

Village of Wimberley
City Hall, 13210 Ranch Road 12, Wimberley, Texas
Board of Adjustment/Public Hearing Minutes
Thursday, October 28, 2004

Sue Johnson, Chair, called the meeting to order at 6:30 p.m.

Present were Bob Flocke, Sue Johnson, Mike Stevens, Susan Thurber, and Barbara Vansant (Alternate, appointed by Mayor Stephen Klepfer). Bill Cline was absent.

The minutes of the October 6, 2004 meeting were accepted as read.

Sue Johnson stated that the board had jurisdiction and opened the public hearing of:

Application No.: BA-04-016

Applicant: Mike Yong, dba Eagle United USA, Inc.

Location: Lot 12, WIMBERLEY HEIGHTS, commonly known as 333 FM 2325, Wimberley, TX

City Administrator Steve Harrison stated that the case number was correct; the proper notices had been given; the property was zoned as C-1 on September 2, 2004; and that the proposed use was for offices and retail sales and services, which is allowed under the C-1 zoning. He said that the variances sought were:

- o Variance to Zoning Ordinance No. 2001-010, §26.4.C.3 - Requesting a decrease of the south side building setback of 10 feet to 5 feet so trees will not have to be moved to accommodate a commercial building.
- o Variance to Zoning Ordinance No. 2001-010, §26.4.C.3 - Requesting a decrease of the west side building setback to 2 feet for accommodation of a portable storage building.
- o Variance to Zoning Ordinance No. 2001-010, §26.4.C.3 - Requesting a decrease of the west and north building setbacks in the extreme northwest corner of the site is requested in order to accommodate three (3) parking spaces

All three variances requested involve setbacks on the subject property. Minimum setbacks in the C-1 District are ten (10) feet from the dominant street as well as the interior side yard and rear of the property. There is an exception where twenty (20) feet would be required if the property is adjacent to a residential district; however, this does not apply in this case.

Mr. Harrison presented pictures of the property, and some board members had gone to the site. The old building has been removed and the location is vacant. No permit applications or site plans have been submitted to the City. Applicant was informed that a variance would be needed before either could be approved. He also pointed out that Section 44 of the Zoning Ordinance sets out rules for computing the number of parking spaces required. This would be further handled with the site approval.

Mr. Harrison introduced Myra McDaniel, partner in the law firm of Bickerstaff, Heath, Smiley, Pollan, Keever & McDaniel, who was present to answer any questions the board might have concerning the variance requests.

Sue Johnson invited Applicant to speak.

Mike Young said that he was doing business as Eagle Mountain Flag Co., and that they were anxious to build their own facility. The property was purchased for its potential beauty. They intended to utilize the existing well, and leave as many trees as possible. He requested that the variances be granted to preserve the beauty of the lot, save existing trees, and allow the parking at the rear of the property, thus allowing him to use the existing well. Failure to receive these variances as requested would require him to center the new structure and move the parking to the front of the lot. This would mean that many of the trees would have to be removed and the character of the project would be affected.

Mr. Harrison stated that no neighbors provided an objection to the variance requests that had been mailed out, and Mr. Young had spoken with Mr. Williams of Williams Woodworking next door who assured him that he had no objection to the variance requests.

Matt Bachardy was introduced as working with Mr. Young on the design of this project. Mr. Bachardy said that there would be three parking spaces out front for handicapped parking. They would further re-figure the required parking spaces based on the fact that part of the proposed building would be retail and part wholesale. No final determination has been made as to whether or not they will use the existing well. Mr. Harrison pointed out that if they were to hook up the water line to Wimberley Water Supply that they would be required to cap the well, and that they also had the option to hook up with Aqua Texas. He mentioned that there was a possible option of working out some arrangement for parking on the adjacent property.

Applicant was reminded about the amount of impervious cover required. The Board also questioned the possibility of incorporating storage into the new building rather than using a storage shed. Mr. Young said the present plan fits their needs exactly and allows for expansion. The storage building is one that they are presently using at their old site. The WISD bus parking is directly behind this property.

Mr. Harrison asked if the air conditioning unit on the side of the new building was within the five (5) foot setback, and informed Mr. Bachardy that no mechanical equipment is allowed in setback areas.

Mr. Young said that he had plans to protect the trees by wrapping and putting up barricades. They would also be using a pervious paving on the entire project—at least in critical areas.

Sue Johnson closed the public hearing.

Board members complemented the Applicant on his plans—the type of development Wimberley wishes to encourage. Concerns were raised as to health and safety with such a small setback on the lot sides—if fire trucks would have access, and whether the situation was self-imposed. And, if this variance were to be granted would the Board be creating precedents? Mr. Young said that if he were required to move the building to the center of the property to comply with the minimum setbacks of ten (10) feet, it would greatly decrease the size of his lot as the lot is narrow (75 feet) and deep. This would bring the total frontage down to fifty-five (55) feet.

Board Member Stevens addressed the public safety issue stating that access could easily be obtained from adjoining properties; that the Board should consider the size of the lots and setbacks and that to deny the variance would impose a hardship. There was a need to look at each individual case.

Sue Johnson stated that the Board needed to deal with each variance request individually.

Variance Request No. 1 - Variance to Zoning Ordinance No. 2001-010, §26.4.C.3 - Requesting a decrease of the south side building setback of 10 feet to 5 feet so trees will not have to be moved to accommodate a commercial building.

Board Member Mike Stevens made a motion to stipulate “Yes” on all six (6) items. The motion was seconded by Board Member Bob Flocke.

Board Members Thurber and Flocke stressed that the mechanical equipment would not be allowed within the setback.. Ms. Thurber further suggested the possibility that the applicant move the proposed building 5 feet toward the center and relocate the porch. Mr. Bachardy responded that the additional space was needed for trucks turning when making deliveries. Any further moving would encroach on the well. Board Member Flocke said that moving the building to the center would take away the character of the project.

Board Member Vasant wanted a way to be responsive, but no construction had started and she looked for a way to accommodate the Applicant’s needs and that the need for a variance was not self-imposed. Mr. Young said that asking for a variance was a last resort. The building plans perfectly followed their needs. A lot of time had been spent on the plans; that moving the building more to the center would require placing the parking in front as well as the back. And, he was also concerned about the aesthetics. Parking requirements would be reviewed under the site development plan.

Attorney Myra McDaniel said that special circumstances may exist. It was apparent that at the time the lots were originally subdivided, the property was a residential area. If the lots were subdivided today, they would have been platted to accommodate wider frontage rather than deep lots. This platting limits the possibilities for layout of the buildings and, thus, the need for a variance was not self imposed.

Sue Johnson called for a vote.

Variance Request No. 1 - All five Board Members voted "Yes" to the six conditions. The variance was granted.

Variance Request No. 2. Variance to Zoning Ordinance No. 2001-010, §26.4.C.3 – Requesting a decrease of the west side building setback to 2 feet for accommodation of a portable storage building.

Mr. Young stated that the storage building was in good shape, that it was a high-end storage building. Board members raised concerns that it was a "portable" building, and expressed their opinion that it could be placed elsewhere. Mr. Young said that recycled items were kept in the storage building to keep down clutter.

Board Member Bob Flocke made a motion to grant variance request No. 2. Board Member Stevens seconded the motion.

Variance Request No. 2 – Board Members Vansant, Thurber, Stevens and Johnson voted "No" to the six conditions. Board Member Flocke voted "Yes" to all six conditions. The variance was denied.

Variance Request No. 3 - Variance to Zoning Ordinance No. 2001-010, §26.4.C.3 – Requesting a decrease of the west and north building setbacks in the extreme northwest corner of the site is requested in order to accommodate three (3) parking spaces.

Board Member Stevens made a motion that Applicants request for a Variance Request No. 3 be granted, with the setback variance being limited to the parking area at the Northwest corner of the property as indicted in the attached diagram (Exhibit "A"). The motion was seconded by Board Member Vansant.

All five Board Members voted "Yes" to the six conditions. The variance was granted, with the setback variance being limited to the parking area on the Northwest corner of the property as indicated in the attached diagram, Exhibit "A".

B. Announcements and requests for future agenda items: None

C. Adjournment was at 8:05 p.m.

Sue Johnson, Chair

Adelle Turpen, City Secretary

ORDER GRANTING/DENYING ZONING VARIANCE

File No.: BA-04-016

Date of Hearing: October 28, 2004

Applicant: Mike Young (Eagle Mountain USA, Inc.)

Address: 333 FM 2325, Wimberley, TX

The Board of Adjustment has considered the Conditions Required for a Variance (Wimberley Ordinance No. 2001-010, Section 10). That public notice has been given and a public hearing on the variance request has been made in accordance with Section 10.8. The Board of Adjustment makes specific, written findings of fact as follows:

As to Variance Request No. 1. A decrease of the south side building setback of 10 feet to 5 feet is requested for the following reasons:

A. The preservation of the existing large trees on the north side of the site is of utmost importance to the owner. The native trees are of mature size and integral to the preservation and native landscaping of the site.

B. The existing water well (which the owner intends to place back in service) is located in a position that would be destroyed if buildings or parking areas were to cover it.

C. The desire to accommodate a gently curving, organically shaped driveway/landscaping scheme, access to the north entrance of the building and to allow a larger percentage of the required parking spaces to be located to the back of the site requires more space on the north side of the site.

The Board of adjustment finds as follows:

	YES	NO
1. That there are special circumstances of conditions affecting the property involved such that the strict application of the provisions of this Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and	X	
2. That such circumstances of conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property; and	X	
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and	X	

4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest; and (c) be injurious to or adversely affect the orderly use of other property within the area; and	X	
5. The property involved is otherwise in compliance with all other applicable Village ordinances, rules, and regulations; and	X	
6. the granting of the variance will be in harmony with the spirit and purpose of this ordinance.	X	

Special Circumstances:

Additional Findings:

Board Action: Grant x Deny Grant with Conditions:

Special Circumstances:

Additional Findings:

As to Variance Request No. 2. A decrease of the west side building setback to 2 feet for accommodation of a portable storage building is requested so that this utility building may be placed in the most unobtrusive way possible on the site. The neighboring property to the south contains a metal shop building adjoining the property line. The neighboring property to the west contains a school bus storage yard and privacy fence. This location is ideal for concealing the storage building from view as much as is practical.

The Board of adjustment finds as follows:

	YES	NO
1. That there are special circumstances of conditions affecting the property involved such that the strict application of the provisions of this Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and		X
2. That such circumstances of conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property; and		X
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and		X
4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest; and (c) be injurious to or adversely affect the orderly use of other property within the area; and		X
5. The property involved is otherwise in compliance with all other applicable Village ordinances, rules, and regulations; and		X
6. the granting of the variance will be in harmony with the spirit and purpose of this ordinance.		X

Special Circumstances:

Additional Findings:

Board Action: Grant _____ Deny x Grant with Conditions: _____

Conditions for Variance:

As to Variance Request No. 3. A decrease of the west and north building setbacks in the extreme northwest corner of the site is requested in order to accommodate three (3) parking spaces. The corners of the three spaces are proposed to be 3 feet from the property boundaries and angle away to provide protection to an extremely large tree on the western side of the site which the owner desires to preserve. This also allows more parking to be located to the back of the site in order to minimize the need for parking on the front of the site. Less parking on the front of the site allows more landscaping and an over-all more attractive project.

The Board of adjustment finds as follows:

	YES	NO
1. That there are special circumstances of conditions affecting the property involved such that the strict application of the provisions of this Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create an unnecessary hardship in the development of the property; and	X	
2. That such circumstances of conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property; and	X	
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and	X	
4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest; and (c) be injurious to or adversely affect the orderly use of other property within the area; and	X	
5. The property involved is otherwise in compliance with all other applicable Village ordinances, rules, and regulations; and	X	
6. the granting of the variance will be in harmony with the spirit and purpose of this ordinance.	X	

Special Circumstances:

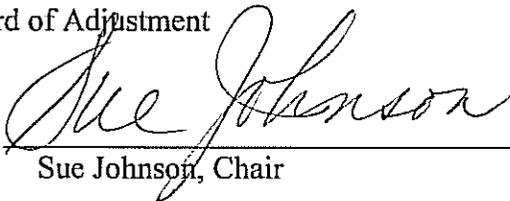
Additional Findings:

Board Action: Grant _____ Deny _____ Grant with Conditions: x

Conditions for Variance: Setback granted to parking area only pursuant to the attached sketch.

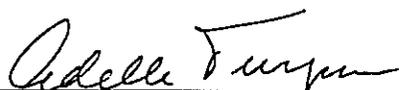
PASSED AND APPROVED this 28th day of October, 20004, by the Board of Adjustment of the Village of Wimberley, Texas, by a vote of 5 (Ayes) 0 (Nays) _____ (Abstain).

VILLAGE OF WIMBERLEY
Board of Adjustment

By: 

Sue Johnson, Chair

ATTEST:



Adelle Turpen, City Secretary

LOT 20

SCHOOL BUS YARD

LOT 19

LOT 18

N 37°09'00"W 75.13'

1" = 100'

LOT 13

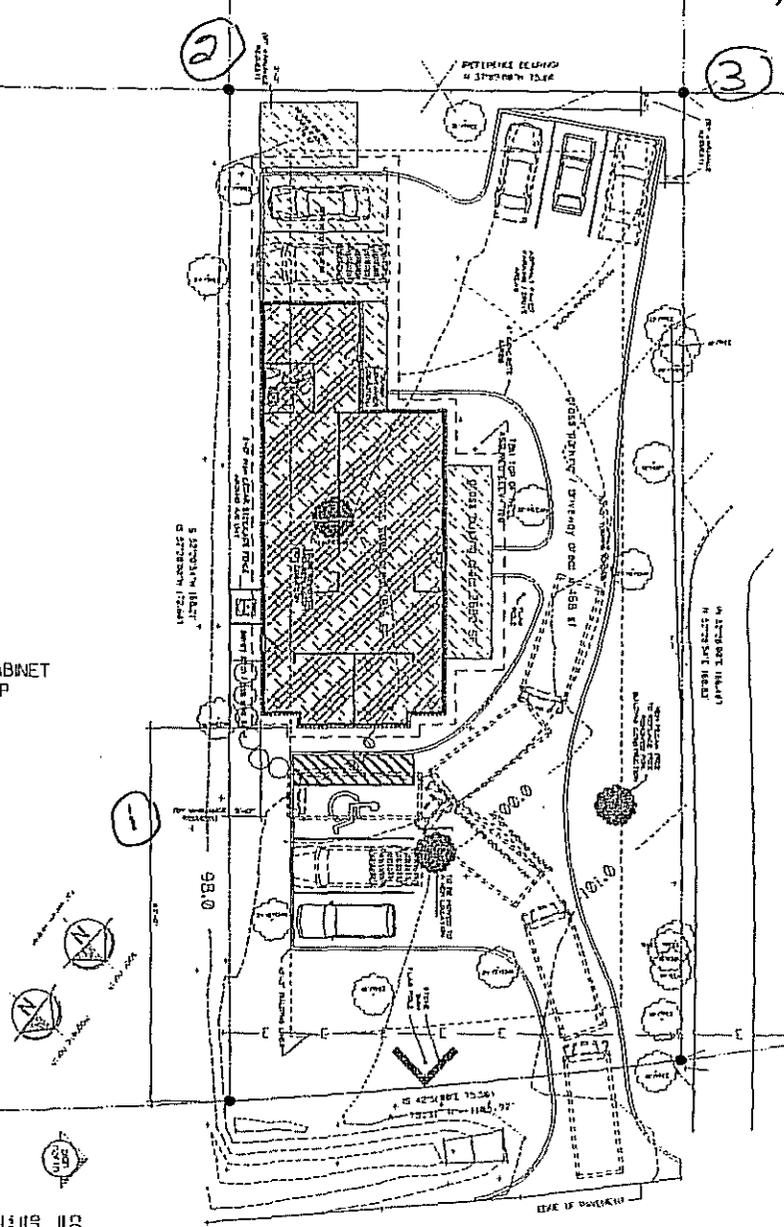
N 52°05'54"E 148.54'

LOT 11

AUTO & CABINET SHOP

HAIR SALON

FM HIGHWAY 2325



Conceptual site plan

ITEM	DATE	BY
DESIGN CONCEPTS		
PRELIMINARY		
FINAL		
REVISIONS		

in partial fulfillment of the requirements for
Eagle United USA, Inc.
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 FORT WORTH, TEXAS 76104

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