Board of Appeals Meeting
700 Doug Davis Drive
Hapeville, GA 30354

January 28, 2021 6:00 PM

Chairman, Michael Simpson
Vice Chairman, John Stalvey
Gabriel Cojocarescu
Rod Mack
Larry Martin
Martha Revelo
William Slocumb

MINUTES

1. **Call to Order – Meeting called to order at 6:00 p.m.**
2. **Roll Call**
   Michael Simpson, Chairman
   John Stalvey, Vice Chairman
   Gabriel Cojocarescu
   Rod Mack
   Larry Martin
   Martha Revelo
   William Slocumb

3. **Election of Officers**

3.I. Vice Chairman

MOTION ITEM: Gabriel Cojocarescu made a motion, Rod Mack seconded to re-elect John Stalvey as Vice Chairman of the Board of Appeals. Motion Carried: 6-0.

3.II. Chairman

MOTION ITEM: John Stalvey made a motion, Larry Martin seconded to re-elect Michael Simpson as Chairman of the Board of Appeals. Motion Carried: 6-0.

4. **Approval of Minutes**

4.I. Minutes of December 17, 2020

MOTION ITEM: Gabriel Cojocarescu made a motion, Billy Slocumb seconded to approve the minutes of December 17, 2020 as submitted.

5. **New Business**

5.I. Coast to Coast Tours, LLC/Willie B. Johnson, Jr. Administrative Appeal

Background:

Willie B. Johnson of Coast-to-Coast Tours, LLC is requesting an Administrative Appeal for the planner's decision to deny an occupational tax permit for a transportation business to be located at 450 Porsche Avenue, Parcel Identification Number 14-0096-0005-012-6. The property is zoned U-V, Urban Village and is subject to the zoning regulations of 93-11.2-1 of the City of Hapeville Zoning Ordinance.

Staff Comment:

City Planner, Dr. Lynn Patterson, was sworn in by City Attorney, Brooke A. White.

Dr. Patterson stated per Section 87-3-3, the Board of Appeals shall have the following powers and duties:

Sec. 87-3-3. – Powers and duties.
(a) *Generally*. The board of appeal shall have the following powers and duties:

(1) *Administrative review.* To hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination of the building official in the enforcement of this chapter.

(2) *Variances.* To authorize, upon appeal in specific cases, those variances from the provisions of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. A variance may be granted in any individual cases of practical difficulty or unnecessary hardship only upon a finding by the board of appeals that:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
b. The application of this chapter to this particular piece of property would create an unnecessary hardship;
c. Such conditions are peculiar to the particular piece of property involved; and
d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter.

Dr. Patterson further stated that the City of Hapeville received an application to the Board of Appeals for the denial of the planner's decision that a proposed use was not permitted in the applicable zoning district. The applicant, Coast to Coast Tours LLC/Willie Johnson, Jr., applied for an occupational tax permit for a transportation business named Coast to Coast Tours LLC to be located at 450 Porsche Avenue. The application lists transporting passengers from given locations provided by the client as the daily functions. Other activities include administrative offices, bus parking, and maintenance. Also stated in the application regarding storage was a storage area in the office near the bays to be used for repairs. The occupational tax permit application lists the prior use of the building as truck maintenance (Sike Truck Maintenance *[sic]*).

The appeal application indicated the desired permitted use as a travel agency, bus parking, and minor repairs. The applicant stated the business will involve buses being parked at the location and that the buses will be used when charter services are requested by customers. The facility would be the main office for the business and only used to dispatch buses to the desired location for pickup.

The applicant claimed Truck Pro used this location to service trucks and attached a copy of an Occupational Tax Permit to expire March 2021. The application stated that parts storage would be located on the property.

Dr. Patterson stated the U-V Zoning District discourages land uses that are automobile or transportation related (Sec. 11.2.1.5). The U-V Zoning District expressly does not permit similar uses – auto related repair, etc. and the I-1 Industrial District is a district where similar uses are permitted – automobile servicing and repairing.

Dr. Patterson presented the following property and occupational tax permit history:

1. The property (450 Henry Ford Boulevard) was zoned Industrial until 2006 when the City Council rezoned the entire area to U-V, Urban Village, a mixed-use zoning designation. At that time, any existing use, including the Sikes Fleet Services heavy truck repair was considered non-conforming and subject to the Code (Sec. 93-3-2).
2. Sikes Fleet Services Inc. did <u>not</u> renew their occupational tax permit for heavy duty truck repair after 2014. The account was terminated March 2015. The non-conforming use of heavy-duty truck repair was considered abandoned as of September 2015 (Sec. 93-3-6.6).
3. In February 2015, Truck Pro LLC applied for an occupational tax permit for a business named Servus Fleet Management. The 2015 application states the type of business was Retail/Wholesale Heavy Duty Truck Parts and Accessories and confirms the primary function of the business as retail (see Application).
4. The City Planner's review (February 10, 2015) of the Servus Fleet Management occupational tax permit application stated the following: The property is zoned U-V, Urban Village. Sec. 93-11.2-3 reprinted below provides for retail sales as a permitted use in the U-V zone. The application states that the type of business proposed is retail and wholesale heavy duty truck parts and accessories with 7,264 square feet, indicating the business is a retail use as permitted in Sec. 93-11.2-3 permitted uses of the ordinance. However, parking of trucks and freight are not allowed in the ordinance. Such operations and storage are not permitted in the U-V zone and the use must be limited to retail management office only, with no trucks, freight or outdoor storage.
   The occupational tax permit application should be approved, subject to the activity on the premises being no trucks, no on-premises storage of building materials, freight or contractor tools and no outdoor storage allowed. Office Use. Only. (Bold in Planner's report)
5. The Occupational Tax Permit Billing Statement for Servus Fleet Management since 2015 listed the license type as "Auto Sales" not as "Truck Service" or "Heavy Duty Truck Repair". A similar Billing Statement has been sent every year with the renewal to Servus Fleet Management.
6. The City has researched and cannot locate nor reproduce the Occupational Tax Permit Certificate issued with the term "Truck Service" in its records for Servus Fleet Management.

Furthermore, Dr. Patterson stated per Section 93-3-11, the unlawful use of any building or land existing at the time of the enactment of the chapter may be continued, although such use does not conform to the provisions of this chapter.

The duties of the Board of Appeals in an administrative appeal is to determine whether there was an error on any order, requirement, decision or determination of the building official in the enforcement of this chapter.

The Planner issued a denial for compliance with the City's Zoning Ordinance for 450 Porsche as the proposed use of transportation and bus repair is not permitted in the U-V District and any prior use of the site for heavy duty truck repair had been abandoned in 2015 with the expiration of the Occupational Tax Permit under Sikes Fleet Maintenance. The 2015 approval of the occupational tax permit was clear that the approved use under Servus Fleet Management was office use only with no all trucks, no outdoor storage, no freight or contractor tools, etc.

In researching the Code, the history of the property, and the history of the occupational tax permits, the Planner believes there has been no error in the decision to deny compliance with the City's Code of Ordinances.

Chairman Simpson asked how long the use was abandoned.
Dr. Patterson stated the use had been abandoned since September 2015.

Rod Mack asked for clarification regarding the printed Occupational Tax Permit that list the term "Truck Service".

Dr. Patterson stated the license that the property owner produced list the term "Truck Service" however, the city's printed license states "Auto Sales". The City has researched and cannot locate nor reproduce the Occupational Tax Certificate issued with the term "Truck Service" in its records for Servus Fleet Management.

Martha Revelo asked Dr. Patterson to explain the purpose of the U-V Zoning District and if the property was aware of the zoning change in 2006.

Dr. Patterson stated all state and local codes were followed to comply with all legal notifications.

City Attorney, Brooke A. White, questioned Dr. Patterson regarding the authenticity of the Planner's Report and instructed Secretary, Adrienne Senter, to add the following exhibits to the record.

1. 2015 Occupational Tax Certificate Application for Servus Fleet Management.
2. 2020 Occupational Tax Certificate Application for Coast to Coast Tours, LLC.
3. January 12, 2021 Planner's Report for the Occupational Tax Permit Denial at

450 Porsche Avenue.
4. 2020 Commercial Occupation Tax Permit for Servus Fleet Management.
5. Sec 93-3-2 (Nonconforming uses permitted) and Sec. 93-3-6. – Abandonment.
6. Sec. 93-11.2-1 (Intent), Sec. 93-11.2-3 (Permitted uses) and Sec. 93-16-3 (Permitted uses).
7. Article 3. – Board of Zoning Appeals

Applicant Comment:

Cinque Axam of Axam & Roberts Legal Group, spoke on behalf of Coast-to-Coast Tours, LLC and stated their client is seeking to relocate their business to 450 Porsche Avenue and asked the Board of Appeals to overturn the City Planner's denial of the occupational tax permit.

Keith McDowell, owner of Servus Fleet Management, commented regarding the sublease and occupational tax certificate issued to Truck Pro for Truck Service.

Carolyn Sikes, property owner of 450 Porsche Avenue, commented regarding the history of the property and stated she had no knowledge of the zoning changes that was made in 2015.

Willie Johnson, owner of Coast-to-Coast Tours, LLC, stated that he was unaware the property was not zoned for truck service/storage.

<u>Public Comment:</u>
Carolyn Sykes, 37 College Street, Newnan, GA 30263

<u>End of Public Comments.</u>

Gabriel Cojocarescu commented regarding the 2015 Citywide Rezoning Initiative and stated several public hearings and community meetings were held for public input.

Martha Revelo asked Mr. Johnson if he contacted the City to check the zoning prior to leasing the space.

Mr. Johnson stated that since the property was previously used for truck repair and storage that he believed the use was permissible.

There being no further discussion, the following action was taken:

MOTION ITEM: Larry Martin made a motion, John Stalvey seconded to uphold the City Planner's decision and deny the administrative appeal stating that no error was made by the City Planner for denial of the occupational tax permit for Coast-to-Coast Tours, LLC at 450 Porsche Avenue. Motion Carried: 6-0.

6. **Next Meeting Date - Thursday, February 25, 2021 at 6:00 p.m.**

7. **Adjourn**
   MOTION ITEM: John Stalvey made a motion, Larry Martin seconded to adjourn the meeting at 7:07 p.m. Motion Carried: 6-0.

   Respectfully submitted by,

   ___________________________ Chairman, Mike Simpson

   _______________________ Secretary, Adrienne Senter