

AGENDA
BOARD OF ADJUSTMENT

City of High Point
Municipal Office Building
211 South Hamilton Street
City Council Chambers
December 8, 2011
3:00 p.m.

Call to Order and Determination of Quorum

Approval of the November 10, 2011 Minutes of the Board of Adjustment meeting

Continued Public Hearing Item

1. **V11-01** **2222 Surrett Drive** **Flexible Foam Products, Inc.**
Flexible Foam Products, Inc., on behalf of the M.5 Corporation, requests a maximum 16-foot variance to the 35-foot street setback to build an addition to an existing building.

This application references Section 9-4-11(c) of the High Point Development Ordinance regarding setback requirements, and is filed pursuant to Section 9-9-6(j) (Variances) of the Ordinance.

**CITY OF HIGH POINT
 PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT
 VARIANCE CASE 11-01
 November 10, 2011**

Request	
Applicant: Flexible Foam Products, Inc.	Owner: M.5 Corporation
Proposal: Flexible Foam Products, Inc., on behalf of the M.5 Corporation, requests a maximum 16-foot variance to the 35-foot street setback to build an addition to an existing building.	Relevant Ordinance Section: This application references Section 9-4-11(c) of the High Point Development Ordinance regarding setback requirements, and is filed pursuant to Section 9-9-6(j) (Variances) of the Ordinance.

Site Information	
Location:	2222 Surrett Drive, being approximately 1,000 feet south of the intersection of West Fairfield Road and Surrett Drive. The site is further identified as being located on the northwest corner of the intersection of Surrett Drive and Corporation Drive.
Site Dimensions and Acreage:	The site is 14.9 acres in size and has approximately 1,100 feet of frontage along Surrett Drive.
Physical Characteristics:	The site sits several feet below Surrett Drive. The northern portion of the site, which is improved with a large gravel parking area, is about two feet higher than the southern half of the property. Otherwise the site is fairly flat.
Improvements:	There are two buildings located on the southern half of the site, one being a large manufacturing building (with a gross floor area of approximately 270,000 square feet) and the other being a much smaller office building. The parking area and buildings cover nearly the entire site.
Current Zoning:	Heavy Industrial (HI)
Current Land Use:	Manufacturing

Adjacent Property Zoning and Current Land Use		
North:	Heavy Industrial (HI)	Manufacturing
South:	Heavy Industrial (HI)	Manufacturing
East:	Manufacturing-1 (M-1)(City of Archdale)	Manufacturing
West:	Heavy Industrial (HI)	Manufacturing

Additional Facts, Observations and Circumstances of the Case

- ❖ The applicant is proposing to construct an addition to the existing manufacturing building which would encroach into the street setback of Surrett Drive in two locations, with a maximum encroachment of 16 feet into the 35-foot setback. The proposed addition would house extensions to the existing manufacturing lines.
- ❖ In July of 2008 the applicant received a variance approval from the Board (V08-05) that authorized a single encroachment of 8.5-foot into the Surrett Drive street setback (313 total square feet) for a building addition to house an extension of the assembly lines. The proposed building addition has not been built. That approval will remain valid through 2012 regardless of the Board's decision in this case.
- ❖ The applicant is now proposing a revised building addition that would have a larger encroachment into the required street setback than was previously approved by the Board.
- ❖ The applicant states in the variance application that the additional encroachment is due to a need to modify the angle of the extension of the conveyor line. The applicant states that the angle proposed during the previous case was too great and would have resulted in a poor quality of foam. Therefore, the applicant is pursuing a new design to reduce the angle in the conveyor line. This has necessitated that the new building be shifted slightly closer to Surrett Drive.
- ❖ The manufacturing lines utilize a conveyor to transfer polyurethane foam through the manufacturing process. The applicant manufactures foam products, which are sold to companies for use as bedding or padding in furniture. The manufacturing of such foam is a permitted use in the HI district.
- ❖ The applicant is proposing to extend conveyor line 1 (being the conveyor line located closest to Surrett Drive) 155 feet. There is not room on the site to extend the existing conveyor line 155 feet without angling it, as it is oriented toward Surrett Drive.
- ❖ There are numerous chemical tanks and other equipment associated with the existing production line locate to the rear of the conveyor line 1, which would need to be relocated if the line were to be extended in that direction.
- ❖ The existing manufacturing building was built in 1966. The building is situated approximately parallel with Corporation Drive, but not with Surrett Drive, because Surrett Drive and Corporation Drive intersect at an acute angle and are not fully perpendicular to each other. As a result the distance between Surrett Drive and the eastern façade of the building diminishes toward the northern end of the building.
- ❖ Surrett Drive, which is classified as a major thoroughfare, was recently widened by the North Carolina Department of Transportation (NC DOT). It is now a three lane road, having a center turn lane as well as a travel lane in each direction.
- ❖ In order to accomplish this road widening NC DOT acquired additional right-of-way from the applicant along the Surrett Drive frontage of the site.
- ❖ There is an existing railroad line located on the east (opposite) side of Surrett Drive, which prevented the acquisition of right-of-way on that side of the road.

- ❖ It is not clear what the exact width of the existing public right-of-way of this section of Surrett Drive is. Therefore the Planning and Development Department is utilizing the 35-foot setback from the property line (edge of right-of-way), rather than the setback from the centerline of the right-of-way, as that setback distance is not clear.
- ❖ The Surrett Drive right-of-way has an irregular configuration in the vicinity of the proposed building addition and as a result the northeast corner of the existing building is located within the street setback. Staff is unaware of when this portion of the right-of-way was dedicated (it was not dedicated as right-of-way in the recent road widening) but staff finds it likely that the building was built before this portion of the right-of-way was widened. According to the survey submitted by the applicant this corner is within 21 feet of the existing right-of-way (an encroachment of approximately 16 feet).
- ❖ The proposed building addition would be flush with the northeast corner of the existing building, and would therefore have a similar encroachment into the street setback.
- ❖ Approval for this area of encroachment was not given in the previous variance request as it was not identified by the applicant, nor was the encroachment noticed by staff or the Board. The applicant has identified both areas of encroachment in this request.
- ❖ The second area of encroachment would occur at the northeast corner of the proposed building addition, which would encroach into the required street setback by a distance of less than 12 feet. This encroachment would taper down to a point where the proposed addition would comply with the setback (approximately 570 square feet).
- ❖ The property located across Surrett Drive from the proposed addition is part of the Thomas Built Bus facility. There is no building on that portion of their property, as it is currently used as a staging area for partially manufactured buses.

Findings

A variance may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:

- ❖ There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of the Ordinance. The board may reach this conclusion if it finds that: 1) If the applicant complies with the provisions of the Ordinance, he can make no reasonable use of his property; 2) The hardship of which the applicant complains results from unique circumstances related to the applicant's property; 3) The hardship results from the application of the Ordinance to the property; and 4) The hardship is not the result of the applicant's own actions.
- ❖ The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- ❖ The granting of the variance assures the public safety and welfare and does substantial justice.

Staff Analysis and Comment

This request is similar in many respects to the applicant's previous Variance request that was approved by the Board. Many of the circumstances and site factors associated with the request have remained unchanged, although the applicant is requesting a greater encroachment into the street setback. Staff therefore finds it appropriate to examine the Board's previous decision and consider how the requested increased encroachment applies to the findings of fact.

In the previous decision the Board found that there was a combination of factors that comprised a practical difficulty. From the order of approval for V08-05:

“The building and the manufacturing line itself were not built by the applicant, but were located such that the subject manufacturing line is located roughly adjacent to Surrett Drive, and such that the northern end of that line is oriented toward the future Surrett Drive street setback. There is substantial mechanical equipment associated with the manufacturing line that would make the relocation of the existing line to another part of the building extremely difficult. The nature of the manufacturing process limits the angle at which the manufacturing line could be expanded such that it would not be possible to curve the proposed expansion of the line in order to avoid the street setback. Market forces require that the existing manufacturing lines be expanded, and require a certain minimum length of those lines for the applicant's facility to remain competitive. The Board finds that the need for the North Carolina Department of Transportation to widen Surrett Drive, and the need for that Department to obtain the required right-of-way on the western side of the roadway due to the presence of the railroad line place a particular hardship on the applicant. The Board finds that these practical difficulties were not self-created.”

The site related factors that comprised the practical difficulty in case V08-05 are still present and applicable, noting that the planned widening of Surrett Drive and acquisition of right-of-way on the applicant's property has occurred as anticipated. The applicant states in the variance application that the extended conveyor line is required to be straighter than was proposed in the previous approval. The Board may wish to ask the applicant to provide a more detailed explanation of that statement because it is the basis of their request for an additional encroachment (beyond what was previously authorized). In addition, there is no written documentation that any alternatives to the variance request were considered.

In the previous case the Board found that the requested 8.5-foot encroachment in V08-05 to be “fairly minimal”, noting that approximately 74 linear feet of building wall would have been located in the street setback. In this altered request approximately 135 linear feet of building wall would be located in the street setback, with a maximum encroachment of almost 16 feet in one location. It should be noted, however, that the existing building encroachment of 16 feet is likely due to a previous taking of right-of-way for Surrett Drive, and that the proposed addition would be flush with that existing building.

The Board noted in approving the previous request the need for a 35-foot setback was minimized due the nature of development and industrial land uses in proximity of the site. In addition the Board noted that no buildings were located in the vicinity of the proposed encroachment, and that the encroachment would not hinder the provision of adequate light and air to other buildings or properties. Staff suggests that the increased encroachment does not alter this assessment. The

property to the east of the proposed addition, being a manufacturing site for Thomas Built Buses, has not substantially changed since the previous variance request was made.

As noted in the attached order the Board noted that granting V08-05 would create substantial justice. Staff has not identified any potential adverse impacts that would be created by granting this revised request, however the Board will need to determine the proper weight to assign to any testimony given at this hearing which states a concern about the proposed encroachment (if any is given).

In V08-05 the Board noted that public safety and welfare would not be harmed by granting the variance request. While the widening of Surrett Drive has moved the roadway closer to the applicant's building, it is staff's opinion that the proposed building addition would not create any visibility issues for motorist travelling on Surrett Drive.

Preliminary Conclusions

The preliminary conclusions below are an application of facts, observations and circumstances associated with this request to the required findings, and are based on the sum of information available to staff as of the preparation date of this report. This information includes the application and exhibits prepared by the applicant, as well as our own observations, data and analysis. It is meant to provide interpretive assistance. The Board should draw its own conclusions that are based upon the entirety of testimony and material evidence presented at the public hearing.

<p>In the matter that there are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of the Ordinance -</p>	<p>Staff concludes that there are several factors that combine to comprise a practical difficulty in this request. The building and the manufacturing line itself were not built by the applicant, but were located such that the line is located roughly adjacent to Surrett Drive, and such that the northern end of that line is oriented toward the Surrett Drive right-of-way. There is substantial mechanical equipment associated with the manufacturing line that would make the relocation of the existing line extremely difficult. The nature of manufacturing process limits the angle at which the manufacturing line can be expanded such that it would not be possible to curve the proposed expansion of the line in order to avoid the street setback. The applicant states that market forces require that the existing manufacturing lines be expanded, and require a certain minimum length of those lines for the facility to remain competitive. Lastly, the right-of-way necessary for the widening of Surrett Drive was acquired solely on the western side of the street due to the existing rail line to the east, further reducing the area between the existing building and the proposed addition and the street right-of-way.</p>
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	<p>Furthermore, staff does not consider the encroachment to be excessive, noting that the proposed addition would be flush with the existing building and that the two encroachments taper into compliance with the setback.</p>
<p>In the matter that the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit -</p>	<p>Staff concludes that the additional requested encroachment does not alter the factors that rendered the previous request in keeping with the purpose and intent of the Development Ordinance; being that the need for the 35-foot street setback is minimized due to the nature of development and industrial land uses in proximity of the site, and that the proposed addition would not hinder the provision of adequate light and air to other properties.</p>
<p>In the matter that the granting of the variance assures the public safety and welfare and does substantial justice -</p>	<p>Granting this revised request would create a strong case for substantial justice, since construction of the proposed addition would provide a great benefit to the applicant and staff has not identified any potential adverse impacts that would be created by granting the request.</p> <p>Staff further concludes that public safety and welfare would not be harmed by granting this request.</p>
<p>Summary Statement</p>	<p>Staff concludes that the request does meet the required Findings of Fact as outlined above.</p>
<p>Report Preparation</p>	

This report was prepared by Planning and Development Department staff member Doug Loveland, AICP, and reviewed by Bob Robbins, AICP.