AGENDA
ST. TAMMANY PARISH BOARD OF ADJUSTMENT MEETING
TUESDAY, JULY 3, 2018 - 3:00 P.M.
ST. TAMMANY PARISH GOVERNMENT COMPLEX BUILDING “A”
21490 KOOP DRIVE, PARISH COUNCIL CHAMBERS
MANDEVILLE, LOUISIANA

CALL TO ORDER

ROLL CALL

APPROVAL OF THE JUNE 5, 2018 MINUTES

PUBLIC HEARINGS

BOA CASE NO. 2018-1074-BOA
Request by applicant for a variance in a MD-3 Medical Facility zoning district to reduce the required number of parking spaces from 243 required parking spaces to a total of 215 parking spaces. The property is located at 201 Greenbriar Blvd, Covington, Louisiana.
Applicant: Covington Behavioral Health, LLC/ Wes Crawford CEO & Allison C. Bondurant, Representative Attorney

BOA CASE NO. 2018-1083-BOA
Request by applicant for a variance in a HC-3 Highway Commercial zoning district to increase the maximum allowable foot candle from 10 foot candle for a retail outdoor storage yard to a maximum of 20 foot candle allowable for an active storage yard. The property is located at 68348 Highway 190 Service Road, Covington, Louisiana.
Applicant: CarMax Auto Superstores, Inc

OLD BUSINESS

BOA CASE NO. 2018-995-BOA
Request by applicant for an extension of the 45 day allowance to amend plans or demolish structure in regards to denied variance, at the May 1st, 2018 Board of Adjustment meeting, in an A-2 Suburban Zoning District to increase the maximum allowable height for an accessory structure from 20 feet to 21 feet & 6 inches. The property is located at 26035 Rising Sun Street, Lacombe, Louisiana.
Applicant: Scott Arceneaux Sr.

BOA CASE NO. 2017-675-BOA
Request by applicant for an extension of the one year granted, to terminate the non-conforming use or to bring the use into compliance with the parish code, in regards to the denied variance at the June 6, 2017 Board of Adjustment meeting. The requested variances was to allow, in a HC-2 Highway Commercial zoning district, the reduction of lot area requirements from 20,000 square feet required to approximately 17,633 square feet requested. The property is located at 1455 W. Lindberg Drive, Slidell, Louisiana.
Applicant: Jesse Bergens & Reed S. Bennett, Representative Attorney.

NEW BUSINESS

ADJOURNMENT
The June 5, 2018 meeting of the St. Tammany Parish Board of Adjustment was called to order by the Chairman, Mr. Fandal.

The roll was called as follows:

PRESENT: Mr. Fandal, Mr. Brookter, Mr. Schneider, Mr. Gordon and Mr. Ballantine

ABSENT: N/A

STAFF PRESENT: Mr. Sevante, Mrs. Lambert and Ms. Contois

APPROVAL OF THE MINUTES

Moved by Mr. Ballantine and seconded by Mr. Gordon to accept the May 1, 2018 minutes as with change on Page 6, suggested by staff in regards to Class of trees. Second by Mr. Brookter.

MOTION CARRIED UNANIMOUSLY

BOA CASE NO. 2018-973-BOA

Request by applicant for variances in a PBC-1 Planned Business Campus zoning district for a street landscaping planting buffer and the elimination of required parking spaces. The property is located on the north side of Oschner Boulevard, west of LA Highway 21, and southwest of Covington, Louisiana.

Applicant: Richmond Honan Development and Acquisitions, L.L.C.

(POSTPONED FROM MAY 1, 2018 MEETING)

(Ms. Contois read the staff report into the record...)

Paul Mayronne: Representative for the request, identify himself. Indicated that he appreciated postponement from last month. Client was concern with the current parking regulations, requiring very high parking count, which is currently calculated according to the total square footage of the building. According to his client parking count should be calculated at ratio of 4.5 to 5 spaces per 1000 sq.ft. After discussion with Mr. Sidney Fontenot, Director of the Department of Planning & Development, research was made and he agreed with a need to amend the regulation to a minimum of 5 parking spaces per 1000 sq.ft of building. A revised plan was submitted, reducing the size of the building, allowing to meet the requirement of 5 spaces per 1000 sq.ft of building. The originally requested reduction of the required front buffer was also no longer necessary. For that reason, we request approval of the variance as per the submitted plan and staff recommendation.
Mr. Ballantine: were the research of data from out of state or from in state as well?
Paul Mayronne: information provided from out of state: Florida and Atlanta and in state Jefferson Parish, Baton Rouge, Covington, Slidell and also checked nationwide.
Mr. Gordon: is it a single or multi occupancy building? What is the parking ratio for general office and other assembly classifications?
Paul Mayronne: multi occupancy building, all medical offices
Ms. Contois: parking for general office is calculated based on gross square footage plus the number of staff and doctors on duty.
Mrs. Lambert: parking requirements for assembly are calculated based on 1 per 4 occupants.
Moved by Mr. Ballantine and seconded by Mr. Brookter to approve the variances requested.

MOTION CARRIED UNANIMOUSLY

BOA CASE NO. 2018-1001-BOA
Request by applicant for a variance to allow for the removal of 2 live oak trees within the parking lot area.
Applicant: Copperstill Development, LLC/Michael Saucier.

(Ms. Contois read the staff report into the record...)

Jason Reibert: Representative identify himself and explain the request and explain the need to add parking spaces for the Rouses Grocery Store. The parking was shifted to add 12' of greenspace along the front buffer. There is also the presence of power lines along the front buffer. Looked into the possibility to plan trees across the street on Coquille Rec District property. Coquille Rec. District was originally ok with the planting of trees within their front buffer; however, at this time, they have not approved the plan. We suggest to plan 7 Class B trees and 6 Class A trees in the parking lot to meet the necessary 32” caliper of trees. We ask to put up a bond and pay the rest to the tree mitigation bank. Due to tight time frame, we ask the board to take action today. Distributed copies of the plan for review by the board members.

Mr. Ballantine: Anyone here from Coquille? Why they didn’t accept the agreement?
Jason Reibert: There are some drainage issues that have not been resolved yet, they did not agree to the planting of trees of the trees within their buffer until issues are resolved. The initial plan with mitigation and payment to the tree bank is necessary, we have exhausted all possibilities. And another option would be to put up a check as a performance obligation until we reach an agreement with Coquille.

Mr. Ballantine: Is staff in favor of moving forward without a signed agreement with Coquille.
Helen: Staff is not in favor of moving forward without a signed agreement.
Regan: we are not in favor of the request without a signed agreement. Also, we do understand that trees will be provided within the parking islands; however, we are not in favor to allow for payment to the tree bank for the remaining required inches of trees. We do not want the tree bank to become a pay to cut solution. The objective of planting trees onsite is to allow for the creation of a canopy.
Ms. Contois:
Jason:

Mr. Gordon: what happened with the previous live oak trees cut from the site?
Jason: We paid into the mitigation bank and planted additional trees onsite.
Mr. Gordon: do we have an assessment of the existing live oak trees?
Ms. Contois, Grade of the live oak trees are one Class C and on Class B. they are not Class A. they have also been in decline since the beginning of construction.
Jason: the 6 additional Class A trees would never be there is wouldn’t have been any changes to the parking lot.
Mr. Gordon: is it possible to reconfigure the parking? Is there enough parking onsite for the store and the future development? What is the condition of the 2 Live Oak trees? Did you look at larger caliper live oak trees?
Jason: yes, sufficient parking for store, out parcels and other buildings. The 2 live oak trees are not in the best conditions. It is possible to plant larger trees.
Ms. Contois: Regan explain the grade and condition of the 2 live oak trees. Instead of 2 big trees, could upsize all trees in parking island by a couple of inches to provide canopy onsite.
Jason: ok to upsize some of the B trees.
Mr. Gordon: is it possible to make a motion to approve the variance, with the stipulation that Jason works with staff.
Savante: it would be ok for, as an example for the number of inches to be increased to meet the total of 3” trees, and for the developer to work with staff.
Mr. Ballantine: problem with agreement with Coquille last month and this month. I am not comfortable moving forward without a signed agreement with Coquille.
Mr. Gordon: that is no longer the request. We are now talking about increasing the caliper of the trees.
Mrs. Lambert: 2 possible options: increasing the caliper of the trees to be planted onsite or plan the required number of trees and payment to the tree bank.
Jason: we want to abandon the Coquille option. Explain status of existing trees remaining on the site.
Gordon: agreement to maintained trees on the site and situation has changed. I would like to make a motion. Can I make a motion based on staff working with Jason?
Mrs. Lambert: Jason do you agree to amend your original request? Motion need to indicate what needs to be planted.
Jason: agree to amend original request. We need to understand what will the requirements for replanting be.
Mr. Savante: example of how the motion should be make and what it should consists of.
Ms. Contois: suggest to plant 22” of tress, Class A, Class B and or Shurbs, no payment to the tree bank.
Jason: I agree with that request to mitigate with 22” of Class A, Class B or Shrubs to mitigate the 2 live oak trees.
Ms. Contois: Yes, 22’ inches of Class B trees would meet the requirements to mitigate the 2 live oak trees.
Gordon: I would like to make a motion based on staff comments.

Moved by Mr. Gordon and seconded by Mr. Brookter to approve the requested variance.

MOTION CARRIED UNANIMOUSLY
BOA CASE NO. 2018-1031-BOA
Request by applicant for a variance to reduce the required side yard setback from 10’ feet to 8 feet & 6 inches (8.5 feet) and to 8 feet & 9 inches. The property is located at 36272 Salmen Street, Slidell, Louisiana.
Applicant: Adrian Bolden
(Ms. Lambert read the staff report into the record...)

Adrian Bolden: Representative & owner identify herself and explain the request. The property has been transferred to me, I need to go through the resub process.
Mr. Fandal: you live in one house and your mother in the other house? When were the houses built?
Adrian Bolden: Yes. She provided the age of the residences.
Gordon: questions regarding the request and in regards to setbacks.
Mrs. Lambert: the best case scenario is being presented to the board, answer questions regarding lot size and setback requirements.
Ballantine: are you selling the property?
Adrian Bolden: No, I need to have my own property and resolve the situation with property taxes.
Mrs. Lambert: are you going through the Succession process?
Adrian Bolden: correct.
Mr. Fandal: question regarding access and will she need a variance before going in front of the Planning Commission?
Helen: same access and correct variance needed before going to the Planning Commission.
Brookter: size of the lots?
Moved by Mr. Schneider, and seconded by Mr. Gordon to approve the requested variance

MOTION CARRIED UNANIMOUSLY

BOA CASE NO. 2018-1032-BOA
Request by applicant for a variance to reduce the required rear yard setback from 25 feet to 19 feet.
The property is located at 60474 Lakewood Street, Slidell, Louisiana.
Applicant: Sonya Waller
(Ms. Lambert read the staff report into the record...)

Sonya Waller : Representative & owner identify herself and explain the request.
Mr. Fandal: why is the mobile home not on the property?
Sonya Waller: I found another trailer.
Mr. Fandal: the case was expired.
Mr. Ballantine: seems to be plenty of room on the property to meet the setbacks.
Sonya Waller: there is a big oak tree on the property, I am trying to preserve.
Mr. Fandal: the requested variance is for the rear not for the side.

Moved by Mr. Ballantine and seconded by Mr. Gordon to approve the requested variance

MOTION CARRIED UNANIMOUSLY
BOA CASE NO. 2018-1043-BOA
Request by applicant to allow for the placement of a swimming pool in the front yard. The property is located at 59638 Lacombe Harbor Road, Lacombe
Applicant: Kathleen Brady/Gunner Guidry
(Ms. Lambert read the staff report into the record...)

Mr. Gunner Guidry: Representative & owner identify herself and explain the request. Provide description of the property, explain that the creek overflows. There is no area in the rear to place the pool, the existing bridge was under water. There is also a fence in the rear of the house. We need to remove 2 pine trees. We could also cut more trees to place the pool further back.

Mr. Fandal: Do you have pictures of the flood?
Mr. Guidry: No I don’t

Mr. Ballantine: Is there a homeowner’s association?
Mr. Guidry: No

Mrs. Lambert: I received a lot of phone calls in regards to the request, no objections over the phone.
Mr. Ballantine: most subdivisions have requirements. This could set a precedent.

Schneider: I am familiar with the property, it is quite rural and the house is setback far from Lacombe Harbor. There is no place for the swimming pool in the rear. It would improve the neighborhood.
Ballantine: Familiar with the property too. I am opposed.
Gordon: Could the address be changed. It would then become a side?
Mrs. Lambert: It difficult because no driveway on Cleisi.
Mr. Gunner: If the creek would not be present, there would be no hardship.
Mr. Fandal: will there be a fence and other accessory building?
Helen: Fence is required. No variance required for fence.

Moved by Mr. Gordon and seconded by Mr. Schneider to approve the requested variance.
4 yeas: Mr. Fandal, Mr. Brookter, Mr. Schneider, Mr. Gordon 1 Nay: Mr. Ballantine

MOTION CARRIED

OLD BUSINESS

NEW BUSINESS

ADJOURNMENT Ballantine: Motion to Adjourn Schneider: Second.

MR. TIM FANDAL, CHAIRMAN
ST. TAMMANY PARISH BOARD OF ADJUSTMENTS

Disclaimer: These minutes are intended to represent an overview of the meeting and general representation of the testimony given; and therefore, does not constitute verbatim testimony or a transcription of the proceedings.
ST. TAMMANY PARISH BOARD OF ADJUSTMENT
STAFF ANALYSIS REPORT

Case File Number: BOA Case No. 2018-1074-BOA
Hearing Date: 07/03/18
Date of Report: 06/22/2018

GENERAL INFORMATION

Applicant(s) Name: Covington Behavioral Health, LLC/ Wes Crawford CEO & Allison C. Bondurant, Representative Attorney
Location of Property: 201 Greenbriar Blvd, Covington, Louisiana
Zoning of Property: MD-3 Medical Facility District
Variance(s) Requested: Reduction of the required number of parking spaces

 OVERVIEW

The applicant is seeking a variance to allow for the reduction of the required number of parking spaces. There is currently a total number of 139 existing parking spaces on the site. The proposed addition to the hospital would make the total number of required parking spaces increase to 243 spaces. The request is to provide a maximum of 215 spaces total.

Reasons for the request:
- The functions and services provided by the hospital consist of the treatment of patients with psychiatric and substance abuse needs. Since the facility is a controlled locked environment where patient visitations is limited to 1 hour per day (3:30 til 4:30PM), the traffic generated by the facility is considerably lower than a full service hospital. Patients at the Center do not generally leave their vehicle in the parking and since visiting hours are limited, the existing lot’s utilization is regularly less than 50%. Also, approximately 40 % of the existing parking lot is being used by staff.
- As shown on the attached plan, the rear of the facility will be bounded by a future private outdoor fenced-in patient area. The reduction of the required number of parking spaces would allow to maintain a certain distance/buffer between the parking lot and the outdoor fenced in area and reduce or eliminate the potential for outside individuals to see the patients inside the fence and to approach the fence and have contact with the patients.
- Preserve a certain distance between the parking area and the proximity to the ambulance loading bay area would reduce or eliminate the potential for the visitors to see patients being admitted to the facility by ambulance and negatively impact the patient confidentiality and privacy.

STAFF COMMENTS

The staff is not in favor the requested variance. Although the services currently offered by the facility may not require as many parking spaces as a full service hospital, and there may be a need to provide privacy for the patients during the time spent within the fenced in outdoor area, there is no compelling reason to recommend approval considering that there is sufficient space on the site to provide the required number of parking spaces, without impeding into the required buffers and/or setbacks. Moreover, the services provided by the hospital and/or the total number of staff members could be increased at any time, making the minimum number of required parking spaces necessary to be provided.
St. Tammany Parish Government
Planning and Zoning Department
Board of Adjustments
21454 Koop Drive, Suite 1 B
Mandeville, LA 70471

Re: Application for Parking Variance
Covington Behavioral Health, LLC

Dear all:

We write to provide an explanation of and support for the requested parking variance on behalf of Covington Behavioral Health, LLC for its mental health facility located at 201 Greenbrier Boulevard, Covington, Louisiana (the "Center"), associated with its proposed expansion of the Center. We request that the Board of Adjustments allow for a variance to allow only 215 parking spaces in lieu of the required 243 spaces, a modest reduction of 28 spaces for the reasons set forth in this letter.

The Center and Proposed Expansion

Covington Behavioral Health, LLC operates the Center, which provides inpatient treatment for individuals with psychiatric and substance use disorder needs. The Center is a controlled environment with locked units and daily visitation from 3:30pm-4:30pm. Patients at the Center are not allowed to come and go as they please; accordingly, vehicles are generally not left by patients in lots. Furthermore, with limited visiting hours, the existing lot’s utilization is regularly less than 50%.

The parking expansion is necessitated by the expansion of the Center from 60 beds to 104 beds, an addition of 44 beds. The Center is one of two inpatient behavioral health facilities in West St. Tammany Parish. The new expansion will provide critically needed behavioral inpatient services to St. Tammany Parish. First, it will provide an additional 28 beds focusing on meeting the existing need of adult patients that we turn away each month due to capacity. Most importantly, this expansion will provide 16 beds to treat adolescents. Presently, there are no available beds for adolescents in acute crisis in St. Tammany Parish. The addition of these beds will provide services to children in our community that are sorely lacking. In most cases, adolescents are sent to treatment facilities as far as Ruston or Shreveport to be treated on an inpatient basis. This planned expansion will assist those children in their own community where they can regularly interact with their close family members and support systems as needed.
Current Zoning and Parking Requirements

This Center is presently zoned as MD-3; it presently has 139 parking spaces. The current zoning classification of MD-3 is a classification for hospitals and the like. In this case, while the Center technically meets this zoning classification, its current parking needs, in actuality, are much less. The Center currently uses only forty (40%) percent of its existing parking, primarily utilized by the staff. The inflows and outflows of cars seen at a traditional hospital are not present at this facility, as visitation and travel by patients and their families are restricted. The actual actual parking needs for the Center are less than even a nursing home facility. In this case, if this property were classified like a nursing home facility, the expansion proposed would require only 181 spaces. The Center is proposing to expand the parking to a total of 215 spaces. This expansion provides significantly more than is necessary to meet the actual needs of this Center.

Proposed Parking and Reasons for Requested Variance

The expansion, under the Code, will require an additional 104 spaces from the current configuration, increasing the parking to a total of 243 spaces. The Center is proposing that the parking be increased to a total of 215 spaces, just 28 spaces less than the required number. This parking variance would provide more than adequate parking for the actual needs and is beneficial to the Parish, its constituents and the Center’s patients. For the reasons set forth below, we request that the parking variance be approved.

First, there not sufficient room the site that will allow for all of the parking without compromising the patient privacy. As can be seen from the plans attached to the Application along with this letter, the rear of the facility is bounded by fenced patient programming areas that are surrounded by trees. These patient areas are vital to patient care. The patients require private outdoor space for their safety and wellbeing. In this case, if parking were to encroach on the private area, patients could be seen over the fencing due to the area topography. Second, if parking is too close to the patient area, it is more likely that third parties may attempt to approach the fence to interact with patients or pass materials to them, like illegal drugs or other contraband. Third, there is an ambulance loading bay just to the east of the property. To allow more parking along the eastern boundary, which is the only practical location, would allow individuals to park and see into the ambulance loading bay, where many patients come in on stretchers, negatively impacting patient confidentiality and privacy.

The property to the south of the Center is not suitable for parking for the same reasons. The patient area goes around the entire rear of the Center, so it cannot be used for parking. In addition, the area to the far south is in a flood area and a water detention and retention area. Therefore, the parking cannot be built in these areas.

Second, the proposed parking is not necessary for the current use. The Center, at its current 60 beds, rarely occupies more than forty (40%) percent of its existing 139 parking spaces. Using these percentages, the highest actual parking used now is approximately 55 spaces. At a similar rate of forty (40%) percent occupancy, with a 73.3% increase in the number of beds, the anticipated actual parking needs would be approximately 95 spaces, less than it presently has in its lot now.
This expansion will result in a total of 215 spaces, more than double the actual needs. Thus, the Center expects all of its new parking to remain almost entirely unoccupied at all times.

Third, this Center would almost certainly never be converted to a full-service hospital, which we understand is a concern for the STPG. Unlike a hospital, this mental health facility does not contain the required build-out for a surgical center or a traditional medical facility. It would cost tens of millions of dollars to convert the existing facility into a medical/surgical hospital. Thus, this facility could not readily be converted to a medical/surgical center that would need the full 243 parking spaces. A more likely outcome is that this facility would be converted to a nursing home because the current build-out is more suitable for that type of use. A nursing home would be a lower impact use than a full service hospital, and the proposed parking additions would be more than sufficient to meet the requirements for any nursing home facility (a nursing home facility the size of the expanded Center would require only 181 spaces). Therefore, any concern that this facility could easily be converted to a hospital requiring the full parking is mitigated by the above facts.

Finally, the parking variance will be a benefit to the neighbors of the Center. Presently, the Center abuts Normandy Oaks neighborhood. By allowing 28 fewer spaces, the Hospital’s parking will have a lower impact on this neighborhood by retaining more of the tree buffer between the Center and the neighborhood. Furthermore, building less parking is better for maintaining green space in the Parish and reducing the need to add additional retention or detention for water runoff. The increase in impermeable surfaces like a parking lot in this case would not serve the neighborhood or the area from a practical and aesthetic perspective.

Conclusion

In sum, St. Tammany Parish is in dire need of the services provided by this expansion. The expansion will provide 44 new mental health beds, 16 of which are going to be adolescent beds. Knowing these needs, the Center has considered all the factors and believes it is in the best in interests of the Parish, its constituents, and the neighborhood to allow a parking variance as requested.

If you have questions, we would be happy to answer them.

Sincerely,

Wes Crawford
Chief Executive Officer
ARCHITECTURAL SITE PLAN - HOSPITAL CALCULATION

EXISTING HOSPITAL

PROPOSED ADDITION

OUTDOOR FENCED PLAY AREA

SWALE

FLOOD AREA

10' SETBACK

25' SETBACK

25' SETBACK

10' SETBACK

FLOWER BALLOON CANAL - DRAINAGE CANAL

Nelson Architect, Ltd.

201 Garvan Drive, Covington, LA 70433

Issued for Planning & Zoning

ARCHITECTURAL SITE PLAN - HOSPITAL CALCULATION

C-101-C
ST. TAMMANY PARISH BOARD OF ADJUSTMENT
STAFF ANALYSIS REPORT

Case File Number: BOA Case No. 2018-1083-BOA
Initial Hearing Date: 07/03/2018
Date of Report: 06/22/2018

GENERAL INFORMATION

Applicant(s) Name: CarMax Auto Superstores, Inc
Location of Property: 68348 Hwy 190 Service Road, Covington
Zoning of Property: HC-3 Highway Commercial Zoning District
Variance(s) Requested: increase the maximum allowable luminaire foot candle in the parking lot

OVERVIEW

The applicant is seeking a variance to increase the maximum allowable luminaire footcandle in the parking lot and storage area for the car lot. Applicant is requesting to use the maximum footcandle calculation associated with an “active storage yard” versus a “retail storage yard” (see below chart). The increase in footcandle is being requested in order to provide adequate lighting at night, to allow for the customers to properly assess the purchase of a vehicle.

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<th>Storage Yard</th>
<th>Maximum Footcandle</th>
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<tbody>
<tr>
<td>Active</td>
<td>20</td>
</tr>
<tr>
<td>Retail Outdoor Lighting</td>
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STAFF COMMENTS

Staff is not in favor of the requested variance since no hardship or practical difficulty is being demonstrated. Granting this variance request could establish, in what the staff believes, a precedent allowing other existing or future car lot to seek the same variance. Note that it has been determined that the lighting regulation for “retail outdoor storage yard” applies to car lots and that the regulation for “active storage yard” applies to industrial yards, operating at night and needing lighting to comply with OSHA standards.
XALM
LED Area Light

XWM
LED Wall Mount

ALL 24' POLES TO BE MOUNTED ON CONCRETE PEDESTALS, 26' ABOVE FINISHED GRADE FOR A TOTAL MOUNTING HEIGHT OF 26'

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<td>SALES STAGING</td>
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<td>Total Project Watts</td>
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**3 x 15 Coloration Grid**

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<th>Label</th>
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<td>SALES STAGING</td>
<td>Fluorescent</td>
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<td>25</td>
<td>9.35</td>
</tr>
</tbody>
</table>

**Unshaded Footcandles: 4 at 26' Above Grade Per City Tammany Parish Unified Code**

**AFTER HOURS PLAN**
4 June 2018

St. Tammany Parish Department of Planning
Board of Adjustments
21545 Koop Drive, Building B
Mandeville, LA 70471

RE: Carmax in Covington – Lighting Standards for the Site

Dear Board Members:

We cannot thank the Parish enough for working with Carmax on this site and development — one that will create jobs, bring positive development, and spark taxes for the Parish. The Parish has been a great partner throughout the due diligence process for this site and we genuinely appreciate working in a pro-business parish. Specifically, the Planning Department team has been beyond helpful from the very beginning.

As we button up the permitting set to present to the Parish, we have run across one matter where we think there may be a gap in the law but certainly where more clarity is needed. This relates to exterior lighting for the project, specifically for the spaces where cars are stored and displayed as a part of the Carmax model.

The potential gap is in that luminaire footcandle maximums are established within Section 7.0303(D) of the Unified Development Code (UDC), however not every outdoor use or form is fully contemplated therein. Here, Carmax's use is closest to a storage yard, but the subsections within are not as clear. They are “active”, “inactive”, and “retail outdoor lighting”.

The Planning Department has determined that the light standard applicable to Carmax is “retail outdoor lighting”. Under an alternative reading of the UDC, we very respectfully assert that it is considered an “active storage yard” for reasons more fully described below. It is important to note that the proposed lighting plan represents minimum industry standards for lighting for vehicle dealers based on the lighting required for a customer to properly assess a vehicle. Customers cannot make informed decisions without adequate lighting at night. Knowing this but given the UDC’s limitations, the lighting plan specific to this store was reduced from a prototypical plan to meet the maximum of 20 footcandles. This amended plan is the bare minimum dealers can get by with, as determined by industry standards.

Given all of the above, this is an application for an Appeal Request and/or in the alternative an application for a Variance of this luminaire footcandle standard.

Appeal Request

As presented in the attached legal memo, we believe that under a black and white reading and strict interpretation of the UDC, Carmax’s use of the outdoor area for storage of vehicles is closest to “active storage yard” as opposed to “retail outdoor lighting”. This is buttressed by the fact that “outdoor retail sales and storage yards” is specifically defined in the UDC as, “a facility for the sales of home, lawn, and garden supplies, brick, lumber and other similar building material, use in St. Tammany Parish Unified Development Code. Section 130-1949 Luminaire Design Requirements, subsection (d).

1 St. Tammany Parish Unified Development Code, Section 130-1949 Luminaire Design Requirements, subsection (d).
conjunction with a home improvement center, a hardware store or a department store” – a use which is clearly not parallel to Carmax’s use.

For these reasons, we believe the active storage yard maximum footcandle should apply.

**Variance – For relief from Section 7.0303(D) Luminaire Footcandles Maximum of 10 for Retail Outdoor Lighting, Storage Yard**

If this honorable Board finds that Carmax is in fact a “retail outdoor lighting” storage yard, then we respectfully request a variance from the very low footcandle maximum of 10 for this type of use.

**Board Powers and Considerations in Granting a Variance/Appeal:**

1. **Is the variance/appeal request self-imposed?**

The need for sufficient lighting at the site is not self-imposed. We respectfully assert that the maximum footcandle that is sufficient for an exterior retail portion of a home improvement center, hardware store, or department store is not sufficient for this type of use – the storage and sales of vehicles. The scale is drastically different for this use, creating a mismatch in the UDC and the contemplated use – one that speaks to safety, security, and overall function. For this reason, we respectfully assert that this variance/appeal is not self-imposed.

2. **Does this variance/appeal request constitute a financial hardship?**

This is not a request based on financial hardship. The number of cars shown or sold is not correlated with the lighting required for a functional and safe vehicle storage yard. Rather, this is a request based in practical hardship and need for a well-functioning site for employees and guests.

3. **Does the variance/appeal request present a practical difficulty or unnecessary hardship?**

Stunting the lighting for this site needlessly creates a practical difficulty and unnecessary hardship. Here, the site is in a high intensity commercial zoning category, reserved for “heavy commercial retail” uses such as here. The lighting restriction does not provide a practical protection for any known causes but rather creates an unnecessary hardship for the Carmax in terms of running a safe and well functioning business model in this location.

4. **Does the variance/appeal request impose an adverse effect on the adjacent neighbors property or surrounding neighborhood?**

The next-door neighbor for this site, a Toyota dealership, utilizes lighting that is far stronger than that proposed by Carmax. This shows that this lighting level is not only acceptable but works well for this use and in this location. Restricting the lighting to that used for a hardware store or similar use is an unnecessary hardship. Further, there are no other immediate neighbors whom would be adversely affected by allowing this variance and a greater lighting standard.

5. **Will the granting of the variance/appeal request constitute establishing a precedent?**
There is little to no precedent created here and certainly no negative precedent. Here, the site is a high intensity commercial zone on a large sized site with a large-scale use – storing and selling cars. Carmax maintains and prides itself on a first-class business operation – one that is safe and well run but by its very nature, this use requires a large-scale operation. Here, allowing lighting that is appropriate for this context should arguably be encouraged, and certainly does not create a negative precedent.

We thank you for your consideration of this request for an appeal and in the alternative a variance of this lighting maximum restriction. We remain available to provide additional information as needed.

Sincerely,

Sherman Strategies, LLC
On behalf of Carmax Auto Superstores, Inc.

Attachments: 1) Sherman Strategies’ Legal Memo “Carmax St. Tammany Parish – Lighting”; and 2) Correspondence/emails from Planning Department determining that the use is considered “Retail Outdoor Lighting” under the Unified Development Code, specifically Section 7.03.
SHERMAN STRATEGIES LLC

TO: Carmax Auto Superstores
RE: Carmax St. Tammany Parish - Lighting

Thank you again for the opportunity to work on this site in Covington, Louisiana.

The purpose of this memo is to address the question of outdoor lighting intensity permitted for the sales lot on this development.

Applicable here, there are only three (3) sub-categories of storage yards in the St. Tammany Parish Unified Development Code, with designated luminaire food candles: “active”, “inactive”, and “retail outdoor lighting”.

In Louisiana, “When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.”

Of the three sub-categories of storage yards, only one is explicitly, clearly and unambiguously defined as required in the above-cited Civil Code article:

“Outdoor retail sales and storage yards ... a facility for the sales of home, lawn, and garden supplies, brick, lumber and other similar building material, use in conjunction with a home improvement center, a hardware store or a department store.”

This definition for outdoor retail sales and storage yards is clearly not a fit for the intended use by Carmax, which is to store vehicles for sale. And therefore, this sub-category is eliminated.

This leaves two options – “active” or “inactive”. Given the level of movement at a Carmax, including and especially on the sales lot, this storage space cannot logically be considered “inactive”. And therefore, this sub-category is eliminated.

Given all of the above, the storage yard lot at this Carmax should be considered an Active Storage Yard under any interpretation of the Unified Development Code.

Please keep in mind that a zoning determination letter issued from St. Tammany Parish is the only legal mechanism to confirm the information in this memo. This memo contains the legal thoughts and determinations in applying the law, however cannot be relied upon in whole to confirm the maximum foot-candle allowances without municipal confirmation.

We remain available to discuss at your convenience.

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1 St. Tammany Parish Unified Development Code, Section 130-1949 Luminaire Design Requirements, subsection (d).
3 St. Tammany Parish Unified Development Code, Section 130-5 Definitions.
### Summary of Lighting Plans – Carmax

<table>
<thead>
<tr>
<th>Area</th>
<th>Operation Levels</th>
<th>After Hours Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking lots (CE &amp; Staging Lots)</td>
<td>not applicable</td>
<td>2fc (avg) 4fc (max) – going lower than this compromises security (code is 2fc. max)</td>
</tr>
<tr>
<td>Active Customer Areas (combined with above)</td>
<td>4fc (avg) 8fc (max)</td>
<td>not applicable</td>
</tr>
<tr>
<td>Retail Outdoor Lighting (Sales Display)</td>
<td>10fc (avg) 18fc (max)</td>
<td>5fc (avg) 10fc (max) – complies with their code</td>
</tr>
</tbody>
</table>
Case File Number: BOA Case No. 2018-995-BOA
Initial Hearing Date: 05/01/2018
2nd Hearing Date: 07/03/2018
Date of Report: 06/22/2018

GENERAL INFORMATION

Applicant(s) Name: Scott Arceneaux Sr.
Location of Property: 26035 Rising Sun Street, Lacombe, Louisiana.
Zoning of Property: A-2 Suburban Zoning District
Variance(s) Requested: increase the maximum allowable height for an accessory structure from 20 feet to 21 feet & 6 inches.

OVERVIEW

Requested Variance 05/01/2018: The applicant is seeking a variance to allow for an increase of 1.5 foot (1 foot 6 inches) above the maximum allowable height of 20 feet. This is an after the fact request, since the accessory structure was erected without a building permit.

Request at 07/03/18 BOA Meeting: Since the requested variance was denied, the applicant is requesting an extension of the 45 days granted, to either remove the structure or reduce the height of to a maximum of 20 feet and apply for the building permit.

STAFF COMMENTS

Staff Comments 05/01/18: Although, the accessory structure is already in place and the property is 40,648 square feet in size, staff is not in favor of this request since this seems to be purely a matter of convenience and not a hardship or practical difficulty and it also appears that the roof of the accessory structure could be restructured in order to meet the maximum allowable height of 20'.

Staff Comments 07/03/18: Above staff comments remains the same; however, staff has no objection to the request to grant an additional 45 days to either remove the structure or reduce the height of to a maximum of 20 feet and apply for the building permit.
NOTICE OF DISPOSITION

Mr. Scott Arceneaux
26035 Rising Sun Street
Lacombe, LA 70445

RE: Board of Adjustment Case No. 2018-995-BOA - A Variance Request(s) for Property Located at 26035 Rising Sun Street, Lacombe, Louisiana

Dear Mr. Arceneaux:

Application was duly heard by the St. Tammany Parish Board of Adjustment at their May 1, 2018 meeting in the Parish Council Chambers, at the St. Tammany Parish Highway 59-Koop Drive Administrative Complex Building, located at 21490 Koop Drive, Mandeville, Louisiana. The case was dispensed based on the following ruling:

REQUEST:
Request by applicant for variances in allow for an increase of 1.5 foot (1 foot 6 inches) above the maximum allowable height of 20 feet.

MOTION:
Moved by Mr. Gordon and seconded by Mr. Ballantine to deny the variance as requested subject to removal of the structure or reduction of height to meet the maximum of 20 feet and apply for building permit.

Voting Membership:

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
<th>Motion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Brookter</td>
<td>YEA</td>
<td>(Motion Carried Unanimously)</td>
</tr>
<tr>
<td>Mr. Gordon</td>
<td>YEA</td>
<td></td>
</tr>
<tr>
<td>Mr. Schneider</td>
<td>YEA</td>
<td></td>
</tr>
<tr>
<td>Ms. Ballantine</td>
<td>YEA</td>
<td></td>
</tr>
</tbody>
</table>

This action taken by the Board of Adjustment represents the final administrative disposition of said case. Any further appeal by the petitioner or aggrieved party from the decision made must be procured by individual action through the judicial court system as prescribed by law and as authorized by State Enabling Act 518 of the 1954 session of the Louisiana Legislature.

MR. LEWIS BROOKTER, VICE-CHAIRMAN
ST. TAMMANY PARISH BOARD OF ADJUSTMENT
Survey Map

Survey Map — "TOTAL for Windows" appraisal software by a la mode, inc. — 1-800-ALAMODE
Zoomed in Look at Property & Existing Home & Tentative Carport

CHOCTAW DRIVE

RISING SUN DRIVE

Existing House

Tentative Carport

40' off property line

14' off property line

28' x 18'

40' off property line

House

Lot F

40648 50 FT.
ST. TAMMANY PARISH BOARD OF ADJUSTMENT
STAFF ANALYSIS REPORT

Case File Number: BOA Case No. 2017-675-BOA
Initial Hearing Date: 06/06/2017
2nd Hearing Date: 07/03/2018
Date of Report: 06/22/2018

GENERAL INFORMATION

Applicant(s) Name: Jesse Bergens
Location of Property: 1455 W. Lindberg Drive, Slidell, LA
Zoning of Property: HC-2 Highway Commercial
Variance(s) Requested: 20,000 square foot lot area requirement for car sales

OVERVIEW

Requested variance at 06/06/2017 BOA Meeting: The applicant is seeking a variance in order to be able to continue using his site for car sales after losing a lease on a portion of property adjacent to his (2,367 sq. ft.) that was used in order to meet the 20,000 square foot lot size requirement for car sales pursuant to Section 8.01 (T.) New and Used Car Sales, of the St. Tammany Parish Unified Development Code.

The applicant lost his lease and now is seeking relief to continue operating even though he agreed pursuant to a signed affidavit (see attached) that he would terminate the use of the property for car sales if the lease was ever terminated or he could not acquire additional property to meet the 20,000 square foot requirement.

Request at 07/03/18 BOA Meeting: Since the requested variance was denied, the applicant is requesting an extension of the one year granted to either terminate the non-conforming use or to bring the use into compliance with the parish code.

STAFF COMMENTS

Staff Comments 06/06/2017: First and foremost, it should be understood that this is not a variance request to permit the lot size of the zoning district itself to be reduced in size, but rather a request to permit the “use” of the property in a HC-2 Highway Commercial district, to continue as a car sales business, since it does not meet the 20,000 square feet required per code due to the loss of the applicant’s lease.

It’s quite clear, and in the staff’s mind, inconceivable to grant the variance request based on the fact alone that the applicant signed an affidavit, a sworn legal document, stating the he would essentially close the business down if the lease was terminated or if he failed to acquire the necessary adjacent property to meet the 20,000 square foot minimum requirement. In essence, applicant, by this variance request, is now going back on his solemn pledge.
Secondly, this would establish, in what the staff believes, a precedent allowing others to follow suit. The regulation clearly draws the line in terms of square footage for various uses within each zoning districts.

Staff Comments: 07/03/18: Above staff comments remains the same. Staff feels that there is no compelling reason to recommend approval of any further extension of the non-conforming use.
NOTICE OF DISPOSITION

Mr. Jesse Bergens
27 Treasure Island Drive
Slidell, LA 70461

RE: Board of Adjustment Case No. 2017-675-BOA - A Variance Request(s) for Property Located at 1455 W. Lindberg Drive, Slidell, Louisiana

Dear Mr. Bergens:

Application was duly heard by the St. Tammany Parish Board of Adjustment at their June 6, 2017 meeting in the Parish Council Chambers, at the St. Tammany Parish Highway 59-Koop Drive Administrative Complex Building, located at 21490 Koop Drive, Mandeville, Louisiana. The case was dispensed based on the following ruling:

REQUEST:
Request by applicant for variances in a HC-2 Highway Commercial zoning district to permit the reduction of lot area requirements from 20,000 square feet required to approximately 17,633 square feet requested.

MOTION:
Moved by Mr. Schneider and seconded by Mr. Brookter to deny the variance request; however, to give Mr. Bergens one (1) year to terminate the non-conforming use or to bring the use into compliance with parish code.

Voting Membership: Vote: Motion:
Mr. Fandal YEA (Motion Carried Unanimously)
Mr. Brookter YEA
Mr. Schneider YEA
Mr. Gordon YEA
Mr. Ballantine YEA

This action taken by the Board of Adjustment represents the final administrative disposition of said case. Any further appeal by the petitioner or aggrieved party from the decision made must be procured by individual action through the judicial court system as prescribed by law and as authorized by State Enabling Act 518 of the 1954 session of the Louisiana Legislature.

for

MR. TIM FANDAL, CHAIRMAN
ST. TAMMANY PARISH BOARD OF ADJUSTMENT
AFFIDAVIT

STATE OF LOUISIANA
PARISH OF ST. TAMMANY

BEFORE ME, the undersigned Notary Public, in and for the above named parish, personally came and appeared:

JESSE BERGENS

Person of the full age of majority who was deposed and said the following:

I, Jesse Bergens, do hereby declare that if my lease of lot 7 from Lyn Godwin is terminated or not renewed for any reason, then I agree to discontinue my used car business and will not continue operations until a buffer is provided alongside the property line. I can acquire additional property to meet the minimum required 20,000 square feet for a used car lot.

Affiant

JESSE BERGENS

Sworn to and hereby acknowledged before me this 3rd day of September 2014

Mary E. Spears, Notary Public #58914
My commission expires with my life.
LEASE AGREEMENT

August 29, 2014

I Lyn Godwin lease to Jesse Bergens Property on West Lindberg Drive. The legal
description is Lot 7 Sq 2 Lindberg Glen Annex No 1, 70’ on Lindberg Drive, 107.9’
on South side, 130.62’ on North side, and 73.63’ on Rear side of lot.
Approximately 8,348 square feet. The terms are $1000.00 annually, beginning
September 1, 2014. The lease renews automatically upon payment each year
until discontinued by Lyn Godwin.

$1000.00 cash has been paid to Lyn Godwin on 8/28/14.

Lyn Godwin

Jesse Bergens
Dear Sirs,

Thank you for looking at my request for variance,

We have been open in business for almost 3 yrs now,

Employing 5 people with families. The property I own

is nearly 90% of the 20,000' requirement, and has

created no hardship on anyone, we have paid all

necessary taxes and kept property insured and

1 neat and clean and safe.

I look forward to our meeting to express many

reasons I believe the business should be allowed

to continue and the circumstance that changed that

do not allow me to meet the same footage requirement.

Thank you, Jesse Bergen.
A certain portion of ground located in Square 2, Lindberg Glen Annex Number 1, St. Tammany Parish, Louisiana, is designated as Lot 10-A and is described as follows:

BEGIN at a ¾" rod found where the southerly line of Lot 10-A intersects the easterly right of way line of Lindberg Drive; thence North 1 degree 6 minutes 46 seconds West along the easterly right of way line of Lindberg Drive a distance of 70.56 feet to a point; thence continue along the easterly right of way line of Lindberg Drive, North a distance of 210.01 feet to a ½" rod set; thence South 89 degrees 52 minutes 00 seconds East a distance of 107.90 feet to a 34" rod set on the westerly right of way line of Interstate 10; thence South 18 degrees 01 minutes 14 seconds West along the westerly right of way line of Interstate 10, a distance of 220.75 feet to a ¾" rod found; thence South 89 degrees 52 minutes 00 seconds East along the westerly right of way line of Interstate 10, a distance of 2.71 feet to a ½" rod found; thence South 17 degrees 38 minutes 25 seconds West along the westerly right of way line of Interstate 10, a distance of 73.45 feet to a ½" rod found; thence South 88 degrees 37 minutes 25 seconds West a distance of 18.71 feet to the POINT OF BEGINNING and contains 17,633 square feet as shown on a survey by Lester Martin Jr. & Associates LLC dated September 4, 2014.

REFERENCE BEARING RECORD BEARINGS.

STATE OF LOUISIANA
PARISH OF ST. TAMMANY

I, Lester H. Martin Jr. Professional Surveyor do hereby certify that I have surveyed, computed and plotted the property hereon located in Square 2, Lindberg Glen Annex No. 1, St. Tammany Parish, LA. Surveyed at the request of the undersigned.

Witness my signature in this, the thirty-first day of August, 2014.

Lester H. Martin Jr.
License #4758

SURVEYOR'S CERTIFICATE
STATE OF LOUISIANA
PARISH OF ST. TAMMANY

ADMINTISTRATIVE RESUBDIVISION OF THE WEST PORTIONS OF LOTS 8, 9, 10 & 11, SQUARE 2, LINDBERG GLEN ANNEX NO. 1 INTO LOT 10-A
SQUARE 2, LINDBERG GLEN ANNEX NO. 1
ST. TAMMANY PARISH, LA

DATE: 09/04/2014
SCALE: T=40
Dwg. By: LMJ

LESTER MARTIN JR.
& Associates LLC
822 Kostmayer Avenue
Slidell, Louisiana 70458
Mobile: (985) 285-9099 Fax: (504) 279-0935
E-mail: LMSurveyor@aol.com