

Meeting Minutes of the Board of Zoning Appeals Tuesday, August 8, 2017

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, August 8, 2017 at 5:15 P.M. with the following members in attendance: Joshua Lonon, Don Bramblett, Anne Poliakoff, Ryan Gaylord and Jim Badger. Reed Teague was absent. Representing the Planning Department were Natalia Rosario, Planner III, and Julie Roland, Administrative Assistant; and Melissa Strelec, Planning Intern. Buddy Bush, City Building Official also was present.

Roll Call

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 – Five members of the current six member Board were present, constituting a quorum.

Approval of Agenda for the August 8, 2017 Meeting

Mrs. Poliakoff moved approval of the Agenda for the August 8, 2017 meeting, and she was seconded by Mr. Bramblett. The motion was unanimously approved by a vote of 5 to 0.

Old Business

Continuation of the public hearing from the July 11, 2017 meeting regarding:

VAR 17 2-04 - Request for Variance from Gary L. and Roberta I. Williams, Property Owners. The Applicants are asking to reduce the interior side yard setback requirement to allow for the construction of an attached, covered carport that would be approximately 16' x 26' in size that would encroach approximately fourteen (14') feet into the required fifteen (15') foot interior side yard setback on the property at 104 Barclay Downs Drive. The property is further identified as Parcel 016.00 on Spartanburg County Tax Map Sheet 6-21-05.

Ms. Rosario, Planner III came forward and was sworn again; and she introduced the meeting packets the Board Members received last week via email along with tonight's presentation into evidence as Exhibit A, and an Exhibit B that had been placed at each Board Member's station. She updated the Board Members regarding the changes that had been made to the case as follows:

Ms. Rosario explained to the Board Members the property owners pointed out to her there were two main differences which made this parcel different from the other properties as follows:

- 1) Their side door was actually elevated two feet above grade, and that was different from their neighboring property owners on both sides, as both of the neighboring properties doors were on-grade. She explained this had been done because Mrs. Williams had a medical condition that made it difficult for her to get up steps; so Mr. Williams took out the steps from inside, elevated the door and the steps were now outside, and she referenced a slide.
- 2) The second difference was in the side setbacks – on the Williams property one side was seventeen feet and the other side was sixteen feet; whereas the adjacent homeowners had about twenty-five feet on the drive side setback lines, and she referenced more slides; and she said the petitioner's setbacks were a bit tighter than the adjacent property owners.

Board Questions:

- Mr. Buddy Bush, the City Building Official came forward and was sworn, and he said he wanted to clarify something Ms. Rosario had just said, to make sure he had heard it correctly; and asked her if she said the door was elevated on one side.
- Ms. Rosario said yes.
- Mr. Bush explained it did not get elevated, because it had a landing with steps on it on the outside; which had now been removed. He referenced a google map from 2012 that showed it.

- Ms. Rosario said that was correct; and in 2012 it did have a landing, which maybe the petitioners could explain that because they had mentioned doing some prior work.
- Mr. Bush said they had poured the slab for the driveway, and he had not known about it, but they had taken out the landing and the steps.

Mr. Lonon, the Chair asked the Applicants if they would like to come forward.

Mr. Gary L. Williams of 104 Barclay Downs Drive came forward and was sworn; and he informed the Board Members they did have a black top driveway which he had removed and had a concrete driveway put in. He said he removed the steps so they could pour the new driveway. Mr. Williams said the door was there and at grade level when they moved into the house. The problem was it would have required his wife to carry laundry down steps in order to do laundry; so he had put in a new water heater and got the required permits to raise the floor. That meant he had to put the steps on the outside (which he had not yet done) because he was trying to finish another project first. Mr. Williams said the other thing and he referenced a slide; and he pointed out where the board was in the picture on the left side was five feet from the property line. He explained if he was to put in a carport there he would be unable to open the door to the cars. He said if he had twenty-five feet like the neighboring properties he would not be here before the Board. He said as far as putting it in the back yard, one obstacle was cost and the other thing was he had already built a privacy fence to keep his dogs in the back yard and he also had a building back there with power to it, and moving it was not really an option.

Board Questions:

- Mr. Bramblett asked what was his plans to do when he raised that floor; and wasn't there some sort of minimum stoop requirement.
- Mr. Williams said his idea was he needed a stoop with steps going to it.
- Mr. Bramblett asked if he was planning on putting an addition on the back of the house.
- Mr. Williams said no; he had wanted to put a covered patio back there with a screened in room on the back of the house but it was not going to happen at this point.
- Mr. Bramblett asked him if he had room in the back yard to put a glassed in patio; wouldn't he have the room to put cars back there.
- Mr. Williams said there was room back there to put a car, but it would be too expensive.
- Mr. Bramblett asked if he had finished that room, or if it had been finished when he got the house.
- Mr. Williams said he finished it.
- Mr. Bramblett asked did he get all the permits to do that and the City had signed off on him having a stoop or platform outside.
- Mr. Williams explained.
- Mrs. Poliakoff asked Mr. Williams was there any way to make it less wide and still be able to get the car inside.
- Mr. Williams explained he would not have enough room.
- Mrs. Poliakoff said she knew this meeting had to be re-noticed, etc; and she asked Mr. Williams about the neighbor from 102 Barclay Downs Drive that had originally objected to the request at the last meeting; had there been any more objections from that neighbor or any others.
- Mr. Williams said once the neighbor at 102 understood what he was wanting to do, she was o.k. with the request; and he had not had any other complaints from anyone else.
- Mr. Badger asked Mr. Williams if the carport would have a solid wall between them and the people next door.

- Mr. Williams said according to Mr. Bush, he would need to put in a firewall if he brought it that close to the property line and there was still 25' between his property line and the next house, and he would need a fire wall on the outside of the carport.
- Mr. Badger asked would he be driving through it.
- Mr. Williams said he will just be pulling up to the building behind it with his small utility trailer and park it back there; and that was why he just wanted a carport.
- Mr. Bramblett asked how Mrs. Williams would get her groceries in then.
- Mr. Williams said that would be where he would put the stoop up.
- Mr. Bramblett asked then he would be making the driveway wider.
- Mr. Williams said no; and explained what he was trying to do.
- Mr. Bramblett asked Mr. Williams when he poured all the concrete driveway; and did he get the permits for that.
- Mr. Williams explained he had contacted the Building Department and they informed him they did not regulate driveways.
- Mr. Badger said that would be a solid wall and he would drive through it which would be about 16' x 26' which was 416 square feet, and a regular garage was 20' x 20' which was 400 square feet; and asked him if he had any idea of putting a wall behind it to make it into a garage one day.
- Mr. Williams explained he did not.
- Mr. Badger asked would the trailer get under the roof line.
- Mr. Williams said it would not.
- Mr. Bramblett asked would a Lowes or Home Depot truck be able to get under the carport.
- Mr. Williams explained he wanted to keep the roofline the same pitch as the house.
- Mr. Bramblett asked if it would be the complete width of the house.
- Mr. Williams said he thought it would be two feet back and enclosed which would make it 24 feet and he was going to have to discuss that with someone.
- Mrs. Poliakoff asked when he said enclosed what he was talking about.
- Mr. Williams explained about the pitched roof having a ceiling and he wanted it to match the house, and he did not want his wife hauling laundry baskets up and down the stairs.
- Mr. Gaylord said with what he was proposing to build, he would still be encroaching into the property line.
- Mr. Williams explained what he was planning on.
- Mr. Gaylord said the current interior setback line was 15'.
- Mr. Williams said it was only 5'.
- Ms. Rosario explained for an attached addition it would be 15' and detached it would be 5', but either way it would still be encroaching.
- Mr. Lonon asked Mrs. Williams if she had anything to add.

Mrs. Williams came forward and was sworn and presented two pictures she wanted the Board Members to see (one was how she was able to originally get in to the house through the side door) and the other picture was once she entered the laundry room she had to step up two steps. She said because of her medical condition her husband raised the floor as it was in the second picture so that she now has a flat surface to go from the interior of the home into the laundry room; and she said she could not afford to fall. She explained when it was flat she had to step up two steps and then go down two steps. They moved in

the house five years ago, and her husband had built a platform on the outside for her to put her groceries on and get into the house. He had not constructed a new one yet and what she does right now was put the groceries inside the door on the side and then she went around to the front and pulled her groceries into the kitchen. She said the driveway was just recently poured; and she explained the way it was before the driveway was poured, she had to get out on a slope that caused dangerous problems for her and that was why her husband had poured the new driveway. She explained there was no way they could make the carport smaller than proposed.

- Mr. Lonon explained for the record the two pictures would be entered into evidence as Exhibit B.

Mr. Bush came forward and said the Building Department did issue a permit for a remodel for vinyl siding, and re-roof and one other item, but what he was concerned about was regarding the landing on the driveway side. There was a landing with two steps on the side and that doorway; and what he was hearing was there was a landing that was almost flush with the driveway. Mr. Bush said his concern was that a final had not been done on the project regarding a landing if that was the case; and he explained it needed to be 3' out; which would have left 12 feet.

Mr. Lonon asked Mr. Bush if the Board was to grant the request, would they need to add that on as a condition.

Mr. Bush said yes it was required regarding any footings may have been poured; and the landing would need to be less than 30" and one hand rail going down it.

Mr. Bramblett asked about the size again to Mr. Bush.

Mr. Bush said a 3' x 3' would suffice regarding a landing.

Mr. Bramblett asked Mr. Bush again about the solid wall. Mr. Bush explained it would need a one hour rated fire wall; but the main thing was there would not be able to be an overhang (there could not be an overhang regarding the code book regarding less than 2' from the property line.

Mr. Lonon asked Mr. Bush in his opinion would this create aesthetic issues that would affect the value of the surrounding properties.

Mr. Bush explained that it could.

Mr. Badger asked Mr. Bush if the petitioner was within two feet of the property line he could have an overhang.

Mr. Bush explained.

Mrs. Poliakoff asked if staff had a chance to see any of the rough drawings.

Mr. Bush said on residential, they do not require staff review regarding single family homes. He personally would recommend it, but he employed the Code for the City.

Ms. Rosario came forward again and showed more slides in order to better illustrate the request; 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 104 Barclay Downs Drive does have exceptional conditions that fundamentally differs from several of the other properties in the Camelot Neighborhood and Barclay Downs Drive, as the steps to the side door are located on the exterior of the structure and not on the interior, like other homes on this street. This takes away from available parking area at the current setback. Additionally, the setback on the left side of the lots in this portion of Barclay Downs all exceed 20', where the setback at 104 Barclay Downs Drive is 17'.
- 2) These conditions do not generally apply to other property in the vicinity – These conditions do apply similarly to other properties in the area, and other properties in the neighborhood with these same conditions do have detached carports in the driveways, which encroach into the 4'-5' interior side setback. However, other properties do have more space to park their cars in their driveways and their homes are further away from their side property lines.

- 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 would not effectively prohibit or unreasonably restrict the utilization of the property as a residence. Staff would note that over time other properties in the area have been permitted to have carports in the same location as the Williams are proposing mostly without City permits she said from what she had found.
- 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, as the other properties in the neighborhood with carports encroach in the interior side setback appear to function without issue. The neighbor at 106 Barclay Downs Drive has written in support of the proposed carport, while the neighbor at 102 Barclay Downs Drive had no written opposition for tonight’s meeting.
- 5) Orientation and spacing of improvements or structures – It may be possible to have a smaller carport that does not encroach as far into the setback, although this has been suggested to the owners and they have stated that they desire a carport of the stated size.

Ms. Rosario reminded the Board Members at the last meeting there were some people who came forward to speak in favor of the request.

STAFF’S RECOMMENDATION

The Board Recommendation still stood from the first time this case came to the Board that request should be approved even though there had been some additional constraining details brought out; and she did not feel it would have a negative impact on the surrounding owners. Her only real issue with it was that they may be setting a precedent for other main structures to encroach this far into a side setback. She added the Board could approve, approve with conditions, deny, or table the matter as they saw fit.

Board Questions/Comments:

- Mr. Lonon said at a previous meeting some of the Board Members had approached him after the meeting; regarding some confusion that still existed on this Board concerning Variance Cases and the Board’s powers; and he read from Section 603.3 (A.) (2) from the City of Spartanburg Zoning Ordinance: “To hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings; and he said those were the five criteria listed above that Ms. Rosario had just gone through.” He said he wanted to remind the Board Members of this before they had any discussion.

Mr. Lonon asked was there any questions at this time for Ms. Rosario.

There were none at this time.

Mr. Lonon opened the public hearing and asked anyone that wished to speak in favor of the request to come forward. No one came forward. Mr. Lonon asked anyone who wished to speak in opposition to the request to come forward. No one came forward. Mr. Lonon closed the public hearing.

Board Questions/Discussion:

- Mrs. Poliakoff felt there was an exception based on the limited amount of setback; and she also felt this was unusual in this particular neighborhood. She said it appeared to her the applicants wanted to increase the value of their home, and she felt if done aesthetically correct would enhance the value.
- Mr. Gaylord said his concern would be for the specific variance case they had for an attached structure, that even if it were 25’, they would still be encroaching; and while the specific condition that existed isn’t causing a hardship in relation to this application because even if it did not exist they would still be precluded from building what they wanted.
- Mrs. Poliakoff said that would be another case.

- Mr. Gaylord felt the extraordinary circumstances was separate and apart from the application.
- Mr. Bramblett felt the room was probably the carport for the house originally or it would not have two steps going down; and then someone had closed it in as an extra room. He felt when it was originally built, there was more of an area beside the house.
- Mr. Badger felt from an aesthetic viewpoint if the roofline came all the way out 15' and then had to go straight down while the rest of the house had overhangs it would look a little strange, and then they had to have a wall there where you would have the front and back open; and he felt it would detract from the appearance of the house. He said if it could be brought out to blend in with the house; and the diagram showed that the stoop was four feet and they had heard that it only had to be three feet.
- Mrs. Poliakoff asked Mr. Bush a question about the overhang.
- Mr. Bush explained.
- Mr. Badger then asked Mr. Bush if the wall was three or four feet from the property line, they could have an overhang.
- Mr. Bush explained if you could keep it just a little bit over two feet; and it would still need to be fire rated.???also did I hear this correct.
- Mrs. Poliakoff asked Mr. Bush if that would be part of the permitting process if they got to that point.
- Mr. Bush said yes they would inspect that.
- Mr. Lonon asked Mr. Bush was that generally why they had the setbacks for fire protection.
- Mr. Bush explained.

Mr. Lonon explained the options were to either grant the applicant's request, which if one was made they needed to include in the motion regarding the adoption of the findings; or they could grant the request for the same reason with conditions, deny, or it could be continued again.

- Mrs. Poliakoff moved to grant the request with the language regarding staff's findings. Mr. Lonon seconded the motion. The vote was 2 to 3; and the motion failed.
- Mr. Badger moved to grant the request with the condition that it be not as wide and instead of it being 16' that it be 13' so it could still have the overhang and still look like the rest of the house.
- Mr. Lonon said to clarify; the motion on the table was to grant the application, adopt the findings of the City, but limit the encroachment to thirteen feet as opposed to sixteen feet; and he was seconded by Mrs. Poliakoff.

Discussion of Motion:

Mr. Bramblett said if they grant a width of thirteen feet, it had to include the overhang; so at that point the interior of the garage would only be 12.5 feet; so he would need to amend the motion to 13.5'.

Mr. Badger amended the earlier motion to approve the request, adopt the findings of the City, but limit the encroachment to 13.5 feet; and he was seconded by Mrs. Poliakoff. The motion was approved by a vote of 4 to 1, with Mr. Gaylord being against.

Mr. Lonon said they had passed the request, and the encroachment would be limited to 13.5 feet; and the City would be in touch with them regarding paperwork.

Nomination and Election of Chair and Vice-Chair for year for Period June 30, 2017 to June 30, 2018.

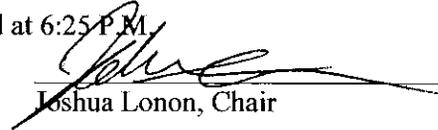
Mr. Bramblett nominated Mr. Lonon to be Chairman for another year; and he was seconded by Mrs. Poliakoff. There were no other nominations for Chair. The motion was approved by a vote of 5 to 0.

Mr. Gaylord nominated Mr. Bramblett to continue to serve as Vice-Chair; and he was seconded by Mr. Lonon. There were no other nominations. The motion was approved by a vote of 5 to 0.

Staff Announcements

- Mrs. Roland updated the Board Members there was still one Board Vacancy; and Mr. Bramblett was reappointed by the Mayor and Council to serve another term; and she updated the Board Members on their 2017 Continued Education Training.

There being no further business the meeting adjourned at 6:25 P.M.



Joshua Lonon, Chair

Edited by Julie Roland, Administrative Assistant