The City of Lafayette Board of Zoning Appeals met in regular session on Monday, September 19, 2019 at 4:00 PM. Members present were: Jackson Bogan, Tracy Walder, Dave Williams, David Lahr, and Jake Gray.

The meeting was called to order by Mr. Bogan. Ms. Walder moved to approve the minutes of the previous meeting as distributed; second by Mr. Williams. The motion passed by unanimous voice vote.

NEW BUSINESS

2019-26 Petition filed by GAETA CONSTRUCTION, LLC for multiple requests for property located at 113 S. EARL AVE.

1) Variance to reduce the front yard setback to 10' instead of the required 40'.
2) Variance to reduce the side yard setback to 14" instead of the required 30'.

Ms. Walder moved to hear and approve the petition, seconded by Mr. Williams. Joe Bumbleburg, agent for the petitioner, presented the petition. The petitioner, Marino Gaeta, was also present.

Mr. Bumbleburg stated that they're asking permission to place a new building over the footprint of an existing building. The existing building needs to be replaced and these variances would bring the replacement and existing front portion of the building into compliance. Mr. Bumbleburg also stated that similar setback variances like these have been granted in the past in this area. He does not believe there will be any harm done to neighboring properties because the existing building needs to be replaced and the value of this property and surrounding properties will be improved. The variances that are required are not self-imposed, rather they are imposed by history. Mr. Bumbleburg believes they meet all of the ballot items and he respectfully requested approval of the petitions.

Mr. Williams asked about the footprint of the existing building and where the proposed building would be in relation to it. Mr. Bumbleburg pointed out that the proposed building would be over the existing footprint of the back portion of the building. Mr. Gaeta pointed out that the front portion of the building is remaining as it exists. Mr. Gaeta stated that the back portion that needs to be replaced is used as a garage. He stated that the issue arose when inspectors looked at the building and said it needed to be repaired. Instead of repairing what is existing, he would rather replace it with a nicer, newer building.

Mr. Williams asked why they are requesting a front setback variance if they are not doing anything with the front portion of the building. Mr. Bumbleburg stated that he went over the variances with the Engineering Office and they suggested he request a variance for the front setback, as well. Mr. Bogan clarified that they would not necessarily need to request the front setback since the only building portion with the proposed replacement is the back portion. Mr. Griffie explained that the city cannot allow the expansion of a non-conforming structure even though the back portion is the only portion that would be demolished and replaced.

Mr. Williams asked if the new building will be attached to the existing building at the front of the property. Mr. Gaeta stated that the new structure will be attached to the front portion. Mr. Gaeta specified that they
are only asking for a simple replacement over the existing footprint of the back portion, only it will be a little
taller than what is existing.

Mr. Bogan asked if there was anyone who wanted to speak in favor of these requests. Mr. Griffee said that
he had a letter from John Teibel and Puzzle Factory Lofts residents (Rick and Lisa Brown; Tracy and Beth
Brown; Brian and Michelle Sterner; John and Lori Teibel). He let the attendees of the meeting know that
the by-laws are specific when it comes to letters and public commentary at BZA meetings. If someone was
on the letter and wanted the letter to represent their opinion, the letter would be read aloud and be used
as their statement. If they would rather speak at the meeting, the letter would not be read. Mr. Bogan asked
if someone represented by the letter could ask to have their name removed on the letter so they could
speak at the meeting. Mr. Griffee stated that would be okay. It was clarified that Mr. Teibel signed the letter
and it was not clear why the other names were included. Mr. Griffee read the letter of remonstrance.

Mr. Bogan asked if anyone else would like to speak on the matter. Jen Dekker with Citation Homes stated
that although the requested variances for this petition would bring the building into compliance, there is
another issue of non-conforming uses on the property. She is asking for a continuance of this petition until
the petitioner can submit an updated site plan that shows their parking plan. Furthermore, she would like
to see an easement granted that allows the petitioner to work from the adjacent property to the north since
it would be unlikely that they could do all of the work necessary within their own lot. Additionally, there are
many inoperable vehicles on the property. Mrs. Dekker referenced the Unified Zoning Ordinance and the
permitted use of auto-repair businesses in GB zones. However, she also identified that the property is also
being used as a salvage yard which is not a permissible use in GB zones.

Steven Schreckengast stated that he welcomes businesses on Earl Ave. but they have experienced
problems with the petitioner on the property directly north of 325 S. Earl Ave. He requested that this petition
be continued until the petitioner comes up with a plan to clean-up what is existing on-site. He suggested a
commitment could potentially solve this issue. Mr. Schreckengast would like to see a site plan and a
drawing of the building.

Mr. Bogan asked Mr. Bumbleburg if he would like to respond. Mr. Bumbleburg stated that the role of the
Board of Zoning Appeals is to not get into enforcement issues. These are site improvements that have to
be dealt with in the Engineering Office before the permits are issued. Mr. Bumbleburg believes the
remonstrators are asking the board to exceed the authority of the board and reminded everyone that the
only focus should be on the five ballot items and not on non-conforming uses.

Mr. Bogan called out ballot item number 3 and said he would argue that if the property is being operated
in a non-conforming manner, that it does adversely affect adjacent property. Mr. Bogan asked the petitioner
if he would like to wait thirty days to come back with some sort of improvement or condition because if the
board denies the petition, the petitioner would have to wait one year before applying again. Mr. Bumbleburg
reiterated to Mr. Bogan that what the board is trying to do is get into the enforcement business which is
what the Engineering Office does. He said that the variances on this petition are only the first step in the
process of getting a building permit and all the other issues surrounding this property will be handled during
that process.

Mr. Bogan asked again how the petitioner would like to proceed. He repeated that a continuance could be
requested which they would gladly accept, or the petitioner could ask for the board to go ahead and vote
on the matter. Mr. Gaeta asked what a continuance would give them. Mr. Bumbleburg stated that a
continuance only asks what needs to be accomplished within thirty days. A continuance on this petition is
only referencing code enforcement issues. Mr. Gaeta added that he doesn’t think any of the violations on the property have anything to do with the variances they are requesting. Mr. Williams believes that the primary issue is the use of the property. He is concerned that if they approve the petition, it won’t change the con-conforming uses. Mr. Bumbleburg stated that the non-conforming issue would continue until the Engineering Office enforced it and Mr. Griffie added that a building permit would not be issued until the property violations were brought into compliance.

Mr. Bogan asked for clarification on the process moving forward. Mr. Griffie confirmed that a building permit would not be issued until the non-conforming uses and the code violations were fixed. Mr. Griffie also stated that the property is being operated as a junkyard which are only allowed in 13 zoning districts. Ms. Dekker clarified that the property directly north of Citation Homes is owned by the petitioner and is also being operated as a junkyard. Mr. Griffie specified that code enforcement has already begun on the property directly north of Citation Homes and that, as a result of this meeting, the code enforcement process would begin on the property in question for the petition.

Ms. Dekker reiterated what the remonstrators were trying to accomplish with the request of a continuance. They want to see an updated site plan that includes the areas to be paved and the drainage impacts this construction would have on adjacent properties. She also requested that conditions be placed on the approval of the petition which state that all of the non-conforming uses and code violations will be corrected. Mr. Bogan stated that the board does not have that authority.

Mr. Bumbleburg wanted to make an additional comment. He stated that the decisions of the board do not set a precedent for anything and that decisions are made on each individual petition based on the requests and the findings.

Mr. Bogan does not believe that granting these variances will fix the other issues at hand. His fear is that the petition will be declined and the petitioner will have to wait one year to file another request. He believes a continuance makes more sense. Mr. Bumbleburg considers this a flaw in logic because the Engineering Office moves forward with enforcement regardless of the outcome of the board’s decision. Mr. Williams stated that if they approve the variances for the building, it doesn’t change the fact that the property is still left with a non-conforming use. Mr. Gray stated that his issue is with the vehicles on-site that are leaking fluids into the ground. Mr. Griffie repeated that the enforcement process for the code violations will move forward regardless of what happens during the meeting.

Mr. Bogan asked if anyone had any additional comments and asked the petitioner if he would like the board to go through with a vote or continue the petition until the following month. Mr. Gaeta would like to discuss the matter with the owner of the property. Ms. Walder made a motion to table the petition until October 21, 2019, seconded by Mr. Williams. The petition was tabled until the next meeting.

2019-27 Petition filed by Cee Jay Enterprises, LLC for variance to allow a total sign area of 187 SF instead of the allowed 40 SF. Property located at 140 FRONTAGE RD. SUITE A.

Ms. Walder moved to hear and approve the petition, seconded by Mr. Williams. Kevin Riley, agent for the petitioner, presented the petition.

Mr. Riley said the petitioner is requesting a variance for a greater sign area than the ordinance allows for their location in an integrated center. The petitioner is opening a sports bar and grill at the location. The request would allow for four signs at the location. They believe that this signage is important because of
the location of the business in the integrated center. They have visibility on SR 26, as well as I-65 from the corner tower of the integrated center. They don't believe this signage will have any negative impacts on surrounding properties. Mr. Riley also pointed out a previous variance granted in the same integrated center that approved more signage than this petition is asking for.

Mr. Williams clarified where the proposed signage is going to be located. He stated that there is a sign on the back of the building, facing the east, for the previous business at this location. Mr. Riley indicated that none of the proposed signage would go in that location. Mr. Williams understands the need for one large sign on the corner tower of the building but believes an additional sign in that location is asking for too much. Mr. Bogan added that he agreed with Mr. Williams. Mr. Williams and Mr. Bogan believe that the petitioner should only ask for one of the two requested corner tower signs. Mr. Riley understood their concerns and requested that the petition be continued until the October 21, 2019 meeting.

Ms. Walder made a motion to continue the petition until October 21, 2019, seconded by Mr. Williams. The petition was tabled until the next meeting.

The next meeting of the Lafayette Board of Zoning Appeals will be on Monday, October 21, 2019 at 4:00 PM. There being no further business to come before the Board at this time, the meeting was adjourned at 4:55 PM.