have a formal variance process like the city’s, but in the review, they “looked at both the driveway offsets,” though the one off the right-of-way isn’t within SCDOT’s jurisdiction. “Both those conditions are addressed in the ARMS manual,” he said, and they were permitted through SCDOT’s encroachment permit process.

Mr. Fralix said in regard to pedestrian access, he pointed out a similar right in/right out point, and said there would be pavement markings and a crosswalk that shows pedestrian access. Driveways typically “don’t require the technical warning – the bumps – but intersections do,” he said. On the Boundary Street project, though, because of the multi-use path, most driveways do have “detectable warnings” for safety, and Mr. Burre’s driveway would be striped and would have detectable warnings “placed at both locations,” Mr. Fralix said. However, project-wide on the Boundary Street corridor, there are no signs to direct pedestrians to “stop at each intersection or driveway.”

Mr. Fralix said the lighting has been addressed with the contractor in the weekly Boundary Street “progress meeting.” He indicated a pole that has been “identified as needing adjustment,” and they will “relocate it outside of this driveway location and make sure we maintain the separation so our photometric stays in compliance with DOT standards.”

Mr. Wood asked about using pervious surface around the oak tree, rather than concrete. He asked if something could be applied at the entryway. Mr. Fralix said pervious products “usually don’t hold up as well” in the main thoroughfare. He said they have proposed “a curved driveway” with asphalt “from Boundary Street proper” to the parking lot, and the crosswalk will be striped. It will be asphalt with no pervious surface.

Chairman Gibson asked if the applicant had considered making the right in/right out just an entrance, rather than an entrance and exit, which would diminish the traffic there by at least half. Mr. Wood said that would still create “pressure on Pickpocket Plantation Drive.” Mr. Fralix said it is positioned at its location “for better access in and around the parking lot.” Right-in with no right-out could be considered, he said, but “not as far as full access.”

Chairman Gibson asked about the weight of delivery vehicles. Mr. Fralix said the driveway is not designed for that type of vehicle; they would use Pickpocket Plantation Drive, as they do when delivering to Waffle House, for example.

Andy Corriveau said he owns property diagonally across from the applicant’s property, and he is in support of this variance. He was involved in discussions 10 years ago about whether there should be a median in front of Pickpocket Plantation Drive. In regard to the live oak, Mr. Corriveau thinks asking Mr. Burre “to make all of these mitigation efforts” is “unfair.” He thinks Mr. Burre should do it, but “the previous sidewalk was being lifted by the roots,” so the city’s actions may have also damaged the tree; therefore, the city shouldn’t make Mr. Burre solely responsible for it, Mr. Corriveau said.

Mr. Corriveau said he supports the variance because his property’s value has dropped about \$150,000, so he supports whatever brings traffic through Pickpocket Plantation Drive.

Mr. Caron said he’s concerned about the safety of pedestrians in the area. He asked if the streetlight would cover the whole area. Mr. Fralix said it would cover “everything within the right-of-way.” The driveway is 25’ wide, he clarified for Mr. Caron.

Mr. Stroud said he is leaning toward favoring the variances. The lighting will need to meet SCDOT standards. The city has caused the hardship for this property and other businesses with its construction of the median, he said, so “there’s a definite exceptional condition that’s been created” for the applicant. He doesn’t see this as being “that big of an issue” for this applicant to do as he’s requesting.

Mr. Wood said he agrees with staff’s conditions for approval. He agrees that the other access driveway negates the “horrible” access right at the road on Pickpocket Plantation Drive. The problem is solved with the other entry, which “services everybody” around this business on Pickpocket Plantation Drive. Safety-wise, any intersection across the main road is cause for safety concerns, but there are hundreds of these kinds of intersections on Hilton Head, which are crossed by bike paths, and many people use them safely.

Mr. Stroud said Boundary Street is now a one-way street headed east, so the cross-traffic is less than when it was a one-way street.

Chairman Gibson asked the board's thoughts about the Boundary Street access point being only an entrance. Mr. Wood said he thinks it wouldn't make that much difference. The variance is to create a new entry and exit, and with another access point, the traffic flow will be much better for this property and for Pickpocket Plantation Drive.

Chairman Gibson said the city's recommendation is that if a variance is granted, the existing access should be closed. Ms. Anderson said that's correct. Chairman Gibson asked if the board has any significant concerns about that. He personally feels it seems to be a big expense "just (for) the people that are missing that turn," but he has no objection to it. He asked if the board agrees with the city's recommendations for conditions. **Mr. Wood made a motion to approve the variances as requested, with all of the conditions outlined by staff. The motion passed 3-2, Mr. Caron and Mr. Noll objecting.**

2811 BOUNDARY STREET, identified as District R120, Tax Map 29A, Parcels 257, 292, and 146A

Variance

Applicant: Rusty Coan (ZB 18-03)

The applicant is requesting a variance in order to open a collision center.

Ms. Anderson showed this property, which is also on Boundary Street, but in a different area. It has frontage on Albergotti Creek, Boundary Street, Walsh Drive, and John Street, and it spans 3 different tax parcels, but the proposed project will not take up the entirety of all 3 of them, she said.

Ms. Anderson said the property is zoned T5-Urban Corridor (UC). There are two existing buildings on the property and a large paved parking lot. It was a car dealership; there is a dollar store near these parcels.

The applicant desires to reuse the existing buildings for Caliber Collision, an auto repair facility, Ms. Anderson said; the rear building, with frontage on John Street, would be reused for vehicle service and repair, and the front building, which faces Boundary Street, would be reused as an office, with additional tenants possibly added in the future. The applicant is planning to store vehicles that are awaiting repair and pick-up in a 50-car parking area on the west side of Walsh Drive and in 21 spaces between and to the west of the two existing buildings.

In the T5-UC district, Ms. Anderson said, the Beaufort Code allows major vehicle repair, but any vehicles stored on the site during non-business hours are to be stored "in a fully enclosed building." The applicant is requesting a variance to allow the vehicles awaiting repair and pick-up to be stored outside. Ms. Anderson showed where vehicles are proposed to be stored. The applicant is proposing to screen the vehicle storage area with a 6' wooden privacy fence, she said, with aluminum picket gates, and has proposed

landscaping around the south and east sides of the 50-car lot's fencing, and on the west side of the 21-car lot. Staff had some concerns about some of the proposed plant material, Ms. Anderson said, so there will be tweaks made when the project is permitted.

The applicant has stated that they will clean out overgrown vegetation, clean up the buildings' exteriors, and do interior modifications for the office area, Ms. Anderson said.

Staff feels the fence surrounding the 50-car parking area should have landscaping on all 4 sides because of its visibility from the street and adjoining outparcels, Ms. Anderson said.

Standard public notice was made, Ms. Anderson said; two comments were received, and those are in the board's packets.

Ms. Anderson enumerated staff's opinions on the findings the board needs to make to approve this application for a variance:

1. **Exceptional and extraordinary conditions are attached to the property:** Staff feels this may be the case, Ms. Anderson said, in that the site was used as a car dealership and for vehicle service and repair for many years. Also, the buildings have been empty now for a number of years, and the area proposed for vehicle storage is already paved.
2. **Conditions don't apply to other properties in the vicinity:** This finding could be made, Ms. Anderson said.
3. **Conditions are not the result of the applicant's own actions:** The applicant did not develop the site.
4. **Granting the variance would not conflict with the Civic Master Plan or the Comprehensive Plan:** Ms. Anderson said these city plans encourage redevelopment of existing properties.
5. **Application of the ordinance is an unreasonable restriction on the utilization of the property:** Staff feels this finding may be able to be made; it may be unreasonable to require the applicant to construct a building for vehicle storage. This property was historically used for this purpose, Ms. Anderson said, and the project area is already paved. A new vehicle storage building might "lock this property into a vehicle repair-type use" for many years to come, she said; it could be redeveloped in the future for another use if there's not another repair building there.
6. **Granting the variance would not be a detriment to adjacent property and the public good:** Staff feels this finding could be made if the vehicle storage areas are screened and properly landscaped.

Ms. Anderson said staff recommends approval of the variance request, with the condition that landscaping is planted along the north and west sides of the privacy fence around the 50-car parking area, to soften its visual impact.

Mr. Stroud asked about “the 1.15 acres that are already covered in asphalt” and what prevents “this applicant or someone else” from storing vehicles there. Ms. Anderson said it would be an enforcement issue. Mr. Stroud said it’s “residential behind there,” and he asked “what’s to prevent overflow” from winding up there. Ms. Anderson said the applicant could answer that question; the new owner would probably not want that activity on the property.

Mr. Wood said the main issue for the variance is whether to require the applicant to have a building in which to store the vehicles, which is the ordinance’s requirement. That is the only issue before the ZBOA, he said.

Chairman Gibson asked what the ordinance says about equipment other than vehicles that is out in the open. Ms. Anderson said the code says materials may not have unscreened storage; for example, this business could not store tires outside like Barnard Tires does.

Ms. Anderson said staff’s condition is that “all 4 sides of the storage area [are] landscaped.”

Rusty Coan, Cross Development, said Caliber Collision, which is a national chain, asked Cross Development to look at this market to open a business.

Mr. Coan said they are fine with the condition of adding landscaping on all 4 sides of the 50-car parking area. They will market the front lot for redevelopment of one large lot or two small lots, he said. Caliber Collisions usually have 20 to 25 employees, so there will be space for them to park. There shouldn't be overflow parking out to the other parcel, RC said; the parking area should accommodate customers, employees, and cars awaiting repair. Caliber tries to get the cars back to their owners as quickly as possible, he said, but a week is the average.

Mr. Coan told Mr. Wood he has no problem with staff’s condition on the approval.

Paul Nyquist said he had sent in comments. He and his wife live in the adjacent neighborhood. Storage in a covered building is part of the code “for a reason,” he said, which is “noise and aesthetics.” Having these cars in a fenced area is “detrimental to our neighborhood,” Mr. Nyquist feels, and there might be people dropping off vehicles and tow trucks bringing in vehicles in the night. The existing buildings are in “terrible condition,” he said, and there was a lot of noise from them when the car dealership was there. Also, Mr. Nyquist feels this area “doesn’t need another body shop.”

Mr. Nyquist believes this development would be a detriment to the adjacent properties and “the public good.” The applicant doesn’t want to build another building, he feels, but should do so, since the business is likely to be there for a long time. Mr. Wood asked

Mr. Nyquist if he feels that if Caliber Collision built a vehicle storage facility, it would be better than a fenced area with landscaping. Mr. Nyquist said it would be a new building, and though he objects to the whole project, he feels the applicant “should meet the code.”

A building will be “enclosed” and “quiet” as the vehicles are started and moved around, Mr. Nyquist said. He thinks the ZBOA shouldn’t “make an exception to the code” or there’s no “point to having a code.”

Mr. Wood said that for many years, this was a parking lot, which is what Mr. Nyquist is objecting to. Mr. Nyquist said he moved in a year and a half ago, “so it’s been nice and quiet,” but his neighbors have said that it was noisy when the dealership was there, because “the bays open onto the neighborhood,” and the people who test-drove cars would drive them down the neighborhood’s streets.

Mr. Wood feels this project is “such a big improvement over the car dealership” for this commercial property, and he can’t think of “a use that is going to be aesthetically pleasing” to the surrounding residential properties. Mr. Nyquist said a building to “keep things quiet” when cars are being “moved in and out” is better than a fence.

John Perrill said he has owned 4005 John Street, which is “directly behind the body shop,” for 10 years. He said he has lost tenants because of the noise from the site when it was a car dealership. The bays face John Street, and the sound of air tools, etc. carries. The body shop building had a huge air compressor in it that “ran all the time” and made a “tremendous” amount of noise.

Mr. Perrill said there are 26 bays. Car sales were in front, and the building in the back was used for “repairs, not painting and collision repair.” He said, “The paint booth is going to be directly in front of my house,” which he called “a major concern.”

The car dealership has been there since 1965, Mr. Perrill said. There is an existing parking lot for about 30 cars with a chain link fence around it, he said, and the applicant is moving that parking lot “up” and “having to put a lift station where the current driveway is.” Mr. Perrill said Beaufort Collision and Repair had rented “that back section” and never needed 50 spaces.

There will be wrecked vehicles out there, he said, and people will be coming in with vehicles at night. Oil and gas from the vehicles will be going into the creek, which is an environmental issue that the board will need to address, Mr. Perrill said. Chairman Gibson said that is not the board’s purview, only whether to allow the fenced storage area.

Mr. Wood asked what could make this project acceptable to Mr. Perrill. Mr. Perrill said he objects to the business “having 50 parking spaces,” and he is also opposed to the

fencing because of the noise issue. If Caliber “used the existing parking lot that’s been there since 1965,” he said, he would approve of that; “there’s no reason for it to be any bigger.” Chairman Gibson told Mr. Perrill he could call the police about noise ordinance violations.

Mr. Perrill said the business “can’t need more than 26 bays with 25 employees,” and he thinks “they should use the existing lot” for wrecked vehicles. Mr. Caron said, as it was before, the wrecked vehicles could be seen. Mr. Wood said he thought the applicant’s idea was to use the existing parking area. This would be a “completely blind fence,” he said, and the variance request is for a parking lot, rather than constructing a building. Mr. Perrill said the “plan is to expand . . . the existing area,” which is “chain-linked all the way around.” This would double its size, bring it “more out into the open,” and “take it all the way to the road,” he said.

Sandy Nyquist said Ms. Anderson had said the neighborhood was notified of the meeting, but of the people she talked to, “only 3 of us got notices.” She thinks projects like this one “should be published more in the newspaper.”

Ms. Nyquist said she would “love a closed building” because she does not want to see the wrecked cars or for people to climb the fence to see what they can get out of cars that are there.

Ms. Nyquist asked how people would get into the property. She feels there’s “no way to develop that property that close to the intersection.” Chairman Gibson said that’s not the ZBOA’s purview. Ms. Nyquist said the city is developing “the gateway to Beaufort,” and “it’s supposed to be beautiful,” but with this project, the city “is developing a junkyard.”

Fred Bley owns property near the applicant’s property. He said he knows what the ZBOA’s “job is supposed to be.” He feels “locals will steal” things from this property, and then will begin stealing in the neighborhood, so he wants there to be “a security system...so we’re protected.”

Chairman Gibson asked what Caliber Collision’s security procedures are. Mr. Coan said they will have “locked, gated access.” There will be a keypad for tow trucks to drop off vehicles after-hours. There are security systems installed, he said, because the cars are Caliber’s responsibility while they’re there.

Sandy Thompson, a Walsh Drive resident, asked why the provision for a building is in the code for T5 properties and said the board should consider that in their discussion of this application.

Chairman Gibson said 98% of what the board has heard is that the objections are that this is a commercial property; it had a similar use before. Mr. Stroud said he agreed, and

when there's a change in ownership and use, the property needs to be brought up to code. The problem is that this is commercial property that is adjacent to residential, he said, which "factors into [criteria] #6." The neighborhood's concerns are that the vehicles will be ugly, and they believe a building for storing vehicles would stop the noise they're concerned about, but the noise would still be there, Mr. Stroud said, because the repair work would not be taking place inside the building, which would be for storage.

Ms. Anderson said this is "a reuse," rather than a redevelopment. Earl's Body Shop doesn't have a fence around it, Mr. Wood said. Chairman Gibson said that's because of when it was permitted. A member of the public suggested that's probably why this aspect of the code was written as it is.

Chairman Gibson said tow truck noise at 3:00 a.m. is different than people working during business hours. He asked the after-hours deliveries could be made in an area further to the east, which is farther away from the residential area, so they would have less impact. There was discussion of making this a condition of the approval.

Mr. Coan said they "modified that fence" on the site plan, but the landscaping plan may not show on it. Ms. Anderson said staff had been concerned about the "odd angle," but if that drop-off area were better for the neighborhood, they could go back to the original plan.

Mr. Wood said if the concern is the neighborhood, then the ZBOA should not grant the variance, and the applicant would have to put the vehicles in a building, though he thinks this is "pointless." Chairman Gibson said the amount of noise from the parking lot would be "nominal" compared to that from the building the repair work would be done in. Mr. Wood said, "It doesn't make any sense, but that seems to be what the public wants," and other options are "more complicated." Mr. Stroud said his only concern is nighttime traffic. Mr. Wood said storage in a building – rather than behind a fence – isn't going to stop that. Mr. Stroud said the business could limit its hours of access, and that would prevent the neighborhood from experiencing some of the noise and lights.

There was a general discussion of Chairman Gibson's proposed area for after-hours deliveries if the applicant doesn't build a storage building. Mr. Wood said the public is not going to be any happier with that than they are with the fenced area, so he thinks the board should turn down the variance or table the application and ask the applicant to come up with an alternate plan.

Chairman Gibson made a motion to approve the variance with the conditions added by staff, and a condition that from 7 p.m. to 7 a.m., vehicle deliveries need to be made to the eastern, gated parking lot, which is to be "shielded from the street." Mr. Caron seconded. The motion passed 4-1, Mr. Wood objecting.

900 DUKE STREET, identified as District R120, Tax Map 4, Parcel 1014

Variance

Applicant: Allison Ramsey Architects (ZB 18-04)

The applicant is requesting a variance in order to construct a workshop.

Ms. Anderson said this property is a vacant lot in the Old Commons neighborhood; it is zoned T4-Historic Neighborhood (HN). The Historic District Review Board (HDRB) has approved a new single-family dwelling, a detached garage, and an artist's studio on the lot. The Beaufort Code stipulates that accessory structures must be located behind the front façade of the primary structure, she said. The applicant is seeking a variance to locate the artist's studio at the front corner of the lot, 10' in front of the dwelling's front façade.

The HDRB recommended that the structure be relocated to the rear of the dwelling, perhaps at the end of the driveway, Ms. Anderson said, but the board agreed to the applicant's preferred location if the ZBOA granted a variance for it.

Ms. Anderson showed the elevations of the artist's studio. A concern was raised at the Old Commons Neighborhood Association meeting that locating this building in the corner might impede sight distance at the intersection. She said the building was staked out, and she showed photos to demonstrate that, in staff's opinion, when standing at the stop bar, the studio wouldn't create a sight distance issue.

Standard public notice was made, Ms. Anderson said, and one comment was received, which is in the board's packets.

Ms. Anderson enumerated staff's opinions on the findings the board needs to make to approve this application for a variance:

1. **Exceptional and extraordinary conditions are attached to the property:** Staff feels no extraordinary and exceptional conditions apply, so the artist's studio could be located elsewhere.
2. **Conditions don't apply to other properties in the vicinity:** Because there are no extraordinary and exceptional conditions, this finding cannot be made, Ms. Anderson said.
3. **Conditions are not the result of the applicant's own actions:** Because there are no extraordinary and exceptional conditions, this finding also cannot be made, she said.
4. **Granting the variance would not conflict with the Civic Master Plan or the Comprehensive Plan:** The concept of development of the lot is consistent with the city's plans, Ms. Anderson said, but the details must be looked at.
5. **Application of the ordinance is an unreasonable restriction on the utilization of the property:** Staff feels this finding cannot be made; the structure could be relocated because "there is plenty of room" for it elsewhere on the property,

Ms. Anderson said. The studio could be “designed into the house or garage,” for example.

6. **Granting the variance would not be a detriment to adjacent property and the public good:** Staff feels there are doubts this finding could be made. The artist’s studio is in a “very prominent location,” and from an urban design perspective, artist’s studios should be subordinate to the main structure, she said.

Staff doesn’t feel all the findings can be met for a variance, Ms. Anderson said, so it’s recommended that the ZBOA deny this application.

Jeremiah Smith, the project’s architect, said he believes the shed is “a forecourt” for the property. It is “a design preference.” He feels it meets the intent of the UDO. It establishes and defines the corner, he said, which the Beaufort Code “likes to do.” He said he understands why an artist’s studio is not typically in front of the primary structure, but he thinks this will be “worthy of being on the corner.” It could be put elsewhere, but “we think this is a nice option,” Mr. Smith said.

Mr. Wood said the studio is “meant to anchor the corner with the rest of the property.” Mr. Caron asked Mr. Smith if there was “a Plan B” if the variance request is denied; Mr. Smith said they would move the studio to the back of the property as the HDRB had recommended, though the adjacent property owner doesn’t like the idea of them moving it there.

Chairman Gibson said **Maxine Lutz** had written a letter supporting the HDRB’s position denying the application to put the artist’s studio in front of the main structure; he read it into the record. (*A copy is attached for the record. – steno.*)

Chairman Gibson said the applicant is not able to meet criteria #3. Mr. Wood said the applicant is “trying to create an entryway.” Chairman Gibson said he gets “the framing of it,” but it “seems odd” to him, and the door of the studio doesn’t face either of the streets. There is plenty of space for it in the back of the property, he added.

Mr. Stroud made a motion to deny the variance request because it doesn’t meet the 6 criteria. Mr. Noll seconded the motion. The motion passed unanimously.

130 ELLIOTT STREET, identified as District R120, Tax Map 5, Parcel 113

Variance

Applicant: Robert Montgomery, Montgomery Architecture and Planning (ZB18-05)

The applicant is requesting a variance in order to build an addition.

Ms. Anderson said this property is in the Hermitage neighborhood and is zoned T3-S (Suburban). A 10’ side yard setback is required in this district. A single-family dwelling is located on the property. The lot is a parallelogram, she said, and the building located on the site was not built parallel to the street, so “it’s at a little bit of an angle” on the lot,

she said. The applicant is proposing to build an addition to the house on the north side at the rear and wants it to go directly back on the lot, but because the lot's skewed, a portion of the addition encroaches slightly into the north side setback. At 2.12', it's just over the amount that could get an administrative variance, Ms. Anderson said.

Ms. Anderson enumerated staff's opinions on the findings the board needs to make to approve this application for a variance:

1. **Exceptional and extraordinary conditions are attached to the property:** Staff feels this finding could be made because the lot is a parallelogram, and the house was not built parallel to the street.
2. **Conditions don't apply to other properties in the vicinity:** This condition may be typical on Elliott Street, but it is not widely found in the larger Hermitage neighborhood, Ms. Anderson said.
3. **Conditions are not the result of the applicant's own actions:** The applicant did not plat the lot or construct the house, she said.
4. **Granting the variance would not conflict with the Civic Master Plan or the Comprehensive Plan:** The city's plans encourage reinvestment in existing neighborhoods, Ms. Anderson said.
5. **Application of the ordinance is an unreasonable restriction on the utilization of the property:** Requiring the addition to be offset or to be built on the other side of the house to avoid the setback encroachment might be an unreasonable restriction, staff feels.
6. **Granting the variance would not be a detriment to adjacent property and the public good:** Staff feels granting the variance would not be a detriment because the encroachment is minimal and only occurs in a small section of the addition.

Staff feels the criteria have all been met and recommends approval of the variance.

Rob Montgomery said his client wants to do the addition this way because if it were not added to the north side, the homeowner would have to change the whole existing floor plan to make it work. The addition to the west side "doesn't change the streetscape much," he added.

Mr. Stroud said the only adjacent property that would be affected is a house that's very far from this one. He feels the impact will be "minimal."

Chairman Gibson made a motion to approve the application as submitted. Mr. Caron seconded. The motion passed unanimously.

There being no further business to come before the board, **Chairman Gibson made a motion to adjourn** and ended the meeting at 8:03 p.m.