

ZONING BOARD OF APPEALS MEETING MINUTES SUMMARY

Stonecrest City Hall - 6:30 PM *Spoke-In-Person Meeting

February 21, 2023



As set forth in the Americans with Disabilities Act of 1990, the City of Stonecrest will assist citizens with special needs given notice (7 working days) to participate in any open meetings of the City of Stonecrest. Please contact the City Clerk's Office via telephone (770-224-0200).

I. Call to Order

Commissioner Michael Armstrong called the meeting to order at 6:37 PM.

II. Roll Call

Chairman Michael Armstrong (District 4) called the roll. Ms. Kelly Ross (District 1), Ms. Gwendolyn Green (District 2) and Ms. Sonja Hicks (District 3) were present. Mr. Shedrick Harris (District 5) was absent. There was a quorum.

The Planning & Zoning Director, Ray White, and Planner, Keirston McMillan were present. Attorney Alicia Thompson, Fincher Denmark, LLC, virtually attended.

III. Approval of the Agenda Need: **Agenda not approved.**

IV. Minutes:

Commissioner Michael Armstrong called for a motion. The Zoning Board of Appeals Meeting Minutes Summary dated **November 15, 2022**, was called for a motion to approve the Zoning Boards of Appeals Meeting Minutes Summary dated **November 15, 2022**. Sonja Hicks (District 3) motioned to **APPROVE**. Ms. Kelly Ross (District 1) seconded the motion. The motion was unanimously **APPROVED**.

V. Presentations: Upcoming Cases Presented by Ms. Keirston McMillan, Planner

AAA22-000002
V22-008

VI. Old Business: None

VII. New Business

LAND USE PETITION:	AAA22-000002
PETITIONER:	Linda Dunlavy, Dunlavy Law Group, LLC on behalf of Applicant Shah Ali Enterprises, LLC
LOCATION:	6030 Hillandale Drive Stonecrest GA 30058
CURRENT ZONING:	M (Light Industrial) and Viewshed Overlay
PROPOSED DEVELOPMENT:	To appeal administrative decision to deny issuance of certificate of occupancy for convenience store/gas station.

Keirston McMillan stated, "The staff recommendation is approval with conditions and the variance request is to appeal the administrative decision to deny issuance of certificate of occupancy for convenience store gas station. The current use of the subject property is for commercial purposes for use as a convenience store and a gas station."


















Keirston McMillan

“This property owner, Shaw Ali Enterprises, has received a serious interest in the sale of the completed project from Circle K in the amount of 4.3 million dollars. The property is located at 6030 Hillandale Drive, Stonecrest, Georgia. In regards to the zoning in case history, this subject property in all surrounding properties are zoned M-light Industrial and is underneath the Stonecrest Overlay conditions of zoning found associated to this property. It shall be noted that the city's owning ordinance prohibits package store but not alcohol outlets that are an accessory to a convenience store or a gas station. For the board's review, we do have a map on the second page where you all can see exactly where it's pinpointed on the map and the M-light Industrial zone.”



Figure 1: 6030 Hillandale Drive
Retrieved from City Map of Stonecrest, GA GI

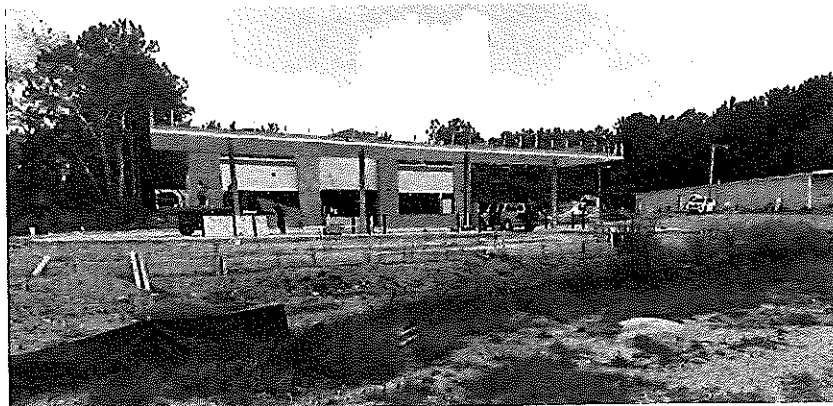
Zoning

-  NS - Neighborhood Shopping
-  C-1 - Local Commercial
-  C-2 - General Commercial
-  OIT - Office-Institutional-Transitional
-  OI - Office-Institutional
-  OD - Office-Distribution
-  M - Light Industrial
-  M-2 - Heavy Industrial
-  MU-4 - Mixed-Use High Density
-  RE - Residential Estate
-  R-100 - Residential Med Lot
-  R-85 - Residential Med Lot
-  R-75 - Residential Med Lot
-  R-60 - Residential Small Lot
-  RSM - Small Lot Residential Mix
-  MR-1 - Med Density Residential
-  MR-2 - Med Density Residential

“According to Linda Dunlavy’s administrative appeal application, “On November 4, 2022, more than one year after Shah Ali had been issued a land disturbance permit (#LD21-000029) and two years after a building permit had been issued, Keedra Jackson (Deputy Director of the City’s Planning and Zoning Department) advised Shah Ali that his proposed development did not meet requirements because a text amendment passed on July 26, 2021. The applicant would need to apply for a special land use permit before a certificate of occupancy could be issued. At the point of this communication, Shah Ali had completed construction of the gas station/convenience store in reliance upon the permits and other approvals provided by the city over the course of the past 2+ years and expended more than \$3million in construction costs. Please note the land disturbance permit number LD21000029 was issued on October 13, 2021. The commercial building permit number CB20-000073 was issued on November 18, 2021.”

“In discussion of this particular administrative appeal, the applicant is seeking an administrative appeal for relief from said decision to deny the issuance of a certificate of occupancy for a convenience store and gas station as a convenience store gas station with an alcohol outlet. A special land use permit will be required.”

Section 4.2.2 A.D states fuel pumps associated with convened stores gas stations and service stations can be located within 100 feet of an intersection of a major arterial and a major or minor arterial road or located within 500 feet of an interstate highway intersection with an arterial Street designated on the functional classification map in the city's comprehensive plan.



APPLICABLE CODE REQUIREMENTS

Zoning Ordinance (Chapter 27)

Article 2 – District Regulations

Division 31: M (Light Industrial) District

Sec. 2.31.1. Statement of purpose and intent.

The purpose and intent of the City Council in establishing the M (Light Industrial) District is as follows:

- A) To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;
- B) To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;
- C) To ensure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- D) To provide an area within City of Stonecrest for recycling and green businesses to locate;
- E) To generate employment opportunities and economic development;
- F) To ensure that M (Light Industrial) Districts are so located that transportation access to thoroughfares and freeways is available;
- G) To implement the future development map of the city's most current comprehensive plan

Zoning Ordinance (Chapter 27)

Article 1– General Requirements

Division 5: Variances and Appeals to the Zoning Board of Appeals

a. Sec. 7.5.2. – Appeals of decisions of administrative officials

A. General power.

The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of this zoning ordinance or as otherwise authorized by local law or the Code of the City of Stonecrest. Administrative officials must make final decisions covered by this section within 180 days of receipt of all necessary information to make such decision. A failure to act prior to the passage of 180 days shall not be construed to be a final order, requirement, or decision within the meaning of this division. If a decision is not made by the 181st day, the requested decision is deemed denied and becomes appealable. All such appeals shall be heard and decided following the notice requirements of section 7.2.4, and pursuant to the following criteria and procedural requirements.

B. Appeals of decisions of administrative officials.

Appeals of decisions of administrative officials may be filed by:

- (1) Any person aggrieved by; or
- (2) An owner of property within 250 feet of the nearest property line of the property that is the subject of any final order, requirement, or decision of an administrative official, based on or made in the enforcement of this zoning ordinance, or as otherwise authorized by local law or the Code of the City of Stonecrest.

City of Stonecrest Zoning Ordinance (Chapter 27):

Division 5: Stonecrest Area Overlay District

a. Sec. 3.5.15.3. - Viewshed zone (Tier VI).

Definition: ***Viewshed*** means the total visible area from an identified observation position.

- A. Statement of purpose and intent. The intent of Tier VI is to promote uniform and visually aesthetic development which serves to unify the distinctive visual quality of the Stonecrest Area Overlay District.
- B. Permitted principal uses and structures. The permitted principal uses of land and structures for property in Tier VI shall be governed by all of the underlying zoning district regulations.
- C. Accessory uses and structures. The permitted accessory uses and structures for property in Tier VI shall be governed by the underlying zoning district.

- D. Prohibited uses. The following principal uses of land and structures are prohibited in Tier V: Viewshed Zone:
1. Sexually Oriented Business
 2. Pawn Shops
 3. Package stores
 4. Check cashing facility

STAFF ANALYSIS

Following are the specific variance considerations listed in Sec 7.5.3 of the Stonecrest Zoning Ordinance that must be considered by the Board of Zoning Appeals to grant a variance. These considerations include:

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**
There are no exceptional site conditions. The collected data showcases known events which support the argument of requested documentation being provided and submitted by the applicant. A request was communicated with staff for an administrative appeal.
- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**
Granting the administrative variance would not go beyond the minimum necessary to afford relief and does not constitute granting special privilege which is inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. Due to the site factors, space requirements of the site, and conditions of the process of this development the applicant's request is reasonable.
- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**
By implementing or approving this variance request, the site and its surrounding area will be significantly impacted. There has however been concern about the proliferation of gas service stations in the city and their negative impacts on adjacent neighborhoods. These updated regulations allow Planning Commission, and City Council more opportunities to review special land use permit on a case-by-case basis for these uses. The updates also help to tighten up the location criteria for such uses restricting where they can be placed. However, based on the information presented and case finding, this case been in the pipeline for over two years, and the applicant had been receiving the "green" light via approved land use permits and commercial business permits that were reviewed by the building department. Before construction, then City Planner Christopher Wheeler confirmed zoning for applicant.
- D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**
As the code reads today, the applicable provisions would cause concern as this will be the second gas station in the area. It is in the City's best interest to thoroughly review all incoming documents and collaborate more effectively with between departments to avoid misinterpretation of the process or the ordinance. Therefore, considering the movement of the project, on a case by case basis, staff recommends the approval of the issuance of a certificate of occupancy for applicant only after the condition to secure fuel underground storage permit has been met.

E. The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan text.

It is important to note the application and process started before the new ordinance took effect. The process began in October 2017, and the ordinance was passed on July 26, 2021. Based on the ordinance and information presented at the start of the project, the project was consistent with the spirit with the purpose of the existing chapter and the Stonecrest Comprehensive Plan. That is why the appeal has been brought before this board for further review. Based on the updated ordinance regarding convenience stores/gas stations with an alcohol outlet, new requirements such as acquiring a special land use permit and not being within 1,000 feet of another gas station and not being within 600 feet of an educational facility or substance abuse treatment facility are in effect. The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan, which has designated this site as Suburban on the Future Development Map.

NOTE: Special Land Use Permit (or SLUP) is in reference to cases where a use is permitted but there are supplemental use regulations.

RECOMMENDED CONDITIONS

Based on the findings and conclusions, it appears the applicant meets all the criteria for approval. Therefore, staff recommends **Approval of AAA22-000002** with the following condition (s):

The applicant shall secure fuel underground storage permit/license or certificate of station registration and a special land use permit before issuance of a certificate of occupancy.

Chairman Armstrong asked was the applicant present. The applicant was present.

Those in support:

Spoke-in-Person: Linda Dunlavy, Dunlavy Law Group, LLC, came forward and presented on behalf of the applicant, Shah Ali Enterprises, LLC. Attorney Dunlavy stated, "Mr. Ali has been working on the development of the subject site for more than two years. The property is zoned light Industrial within the I-20 Overlay in which gas stations convenience stores is allowed within that zoning district under certain conditions." Mr. Ali applied for a land disturbance permit in January of 2020. Attorney Dunlavy stated that over two years of work has gone into the project and that her client applied for a permit clearly depicted as a gas station, convenience store with fuel pumps on the property.

"In November of 2020, he applied for a building permit. The land disturbance permit was issued slightly less than a year later in October of 2021. The building permit was issued a month later on November 18, 2021. Construction was completed and a built survey was submitted in September of 2022. On November 3, 2022, the City of Stonecrest had a final inspection conducted by a Code Inspection Officer and it was completed. He verbally advised Mr. Ali that the building passed all inspections and that he should be fine for his certificate of occupancy. Over the course of two years, the City of Stonecrest had firsthand on this project repeatedly throughout the course of the land disturbance permit and building permit process. Prior to November 4, 2022, at no time did anyone review the permit or advise Mr. Ali that he needed a special land use permit. The zoning confirmation, approvals of the building construction, erosions, and all the plans that are requisite to this kind of project were provided."

“Mr. Ali spent more than three million dollars on developing this site and hired experts to squire him through this process. However, one day after the final inspection was done, he was told verbally that the inspection had passed. Ms. Jackson with the Planning Department advised Mr. Ali that she had determined that the permits were issued in error and that he would have to get a special land use permit. Not only has he spent three million dollars, but he has a very strong interest in Circle K to purchase the property for 4.3 million dollars. The property is fully developed. If you go to the site at 6030 Hillandale Drive, you will see it's completely developed. All of the infrastructure, driveways and landscaping is done. Numerous trees have been planted in the back to provide the required buffer behind this store. All of this was done in reliance on permits that were issued by the city. Unbeknownst to Mr. Ali in August of 2021, a Text Amendment to the zoning ordinance became effective and I think Ms. McMillan may have said July of 2021. We have records that show that it was adopted a month later but for the purposes of this discussion that doesn't really matter whether it was July or August. Either date you choose, this was after Mr. Ali had applied for a building and land disturbance permit before they were issued. The Text Amendment that Ms. McMillan alludes to requires among other things that alcohol outlets accessory to convenience stores with gas stations require a special land use permit. It also provided for step up locational criteria which were different from the prior ordinance, including a requirement that there can be no convenience store gas station within 1500 feet of another. We can see that there's a gas station across the street from this particular gas station but when Mr. Ali applied for his permits this was not a requirement. He is entitled under Georgia law to have his application processed under the law that was in effect at the time he applied. Not two years later when the Text Amendment was adopted by a City Council.”

“It is this text Amendment, and the special land use permit requirement within this Text Amendment of the zoning code that Ms. Jackson relied on and her denial of his request for a certificate of occupancy. It should be noted contrary to the staff report that there is not a substance abuse center within 600 feet of this facility. So, he is not in violation of that requirement. The store meets the locational restrictions in the Text Amendment for the C-store but for the C-store across the road. These locational restrictions were not in effect when Mr. Ali applied for his permits. He's not legally required to adhere to those and we cite the legal cases in our original application that you've had a chance to read. The basis for our appeal is that the decision of Ms. Jackson to deny the certificate of appropriateness for this facility was erroneous because Mr. Ali's application predated the Text Amendment. This project is not bound by the step up locational restrictions that are currently in effect and the city has a ministerial duty to process Mr. Ali's application. In accordance with its own ordinances, and its failure to do so over the course of more than two years is a violation of his constitutional rights.”

“Mr. Ali invested three million dollars before the City of Stonecrest told him to get a special land use permit. This is the definition of arbitrary and this board has the authority to reverse an administrative decision when an administrative official acts arbitrarily. This board also has the authority to reverse an administrative decision if there's been an erroneous finding of fact or law. I submit that the erroneous finding of law in this case is that Mr. Ali somehow had to comply with vocational restrictions that were adopted at least a year and a half after he submitted his original application. Staff, for some reason, analyze this as a variance matter. But nonetheless, recommends approval subject to a condition that we secure an underground storage and special land use permit. Mr. Ali is more than happy to secure the underground storage permit. In fact, that's a requirement before he could open up this gas station. The whole point of this appeal is that we don't need a special land use permit.”

"I submit that we don't need a special land use permit because the appeal should be granted finding that Ms. Jackson's decision was arbitrary to string Mr. Ali on after three million dollars in two and a half years is absolutely the definition of administrative arbitrariness.

Chairman Armstrong asked would the applicant have to go through the permit process again.

Keirston McMillan stated that the Planning Department has background information on case AAA22-000002 and there is a possibility that the case goes before Community Planning Information Meeting (CPIM), Planning Commission and City Council.

Spoke-in-Person:

Linda Dunlavy stated that the special land use permit application requires a public hearing process with three different levels of public hearing that is set forth in the zoning ordinance. She mentioned that they had a pre-application meeting concerning the special land use permit process, which was the whole point of the appeal. She also stated that if the Planning Commission reversed the decision of Ms. Jackson, they would not need to go through that special land use permit process.

Sonja Hicks (District 3) asked did City Council grandfather in the businesses before the amendment was passed.

Keirston McMillan stated that the Planning Department will need to contact the city attorney on that particular question. She also mentioned that the Planning Department has before the board an ordinance that was passed on June 5, 2021, which states that alcohol outlets accessory to convenience stores with gas pumps require a special land use permit.

Keirston McMillan stated that staff recommendations were based on what's in line with the zoning ordinance. She stated that staff had recent conversations with the city attorney and will support what's in the code by following those guidelines.

Spoke-in-Person:

Linda Dunlavy stated that if you file an application under Georgia Law for a building or land disturbance permit under codes that are in effect at the time, you are entitled to be considered under those laws in effect, not laws as they change as you move through the process. *Linda Dunlavy* stated that her client has the right to process under the laws that were in existence at the time the application was filed.

Chairman Armstrong asked was the city attorney present.

Planning Director, Ray White stated that the city attorney was not present, via virtual but the Planning Department can get in touch with the city's legal team.

Sonja Hicks (District 3) asked was there an understanding that alcohol would be sold at the convenience store.

Spoke-in-Person:

Linda Dunlavy stated that the alcohol license was not an issue before the board and they cannot apply for an alcohol license until the development, building permit and certificate of occupancy is granted. She also mentioned that they have an alcohol survey and meet all requirements for distancing.

Kelly Ross (District 1) had a question for the city attorney and wanted to understand the actual Text Amendment and how it would apply to the previous information.

Planner, Keirston McMillan stated that the city attorney was not available.

Planning Director, Ray White stated that the staff cannot give legal advice but the terms of the application, moving forward have been worked out with the city attorney. "Our physician stands solid and we stay with the conclusions and the decision of staff recommendations."

Chairman Michael Armstrong asked for a motion to open public hearing. *Gwendolyn Green (District 2)* motioned to open the public hearing. *Kelly Ross (District 1)* seconded the motion. The vote was unanimously approved.

Chairman Armstrong asked those in **support** to speak.

Spoke-in person:

Applicant Shah Ali Enterprises, LLC, stated that he had been dealing with the permit process since day 1 and that he'd had a prior attorney before. He stated that he was hands-on with city officials and was told that he had to complete a special land use permit when the certificate of occupancy had already passed. He brought up the fact that numerous inspections had passed and failed until they complied to get it passed. He also stated that no one from the city notified him about completing a special land use permit and there was a lack of communication throughout the process.

Chairman Hubbard asked those in **opposition** to speak. There were none.

Chairman Hubbard closed the public hearing before going into discussion.

Chairman Michael Armstrong asked for a motion. *Gwendolyn Green (District 2)* motioned to **DEFER PETITION AAA22-000002 TO THE NEXT ZBA MEETING**. *Sonja Hicks (District 3)* seconded the motion. The vote was **unanimously APPROVED**.

LAND USE PETITION: V22-008
 PETITIONER: Joshua Mahoney, Battle Law PC
 LOCATION: 6257 Hillandale DR Stonecrest GA 30058
 CURRENT ZONING: OD (Office-Distribution) and Viewshed Overlay
 CONDITION CZ-97061
 PROPOSED DEVELOPMENT: To decrease in setback requirements from 75 ft to 50 ft.

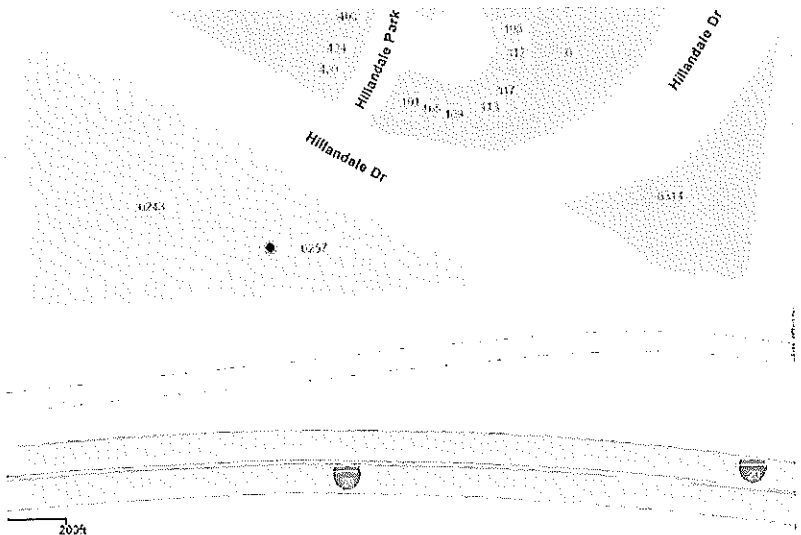
Keirston McMillan stated, "This is a variance for 6257 Hillandale Drive. The current zoning is OD - (Office Distribution) District. The condition of this zoning is CZ97061. The parcel size is 2.09 acres, and the property owners are Cornerstone Capital Investment. The applicant for tonight is Joshua Mahoney, Battle Law PC., on behalf of applicant and Cornerstone Capital Investment, staff recommendation is approval. The variance request is to decrease in setback requirements from 75 ft to 50 ft."

Current Use

Based on findings presented in the letter of intent provided by Battle Law, "The proposed development will include a self-storage facility across one tract of two point twenty-six (2.26) acres. The building containing the self-storage units will be two (2) stories with a basement for a total footprint of 34,986 square feet and across the three levels, a combined 104,958 total square footage of storage space. The development will include two (2) road access points, both on Hillandale Road. One access point will provide first-level loading while the other will provide basement-level loading access. Thirteen (13) guest parking spaces (twelve [12] regular spaces and one [1] ADA accessible space) will be provided on the tract as well" (Battle, 2022, p. 2).

Zoning and Case History

The subject property and all surrounding properties are zoned OD (Office Distribution) District.
 ZONING: OD
 CONDITION CZ-97061





*Figure 2: Aerial View of 6257 Hillendale Drive Stonecrest, Georgia
Retrieved from Google Maps*

APPLICABLE CODE REQUIREMENTS

City of Stonecrest Zoning Ordinance (Chapter 27):

Article 2 – District Regulations

Division 28 – OD (Office-Distribution) District

Sec. 2.28.1. - Statement of purpose and intent.

The purpose and intent of the City Council in establishing the OD (Office-Distribution) District is as follows:

- A. To provide convenient areas within the city for the development of office and distribution establishments which are necessary for the residents and business practitioners within the city; and
- B. To implement the future development map of the city's most current comprehensive plan.

City of Stonecrest Zoning Ordinance (Chapter 27):

Article 3 – Overlay District Regulations

Division 5 – Stonecrest Area Overlay District

VARIANCE CONSIDERATIONS AND STAFF ANALYSIS

Following are the criteria listed in Sec 7.5.3 of the City of Stonecrest Zoning Ordinance that must be considered by the Zoning Board of Appeals in deciding applications for variances:

- 1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;**

The parcel's location between Hillandale Road and Interstate-20 creates an irregular lot shape that is not congruent with the shape of building. As a result, this particular site location poses the risk of creating exceptional narrowness for the proposed development unlike other property owners in the area. Due to the lot's narrowness and triangular shape, the zoning code's minimum requirements related to parking minimums, impervious surface maximums, and greenspace minimums begin to conflict with one another. Because of this, the property owner is unable to fully develop the parcel for its intended use (Battle, 2022, p. 2).

- 2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district which the subject property is located;**

"The required variance of lowering the minimum setback requirement from seventy-five feet (75') to fifty feet (50') does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district which the subject property is located. The variance would still allow for all minimum parking requirements to be met. Additionally, it keeps the footprint of the building under the maximum impervious area allowed in the zoning district while providing more than the minimum amount of greenspace required by the zoning district. Finally, as demonstrated in the concept plan, to build the storage facility to the correct proportions, the building goes right up to the proposed new setback of fifty feet (50'), and it would not be able to fit in the current required setback of seventy-five feet (75')" (Battle, 2022, p. 2).

- 3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;**

The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.

- 4. The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship; not merely impose a casual/discretionary inconvenience up the applicant or his assigns;**

The literal and strict application of the applicable provisions and requirements of this Chapter of the zoning code would cause undue and unnecessary hardship. The unusual lot shape and narrowness of the lot size would not allow for all the requirements of the zoning code to be met. By asking for this minimum variance on the setback, the applicant can structurally develop the property to achieve its intended commercial purpose safely.

5. **The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Stonecrest Comprehensive Plan text.**

The proposed purpose of the setback requirements within the City of Stonecrest Zoning Ordinance and the City of Stonecrest Comprehensive Plan text are

- A. To provide convenient areas within the city for the development of office and distribution establishments which are necessary for the residents and business practitioners within the city; and
- B. To implement the future development map of the city's most current comprehensive plan, and to provide transitional buffers between developments located to adjacent low density residential properties respectively.

By only requiring the minimum necessary variance adjustment need to provide relief, the requested variance remains consistent with the spirit and purpose of this Chapter and the City of Stonecrest Comprehensive Plan text by facilitating both these documents' spirits and outlined purposes. This variance will allow for more parking spaces and landscaping, which will contribute to the transitional buffer between developments. Furthermore, storage facilities have little to no adverse community impact – they are known for generating very low amounts of traffic and will not place further strain on school systems. Finally, by allowing the variance, the applicant will be able to build the storage facility that is necessary to support the nearby commercial and residential areas by adding additional climate-controlled, self-storage options (Battle, 2022, p. 3).

RECOMMENDED CONDITIONS

Based on the findings and conclusions, it appears the applicant meets all the criteria for approval. Therefore, staff recommends **Approval of V-22-000008 to decrease in setback requirements from 75 ft to 50 ft.**

Chairman Armstrong asked was the applicant present. The applicant was present.

Those in support:

Spoke-in-Person: Joshua Mahoney, Battle Law PC stated, "We're requesting a variance from 75 ft to 50 ft, because the lot in question is oddly shaped. We have only one side, rear and front setback. Normally, you'd have two side setbacks. In our case, that long part of the triangle constitutes the front of the parcel and that is where that 75 foot setback comes in. I want to point out a couple things about why the shape of this parcel creates a hardship for my client. First of all, my client has owned this property for almost 15 years and has been unable to find a buyer for this property to develop it. He has tried several times to get someone who can come out and build but the shape of this lot makes it very difficult for anyone to develop. In fact, my client had to go as far as designing a custom building that you see before you in the packet to even get something approved to attract someone to purchase this property. I want to point out that my client's efforts in designing this building have still even run up against the regulations that we're discussing this evening. You'll see on the site plan that the building goes right up against that side and rear setback despite that that 75-foot front setback still comes in and cuts into the building. If we were to move the building, we would be encroaching into other setbacks. Rather than ask for a reduction in the side and rear setback, we went with the minimum variance required to provide us relief and that is just to request the one setback from the front."

Chairman Michael Armstrong asked for a motion to open public hearing. *Gwendolyn Green (District 2)* motioned to open the public hearing. *Sonja Hicks (District 3)* seconded the motion. The vote was **unanimously approved.**

