

# **Meeting Minutes of the Board of Zoning Appeals**

## **Tuesday, April 10, 2018**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, April 10, 2018 at 5:15 P.M. with the following members in attendance: Joshua Lonon, Don Bramblett, Anne Poliakoff, Ryan Gaylord, Jim Badger, and Leana Melnichuk. Reed Teague was absent. Representing the Planning Department were Natalia Rosario, Planner III; Apoorva Kumar, Associate Planner; and Julie Roland, Administrative Assistant. Assistant City Manager, Chris Story also attended the meeting.

### ***Roll Call***

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Mr. Lonon, the Chair, called the meeting to order and 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 of the Board were present, constituting a quorum.

### ***Approval of Agenda for the April 10, 2018 Meeting***

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Mr. Bramblett moved approval of the Agenda for the April 10, 2018 meeting, and he was seconded by Mrs. Poliakoff. The motion was unanimously approved by a vote of 6 to 0.

### ***Disposition of the minutes from the October 10, 2017 Meeting***

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Mr. Bramblett moved approval of the Minutes from the October 10, 2017 meeting; and he was seconded by Mr. Gaylord. The motion was unanimously approved by a vote of 6 to 0.

### ***Old Business – None.***

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

**VAR 18 2-02 - Request for Variance from Whitner S. Bishop, P.A., Agent on behalf of Gerald Smith, Managing Member, 187 West Broad Street, LLC, Property Owner. The Applicant is asking for a reduction of setback requirements in order for a home to be constructed on the property located at 200 Hillcrest Commons Way, and is further identified as Parcel 030.14 on Spartanburg County Tax Map Sheet 7-09-10.**

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Ms. Rosario, Planner III came forward and was sworn; and she submitted the meeting packets the Board Members received via email along with tonight's presentation into evidence as Exhibit A; and she showed a location map and introduced the case to the Board Members. Ms. Rosario informed the Board Members the applicant's representative was present.

Mr. Whitner S. Bishop, P.A., came forward and was sworn, and said he was here to provide testimony for the property owner. He informed the Board Members due to the odd shape and dimensions of the lot, the setbacks for the R-12, General Residential property, as applied, made the lot unbuildable regarding the single family home the owner wished to have constructed.

### ***Board Questions:***

- Mr. Bramblett asked if the deed had any restrictions as to the square footage that could be built.
- Mr. Bishop said Apollo Builders would be the builder if the request was approved; and he referenced a survey for Apollo Builders.
- Mrs. Poliakoff also had a question regarding the lot.
- Mr. Bishop presented a copy of the Final Plat regarding Hillcrest Commons that was entered into the Record as Exhibit B; and he explained from the size of the lot it would be impossible to build on without the variance.
- Mr. Bramblett asked if there was no specific size stated in the deed; why couldn't the petitioner build a smaller home, and then he would not need a variance.
- Mr. Bishop explained.

- Mr. Lonon asked a question regarding the survey that may indicate there were two lots.
- Mr. Bishop explained it was not part of that development.
- Mr. Badger said if the proposed square footage was to be approximately 1475 square feet, this would probably need to be a 1 ½ or 2 level house; and he asked was there some way to reduce the size of the house and make it one story.
- Mr. Bishop said he was not certain of the size, and he did not know that it would be two stories.
- Mr. Gaylord asked Mr. Bishop if anything else had been intended for this particular lot.
- Mr. Bishop explained.
- Mr. Lonon asked Mr. Bishop if he was aware of any feedback from the neighbors.
- He was not aware of any.

Ms. Rosario came forward again and said as provided in Section 603.3 of the 2012 City of Spartanburg Zoning Ordinance, Variance Review Criteria, that the proposed use and any associated development, noting that in granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare; and she went over 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 property at 200 Hillcrest Commons Way is a flag shaped lot in the R-12 zoning category. The R-12 zone requires a side setback of 10', a rear setback of 30' and a front setback of 30'. No proposed home structure can be built upon the property due to the restrictions caused by the odd shape of the lot, which form a long, rectangular buildable area that is not suitable for any home. (See attached Survey).
- 2) *These conditions do not generally apply to other property in the vicinity* – These conditions do not generally apply to other properties in the vicinity.
- 3) *The application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property* – Application of the Ordinance to this piece of property does effectively restrict the utilization of the property for a residential use of any kind.
- 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* – In Staff's opinion the granting of the variance will not be of substantial detriment to the adjacent property or to the public good, as it is slated to be a single family home, similar to the other properties on Hillcrest Commons Way and in the Hillcrest Neighborhood.
- 5) *Orientation and spacing of improvements or structures* – The proposed orientation of the structure is suitably sized and centrally located on the lot, and does contemplate the setbacks of the other homes on the street.

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

Staff recommends approval of the proposed variance request. More slides were shown, which she explained to the Board Members in order to better illustrate the request.

#### **Board Questions:**

- Mr. Bramblett asked if this was what the Planning Department had allowed in the past.
- Ms. Rosario said she was sure there had been some, but during her time with the Department there had only been one that had come through so far. She felt it would be beneficial to the neighborhood for someone to put a home on the property.

Mr. Lonon opened the public hearing and asked if anyone was present to speak in favor of the request to come forward.

- Mrs. Pali Jubenville of 331 Lowndes Drive came forward and said she owned a lot in the development and she was in support of the request, and felt it would improve the neighborhood. She said she did have some concerns in the neighborhood but not with this property. She informed the Board Members there were some electric poles in the area that were fifty feet in height and were unsightly and were not really being used by Duke Power.
- Mr. Lonon informed Mrs. Jubenville that Ms. Rosario would be happy for her to address these concerns with her outside of this meeting.
- Mrs. Rosario said she could get her a contact name from Duke Energy she could contact about that concern.

Mr. Lonon asked if anyone else was present who wished to speak in favor of the request. No one else came forward. Mr. Lonon asked if anyone was present that wished to speak in opposition to the request. No one came forward. Mr. Lonon closed the public hearing portion.

Board Deliberation:

- Mr. Lonon felt this request met all the five criteria needed regarding a Variance.
- Mrs. Poliakoff agreed.

Mr. Bramblett moved to adopt the required findings of the City and approve the request as presented; and he was seconded by Mr. Gaylord. The motion was approved by a vote of 5 to 1, with Mr. Badger opposed.

Mr. Lonon informed Mr. Bishop he would receive a signed Order and letter in follow-up from this meeting from City Staff regarding the approval.

***Review and Approval of Proposed 2018 Meeting Schedule for the Remainder of the Year.***

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The proposed meeting schedule was approved by acclimation.

***Staff Announcements***

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Ms. Rosario introduced Apoorva Kumar, the new Associate Planner to the Board Members. and said they were all happy to have her with the Planning Department.

Mrs. Roland said Ms. Melnichuk had received her New Board Member Training; and there was a list of Continued Education Training classes with the meeting packet for the Board Members that still needed to get their 2018 credits in for the year. She said the City of Spartanburg would host a continued training session with the ACOG to be held in Spartanburg sometime in October, 2018.

There being no further business the meeting adjourned at 5:50 P.M.

  
Joshua Lonon, Chair

Edited by Julie Roland, Administrative Assistant