

## **STAFF REPORT**

### **ATHENS MUNICIPAL-REGIONAL PLANNING COMMISSION**

**July 3, 2023**

**12:00 P.M.**

### **CONFERENCE ROOM**

#### **NEW BUSINESS**

- 1. Public Comments and Recommendation on rezoning request by Tracy and Wanda Dennis** to change parcel identified as Tax Map 065D Group A Parcel 024.00 located on 708 Virginia Avenue from B-1 Local Business District to R-2 Medium Density Residential District containing approximately 0.33 acres.

The landowners are requesting a zoning change so that they can sell the house. Currently the house is grandfathered in under the B-1 District. It can be used as a home and even transferred under State Law as long as the use does not cease for a continuous period of 30 months. The issue is that if it destroyed beyond 51% of its value , it cannot be rebuilt in the B-1 zone.

I received a call from Bob Cantley at Tennessee Valley Appraisal Services on Friday June 16<sup>th</sup>, asking about the zoning designation and if it could be rebuilt. I told him under the B-1 it could not be rebuilt as a single-family home if it was destroyed beyond 51% of its appraised value.

On Tuesday June 20<sup>th</sup>, I received the email below to call Wanda Dennis:

*Wanda Dennis called about 708 Virginia Avenue. They have a contract on their house and just found out that it is not zoned residential. It is zoned B-1. She wants to know if it can be rezoned to residential. The title company found it when they were doing the title search. They are supposed to close on June 30. They lived there 28 years and did not know it was zoned residential. Please call her at .....*

I did call her and discuss the matter and told her what I had also told Mr. Cantley, and I told her the process to rezone the property. I told her that it had been rezoned from B-3 Central Business to B-1 Local Business in 2012 during a city-wide rezoning and adoption of new color parcel-based map in accordance with State Law. She informed me that they had gotten the zoning changed to residential sometime between 1993 and 1995. She said it had a beauty shop on it when they purchased it.

I search all the ordinances passed by the city council from 1/17/1989 and 2/18/2003 and did not find any rezonings for this property nor any rezonings on Virginia Avenue either. I sent the following email to her instructing her of my findings and to answer her email question about a variance for the use:

Mrs. Dennis,

*Use variances are illegal under State Law as well. Only the legislative board (City Council) can set the uses in any zoning district. The Board of Zoning Appeals (the Board with the power to grant variances) does not have that authority under state statute.*

*In addition, I checked every Ordinance passed by City Council between 1/17/1989 and 2/18/2003 and cannot find any rezonings for your property on Virginia Avenue during this time frame. If you feel it occurred at a later date than the mid 1990's, please advise and I will look for it there as well.*

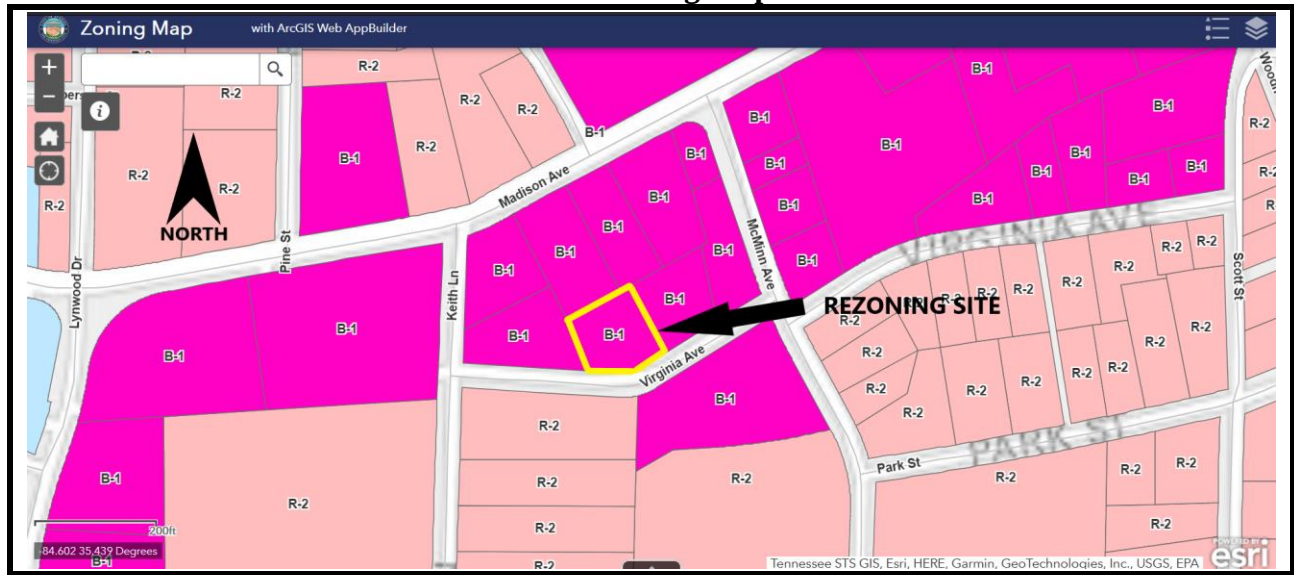
*However, as I mentioned earlier, this still doesn't have any bearing on what has to be done to change it back from the 2012 citywide rezoning, where the zoning was changed from B-3 Central Business District to B-1 Local Business District.*

*Further research shows this property zoned Local Business in 1948 as well, I included a photo of the City Zoning map adopted on January 19, 1948, showing this zone to be north of Virginia Avenue and between McMinn and Keith Street. And I also included the 2008 Zoning Map showing it zoned B-3 Central Business District. So, the City's records show it has always been zoned Business in some fashion since zoning was adopted in the City of Athens .*

*So, we will need to collect the \$200.00 for the rezoning request. No need to make a special trip to pay, you can do so when you come to the July 3<sup>rd</sup> Planning Commission meeting at Noon we spoke about earlier.*

In addition, to the research I performed on zoning, I also asked the Finance Department to investigate the tax assessment rate, and during the 1990's. The property was taxed at the residential rate and not at the 40% commercial rate during that time. It is still being taxed at the 25% residential rate today as well. This shows a history of no commercial uses occupying the property, and that it was primarily used as a residence for close to 30 years and possibly since it was constructed in 1942.

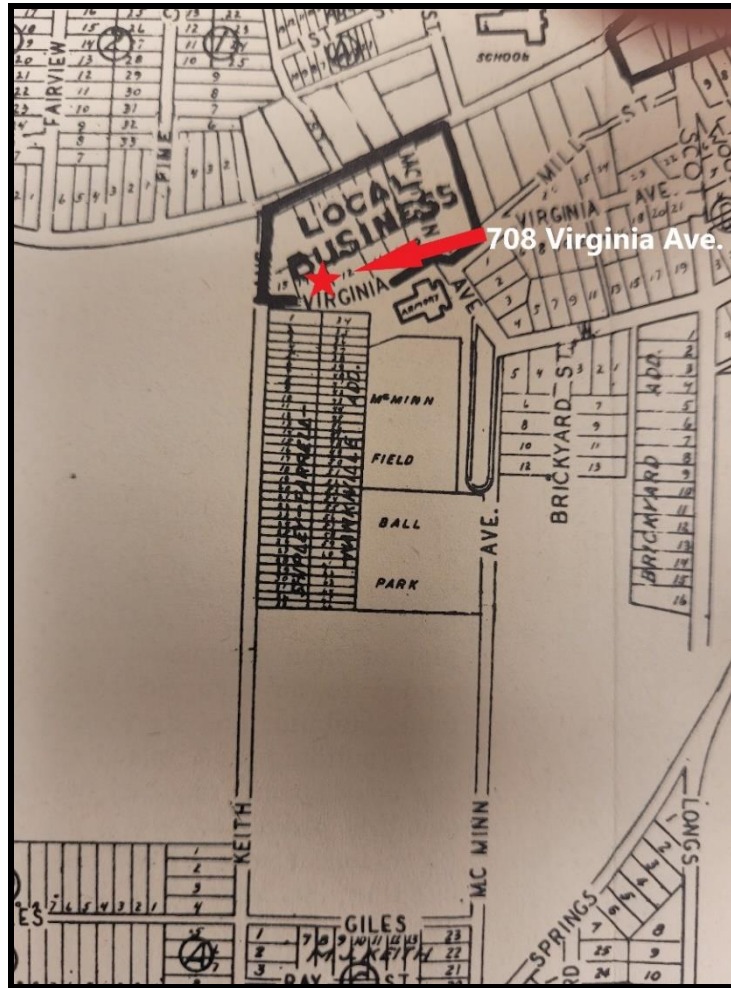
## 2023 Zoning Map



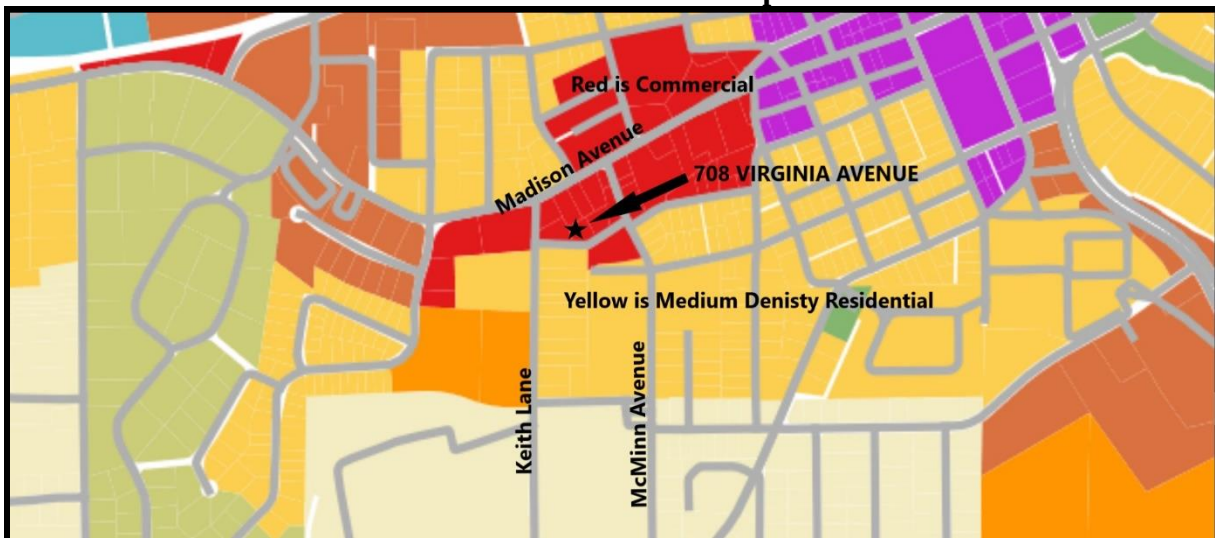
## 2008 Zoning Map



1948 Zoning Map



Future Land Use Map



Virginia Avenue is designed as a local street, not a collector or arterial. And this area may have been used as commercial in the past by a business that fronted on Madison Avenue. However, it is not conducive for commercial uses today in its current configuration and the east end has a site distance issue because of the structure built on the north side of the right of way that severely limits visibility which would affect commercial traffic flow.

**Based on the history of the uses and tax rates of this property, and the limitations on commercial access, Staff recommends approval of the request to rezone it from B-1 Local Business Distinct to R-2 Medium Density Residential.**

- 2. Planning Commission By-law discussion and possible amendment concerning agenda and public comments.**