

Meeting Minutes of the Board of Zoning Appeals Tuesday, October 11, 2016

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, October 11, 2016 at 5:15 P.M. with the following members in attendance: Joshua Lonon, Don Bramblett, Marshall Irby, Reed Teague, Anne Poliakoff, and Jim Badger. Ryan Gaylord was absent. Representing the Planning Department were Natalia Rosario, Planner III, and Julie Roland, Administrative Assistant.

Roll Call

Mr. Lonon, the Chair, stated that public notice of this meeting was given twenty-four (24) hours in advance, 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 – Six members were present, constituting a quorum.

Approval of Agenda for the October 11, 2016 Meeting

Mr. Bramblett moved approval of the Agenda for the October 11, 2016 meeting, and he was seconded by Mr. Irby. The motion was approved by a vote of 6 to 0.

Disposition of the minutes from the May 10, 2016 meeting of the Spartanburg Board of Zoning Appeals

Mr. Teague moved approval of the May 10, 2016 Meeting minutes, with second by Mrs. Poliakoff. The motion was approved by a vote of 6 to 0.

Old Business – None.

New Business:

VAR 16 2-03 - Request for Variance from Lawrence & Leslie W. Joyner, Property Owners. The Applicants are requesting a variance to allow the construction of a covered deck on the rear of the condominium unit that would encroach a maximum of nine and a half (9 ½') feet into the required thirty (30') foot rear setback on the property located at 114 Briarwood Court, and is further identified as Parcel 109.03 on Spartanburg County Tax Map Sheet 7-13-09.

Mr. Lonon introduced the case to the Board Members.

Ms. Rosario, Planner III., came forward and was sworn; and she submitted the meeting packets the Board Members had previously received including the report and slides into Evidence, as Exhibit A. Slides were shown of the location map, aerial view of the property, which she explained where the applicant's condo was on the slide; and showed and explained slides of the architectural drawings in order to better illustrate the request.

[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 lot in question is an irregularly shaped lot for the district in which it is found, and the structures on the property were necessarily built further back than what would have been optimal due to the presence of a natural spring (now piped, but remaining unbuildable) in the front portion of the lot.
2. *These conditions do not generally apply to other property in the vicinity* – These conditions do not generally apply to nearby properties in the Converse Heights or other adjacent neighborhoods, either in lot shape & size, or in natural conditions.
3. *Because of these conditions, the application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property* – Much of the open space provided for this property is paved parking and driveway area, ill-suited for general leisure and enjoyment of the natural surroundings. The proposed deck cannot feasibly be built off the front of the property, and the middle building does not currently have a deck from which the residents may fully

enjoy the outdoor view and habitat, as the two adjacent condos do. Application of the ordinance as is written to this particular property for this project, which Staff has assessed will have little or no surrounding impact on neighboring property owners, would effectively prohibit or unreasonably restrict the full utilization of the rear common 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* – Staff feels that the authorization of this setback variance at this property for the use of a covered deck – which will be used for the private enjoyment of the property by the homeowners will not be of substantial detriment to the adjacent properties or the public good, and that the district will not be harmed by the granting of this variance.
5. *Orientation and spacing of improvements or structures* – The proposed structure is 16' wide, 6' 7" of which are already existing and are inset into the condominium in question. The additional deck portion that will extend past the existing building line is 9' 5" in width, and which will leave 20' 7" of yard between the proposed structure and the property line. The deck is proposed to be located at the rear of the property and is not visible from the public right-of-way.
6. *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

After review of the guidelines established in Zoning Ordinance Section 603.3, Staff finds that the proposed variance will not adversely affect the adjacent and surrounding property owners. Consequently, Staff recommends approval of VAR 16 2-03.

Mr. Lawrence Joyner came forward and was sworn. He informed the Board Members the existing deck on the back side of his condominium needed to be replaced anyway due to a lot of rotten wood and other problems. He explained to the Board Members the way the deck had originally been configured being so long and skinny did not work well for him and his wife; and that they would like to extend it out a little further. They were going to get started on the plans and they were reminded they would be closer to the line that was allowed and needed to apply for a variance. He explained his unit was the middle unit of a three unit condominium, and the structure was "inset" so that the first seven (7') feet of the proposed deck would not be an extension of the current footprint. In addition the owners of the two adjacent units had agreed the proposed deck should be allowed and were already in the process of amending the condominium management agreement to make it part of the condominium bylaws. The next home to the rear of this property was facing Hollywood Street to the north and was 100' plus or minus from the common property line. He explained there was not much room at all in the front of their property; and the variance would enable them to enjoy the covered deck on the back side of the property.

Board Questions:

- Mrs. Poliakoff asked if he had received any negative comments from the neighbors. Mr. Joyner said not to his knowledge; and that all of the neighbors they had talked to were in support of the request.
- Mr. Bramblett had a question regarding would his request in any way interfere with any potential new neighbors should they want to extend their deck at some point in time.
- Mr. Joyner felt it would be very impractical for some potential new owner to want to do that; and he referenced a slide and explained both of the neighbors had covered porches on the corner of their condo's and the neighbors both had a good bit of common yard area off the sides of their homes, but his did not. He said that was one reason why both neighbors felt he and his wife should be able to have their new proposed covered deck.
- Mr. Badger asked Mr. Joyner where his air conditioning unit would be set. Mr. Joyner explained.
- Mr. Badger asked Mr. Joyner could the covered deck ever be enclosed as a room; and if approved should the Board state that it should not ever be made into an enclosed heated and air-conditioned room.

- Mr. Lonon explained the Board Members did have the right to condition a request if they felt it was needed.

Mr. Lonon opened the public hearing and asked anyone who wished to speak in favor of the request to come forward.

- Mr. Al Jolly of 108 Rosewood Lane came forward and said he was the Petitioner's architect for the project; and he felt it was an excellent use of the space. He said he was mainly present to clarify anything or answer any questions the Board Members may have. He informed the Board Members that to Mr. Bramblett's point earlier, there was no way to expand the footprint of a condo unit without first getting the people in the association to agree to it; and secondly it would have to come before this Board again. Mr. Jolly referenced a schematic drawing in order to better explain.

More Board Questions:

- Mrs. Poliakoff asked to clarify, that it was her understanding that both of the neighbors were o.k. with the request. Mr. Jolly said that was correct.

Mr. Lonon asked did anyone else wish to speak in favor of the request. No one else came forward. Mr. Lonon asked did anyone wish to speak in opposition of the request. No one came forward. Mr. Lonon closed the public hearing.

Board Comments/Questions:

- Mr. Lonon said he was very comforted by the fact that this would not happen without a change to the condominium bylaws. He asked Ms. Rosario who all had received notification.
- Ms. Rosario explained everyone within a 400' radius of the proposed property. She said the only comment she had received was from a lady who did not understand her letter; and that after she explained it to the lady, she was fine with the request.

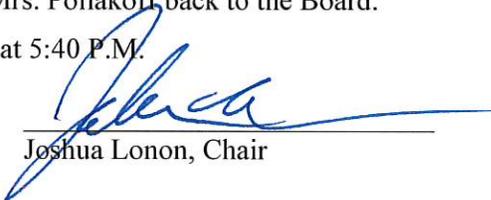
Board Deliberation:

Mr. Teague made a motion to grant approval of the request and adopt the Findings as presented by Staff; and he was seconded by Mrs. Poliakoff. The motion was approved by a vote of 6 to 0.

Staff Announcements

- Mrs. Roland welcomed New Board Member Jim Badger to the Board; and she informed the Board Members there was another new Member, Mr. Ryan Gaylord who had a prior commitment and could not attend tonight's meeting. She also welcomed Mrs. Poliakoff back to the Board.

There being no further business the meeting adjourned at 5:40 P.M.


Joshua Lonon, Chair

Edited by Julie Roland, Administrative Assistant