

## **Meeting Minutes of the Board of Zoning Appeals Tuesday, November 11, 2014**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, November 11, 2014 at 5:15 P.M. with the following members in attendance: Aaron Ryba, Joshua Lonon, Don Bramblett, Jim Davis, and Michael Alston. Marshall Irby and David Scott Lewis were absent. Representing the Planning Department were Joshua Henderson and Julie Roland.

### ***Roll Call***

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Mr. Ryba, the Chair, stated that public notice of this meeting was given twenty-four (24) hours in advance as required by the Freedom of Information Act. Any appeals from a decision or action of this body are limited to a request for pre-litigation/mediation or an appeal to the Circuit Court, to be filed within thirty (30) days after the decision of this Board in accordance with Section 603.6 of the City of Spartanburg Zoning Ordinance.

Roll call was taken – Four members were currently present, constituting a quorum.

### ***Approval of Agenda for the November 11, 2014 Meeting***

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Mr. Bramblett moved approval the Agenda for the November 11, 2014 meeting, and he was seconded by Mr. Davis. The motion was unanimously approved by a vote of 4 to 0.

### ***Disposition of the minutes from the October 14, 2014 meeting of the Spartanburg Board of Zoning Appeals***

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Mr. Bramblett moved approval of the October 14, 2014 Meeting minutes, with second by Mr. Davis. The motion was unanimously approved by a vote of 4 to 0.

### ***Old Business – None.***

### ***New Business:***

**VAR 14 2-03 - Request for Variance from Kelly C. and S. Michael Bozard, Owners.** Variance to allow the applicant approval for the construction of an approximately 4,000 square foot home to be built facing Connecticut Avenue, that will encroach a maximum of fifteen (15') feet into the required thirty (30') foot street side yard setback that is located at "0" Connecticut Avenue which is zoned R-8. The property is further identified as Parcel 076.01 on Spartanburg County Tax Map Sheet 7-13-09.

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[Editor's Note: Board Member Michael Alston arrived to the meeting at 5:21 P.M.]

Mr. Henderson came forward and was sworn; and he submitted the meeting packets the Board Members had previously received including the reports, slides, and the presentation into Evidence, as well as a letter handed out at tonight's meeting, with nearby property owners signatures that had no objections for the request, as Exhibit A. He introduced a drawing also handed at tonight's meeting into evidence as Exhibit B. Mr. Henderson explained to the Board Members the variance request was for property located at "0" Connecticut Avenue; and he further explained the address would be issued if the request was approved and after all necessary permits were issued.

Mr. Michael Bozard, Property Owner came forward and was sworn; and informed the Board Members they were specifically requesting a variance of fifteen (15') feet on the Springdale Drive side of the property, into the required thirty (30') foot setback. He explained to the Board Members the lot was originally part of a larger lot that was subdivided before the ordinance was put in place; and the back of his lot was against the side of another lot. He went around and talked to all of the neighbors they would be the closest to about what they wished to do; and he said all the neighbors supported what he and his wife were trying to do and was included on a report that had been submitted earlier into evidence by Mr. Henderson. Mr. Bozard said another neighbor was granted a variance about a year ago by the Board regarding the side setback. He informed the Board Members this past weekend he went around the neighborhood and took pictures of at least twelve (12) homes that were facing the side street that appeared to be encroaching into the setback. He explained they had hired Al Jolly, a very well known Architect in Spartanburg, to design the home.

Al Jolly of 108 Rosewood Lane came forward and was sworn. He distributed a drawing of the property, and introduced it into evidence as Exhibit B; and he explained to the Board Members the history of this lot went way back. The lot had been up for rezoning ever since he could remember and had never been built on because of the setbacks. Mr. Jolly explained what the petitioner's wished to do; and he also explained the majority of the homes on the street were already encroaching. He had not designed the house yet, but the petitioner's would like to build a one-story house with a wrap-around porch, and wanted their house to face Connecticut Avenue.

**Board Questions:**

- Mr. Alston asked how the neighbors felt about this. Mr. Jolly showed him the copy of the report that had been signed by all the closest neighbors that were in support of the request.
- Mr. Bramblett asked would it be better to go with more of a square shaped house instead of a rectangle shaped house. Mr. Jolly said although he did not disagree with him; all he was asking was to be able to get the fifteen (15') setback.

Mr. Henderson came forward again and referenced a location map; and said the proposed house would be located at the corner of Connecticut Avenue and Springdale Drive. The property in question had been a vacant lot since its subdivision from the property adjacent at 439 Connecticut Avenue in 1967; and he showed a slide of a 1967 plat. He said the current owners were requesting a variance on a setback encroachment into the required thirty (30') foot street side yard setback to allow a new construction of a 4000 sq. ft. single family residence. The lot was approximately 0.48 acres (21,058 sq. ft.) in area, and according to the Area Dimensional Requirements shown in Section 401 Table A of the City of Spartanburg Zoning Ordinance, the minimum lot area is 8,000 sq. ft. with a maximum building coverage of 40%. With this requirement, the proposed 4,000 sq. ft. structure was within the allowable building size for the property. Per Section 403.1 (C) of the Zoning Ordinance, if a corner lot abuts the side line of an adjoining lot, the side yard width along the side street shall not be less than the required front yard depth of the zoning district in which the adjoining lot was located. In this case, since the front yard setback for the R8-SFD zone was thirty (30'), the street side yard setback was required to also be thirty (30') feet. He said after researching the original copy of the Zoning Ordinance from 1973, it appeared that this requirement was part of the original and adopted ordinance; and that this was a change from the Zoning Code from 1967/1969 that only required a street side yard setback to be a minimum of fifteen (15') feet. Mr. Henderson said according to research, this property was subdivided in 1967 and was never subject to construction. The homes along Connecticut Avenue were built between 1920's and 1950's (through the section of Connecticut Avenue where the property in question was located). The properties along Springdale Drive were constructed a little later between the age ranges of 1940's to 1960's. Homes along both streets were constructed prior to Section 403.1 (C) being adopted in 1973, as well as, this property being subdivided prior to the adoption of this requirement. The majority of homes in the Converse Heights neighborhood were existing/legally non-conforming properties with regards to the City Zoning Ordinance. He said these include, but were not limited to, property width dimensions being less than required, setback requirements, etc. Mr. Henderson concluded his presentation by showing more slides, including similar styles of architecture of what the petitioners might be looking at constructing.

[Editor's Note: the report the Board Members previously received included the Mandatory Written Findings for the Board to consider when reviewing a variance request and Staff's Analysis of Required Findings as follows:

- 1) *There are extraordinary and exceptional conditions pertaining to the particular piece of property –* The lots in this area were situated prior to the adoption of zoning ordinance which established the policy objective of aligning corner lot street setbacks in both directions. The degree of this requirement would limit the owners to either construct a home that fronts Springdale Dr. or construct a home meeting the street side yard setback requirement with a structure that is not compatible with the homes in the Converse Heights neighborhood, and especially the surrounding area. It is Staff's opinion that this lot was subdivided in 1967 with the intent to construct a home in line with the other homes along Connecticut, however, was not able to due to the adoption of the street side yard setback requirements in 1973. The aim of the relevant policy was never achieved in this location and there does not appear to be a reasonable alternative that would keep the home in line with the other non-

conforming structures facing Connecticut Ave., nor be in keeping with the style architecture of the homes in the immediate surrounding area. The resulting new construction and lot coverage achieved would be consistent with the character and pattern established along Connecticut Avenue as would the owners' desire to preserve the distinctive architectural features of the neighborhood.

- 2) *These conditions do not generally apply to other property in the vicinity* – There are other corner lots in the neighborhood with non-conforming side street setbacks. However, many of those homes were either originally constructed with greater lot coverage or expanded prior to the establishment of the current ordinance.
- 3) *Because of these conditions, the application of the ordinance to these particular pieces of property would effectively prohibit or unreasonably restrict the utilization of the property* – The owners' desire to construct a new single family residential structure, while maintaining the architectural character of the other homes in the immediate surrounding area are appropriate for the neighborhood. While there may be alternative design configurations that would allow them to accomplish those goals, notwithstanding the setback requirements, their plan appears functional, efficient, and consistent with other properties in the area.
- 4) *The authorization of a variance will not be of substantial detriment to adjacent property or to the general public good, and the character of the district will not be harmed by the granting of the variance* – Because the other homes in the vicinity and the neighborhood were constructed prior to the adoption of the ordinance, and the aim of the policy cannot compatibly be achieved, we do not believe that this variance could be of substantial detriment to adjacent properties or to the neighborhood.
- 5) *The Board does not find it necessary to attach conditions regarding the location, character, or other features of the proposed building, structure, or use to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.*

#### **STAFF'S RECOMMENDATION**

This property was subdivided from the lot to the right in 1967, prior to the adoption of the setback requirements for corner lot properties. Requiring this lot to be developed under this setback requirement would cause a structure to be constructed that is not compatible with the character of the neighborhood and especially the surrounding properties. To construct a home that is compatible with the style of the neighborhood would require the new structure to encroach, to some degree, into the required 30' street side yard setback. Even though this is not in keeping with the current intent of the Zoning Ordinance, Staff is of the opinion that the proposed encroachment will not cause an adverse impact on surrounding properties, public right-of-way, or the neighborhood in general and therefore recommends **Approval** of the proposed setback variance request, as submitted.

#### Board Questions:

Mr. Davis asked was this the only vacant lot on Connecticut Avenue. Mr. Bozard said it was the only vacant lot.

Mr. Bozard said to answer a suggestion made by Mr. Bramblett earlier; if they made it more of a square house as he suggested, it would make it look like more of a Charlestonian house. He explained they felt the proposed house would be more aesthetically pleasing to the neighborhood.

Mr. Ryba opened the public hearing and asked anyone who wished to speak in favor or against the request to come forward. No one came forward. Mr. Ryba closed the public hearing.

#### Board Questions and Deliberation:

- Mr. Alston asked Mr. Henderson if Staff supported the request to face Connecticut Avenue. Mr. Henderson said yes; and he explained for this neighborhood and the property in question, it was normally a case by case basis.
- Mr. Ryba felt the petitioner had done a great job in preparation of the request; and he believed Staff's findings were in keeping with the Zoning Ordinance
- Mr. Lonon agreed with Mr. Ryba.

Mr. Ryba made a motion to approve the request as presented; and he was seconded by Mr. Lonon. The motion was unanimously approved by a vote of 5 to 0.

Mr. Henderson said the petitioner would get a follow-up letter, and signed order in the mail.

***Staff Announcements***

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Mrs. Roland explained new Board Members would have one year from when they were appointed to take the required New Board Member Orientation Training; and she handed them a training sheet if they wished to take the training in 2014.

There being no other business, the meeting adjourned at 6:00 P.M.

  
Aaron Ryba, Chair

Josh Lonon

Edited by Julie Roland, Administrative Assistant