

*DENTON BOARD OF APPEALS
MINUTES
August 10, 2015*

Present: Troy Livingstone, Florence Doherty, Dallas Lister and Brian Tyler

Recording: Christopher Drummond, Town Attorney

Visitors: Christopher & Kimberly Schall, Brad Taylor, Anne Jones
Maureen Duggan, and Judith King
Donald H. Mulrine, Jr., Town Administrator

Called to Order: The meeting was called to order at 6:30 p.m. by Chairperson Livingstone

Attendees stood for the Pledge of Allegiance.

New Business #1 – BOA-15-003 Christopher & Kimberly Schall/ Special Exception:

Chairperson Livingstone read the notice of public hearing into the record that was properly noticed in the Times Record.

Chairperson Livingstone swore in the applicants, Christopher and Kimberly Schall, and all other visitors in attendance.

Christopher Schall gave a brief introduction of the request for the combination use at 103 South 7th Street. The Schalls began a business in 2011 and rented space at the Homestead Manor for the physical therapy clinic. Due to the expansion of the business, another physical therapy clinic was opened in Federalsburg and current needs require a larger space in Denton to accommodate the growth. The applicants found it difficult to locate space in Denton that would accommodate their physical therapy clinic.

Minor changes to the building will include installation of exterior steps for the second floor apartment on the side of the building and a handicap ramp for the first floor. Signage will be installed on the building.

Our parking plan has been adjusted by purchasing the apartment building next to this site to accommodate the parking.

*DENTON BOARD OF APPEALS
MINUTES
August 10, 2015*

Chairperson Livingstone discussed the 40' setback requirement.

Brad Taylor, 201 South 7th Street, identified himself for the record and requested a better understanding of the property lines.

Mr. Drummond clarified the request for a contract to purchase Lot 1 with an option to purchase another lot next to Lot 1 (Apartments/Parcel 499).

Mr. Schall clarified that Mr. Good owns all three parcels.

Mr. Drummond requested more information for the on-site parking spaces next to the building and the purchase contract for both parcels.

Mr. Schall is currently negotiating the sale of Parcel 499 with the property owner and has a purchase contract for Lot 1.

Mr. Drummond requested confirmation on Parcel 499 and the driveway right of way for Lot 1.

Anne Neal, Realtor, identified herself for the record and responded there is no driveway right of way on Parcel 499 for Lot 1. The driveway has always been used to service the home on Lot 1.

Maureen Duggan, 100 South 7th Street, identified herself for the record.

Judith King, 7 South 7th Street, identified herself for the record.

Mr. Taylor requested information on the Board of Appeals approval process.

Chairperson Livingstone's explanation was the Board of Appeals may grant an approval with conditions.

DENTON BOARD OF APPEALS
MINUTES
August 10, 2015

Mr. Drummond noted that the Board of Appeals granting an approval for a mixed use would require the applicants to exercise both uses simultaneously and receive a use and occupancy permit within a reasonable amount of time.

Mr. Lister commented that a binding contract should be in place for the adjacent property prior to a special exception being granted to ensure there is appropriate parking for this property.

Mrs. Schall responded that purchasing the adjacent property is contingent on receiving the approval from the Board of Appeals and the current purchase contract includes the right of way from Parcel 499.

Mrs. Doherty and Mr. Lister recommend suspending the decision contingent upon applicants addressing the parking issues and setback requirements.

Mrs. Doherty requested clarification on the entrance way. It appears to be on Lot 2.

Mr. Lister's concern is the egress with the parking on the side of the building and the entrance way on Parcel 499. There should be a clear egress plan for emergencies and ADA requirements for access.

Mr. Schall's intention is to purchase the corner lot for a parking area.

Mr. Lister would like a clear picture of the property showing the egress plan, parking requirements, ADA requirements, a purchase contract for adjacent property, and more information prior to granting a special exception for the combination use.

Mr. Drummond provided the legal perspective on the Schall's application. An applicant should have equitable title to the subject property if not the owner for the application when applying for a special exception, variance, or conditional use. A variance may be required for the side yard setback.

An amended application will require advertising and property notifications.

DENTON BOARD OF APPEALS
MINUTES
August 10, 2015

Mr. Drummond informed the applicant a line revision will be necessary for the parking plan and a site plan may be necessary for other improvements. A surveyor will be required for the lot line revision. A concept plan will be required showing the site requirements for parking, egress, ADA accessibility, exterior stairs, and proposed setback variance.

Mr. Lister stated that the applicants provide a more detailed conceptual rendering to include improvements for a decision by the Board. Past practice for the Board is based on a more detailed conceptual plan for approvals to be granted. The plan submitted has too many variables for the Board to grant the special exception.

Mr. Schall requested clarification for the setback variance.

Mrs. Doherty stated if all the items are addressed, the variance can be granted based on grandfathered parcels.

Chairperson Livingstone asked if there were any comments or concerns received from the public.

Mr. Taylor commented on the single family dwelling and how it degraded the neighborhood because of the enormous size. Mr. Taylor is not in favor of commercial dwellings in his neighborhood and feels it lowers his property values. People from Dr. Wheat's office park on his sidewalk, and he is opposed to the project.

Mr. Lister commented that Dr. Wheat's property was grandfathered in prior to the Board of Appeals.

Mrs. Duggan would like to keep her neighborhood residential. She believes there are more properties that would be more adequate for a physical therapy clinic.

Mrs. Judith King, 7 South 7th Street, is concerned about a commercial business in a residential district.

*DENTON BOARD OF APPEALS
MINUTES
August 10, 2015*

Mrs. Doherty noted that the Board of Appeals are not able to fix the problem with the parking for Dr. Wheat's business and the residents need to address this problem with the Town Council. There are other solutions that will eliminate the parking issues on 7th Street. Dr. Wheat's parking issues are not relevant to this application.

Mrs. Doherty discussed other options to mitigate parking issues on 7th Street.

Mrs. Doherty moved to postpone the application and resubmit an amended application, include a possible variance, for a decision at the September meeting.

Mr. Schall requested to be formally deferred to the next meeting to resubmit a detailed application.

Mr. Mulrine stated no comments or concerns were received from the public.

Staff Item: None.

The public hearing adjourned at 7:12 p.m.

ATTEST:



Christopher Drummond

DENTON BOARD OF APPEALS:



Troy Livingstone, Chairperson



Florence Doherty, Member



Dallas Lister, Member



Brian Tyler, Alternate Member

