

Meeting Minutes of the Board of Zoning Appeals Tuesday, September 11, 2018

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, September 11, 2018 at 5:15 P.M. with the following members in attendance: Don Bramblett, Ryan Gaylord, Leana Melnichuk, Jim Badger, Anne Poliakoff, and Livia Cantrell. Reed Teague was absent. Representing the Planning Department were Natalia Rosario, Planner III; Apoorva Kumar, Associate Planner; and Julie Roland, Administrative Assistant.

Roll Call

Mr. Bramblett, 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 September 11, 2018 Meeting

Ms. Cantrell moved approval of the Agenda for the September 11, 2018 meeting, and she was seconded by Ms. Melnichuk. The motion was unanimously approved by a vote of 6 to 0.

Disposition of the Minutes from the August 14, 2018 Meeting

Mrs. Poliakoff moved approval of the minutes from the August 14, 2018 meeting; and she was seconded by Ms. Melnichuk. The motion was unanimously approved by a vote of 6 to 0.

Old Business – None.

New Business:

VAR 18-02-05 Variance Request from Dan Estell, Construction Manager, on behalf of WJH, LLC, Owner. The Applicant is asking to reduce the rear setback requirement by five or six feet for a home to be constructed on the property located at 6 Bethel Street in the Trinity Gates Subdivision, and further identified as TMS#6-21-15-032.32. The property is zoned R-6, General Residential District. The current requirements are 15 foot front setback, 20 foot rear setback, 5 foot interior setback and 15 foot street side setback.

Ms. Apoorva Kumar, Associate Planner came forward and was sworn; and she submitted the meeting packets the Board Members had previously received, tonight's presentation, and slides into Evidence as Exhibit A. She introduced the case to the Board Members; and informed the Board Members the proposed property was zoned R-6, General Residential District; and the required front setback was 15', side setback was 5', and the rear setback was 20 feet. Ms. Kumar said the variance was being requested because the property was located on a cul-de-sac, and the odd shape and dimensions of the lot made it unbuildable with the R-6 setbacks. She showed a slide of the survey and location map, and pointed out the proposed property. Additional slides were shown of the property from all angles, and also a slide of the house located on the adjacent property. Ms. Kumar 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 6 Bethel Street is an odd shaped lot due to its location on a cul-de-sac. The R-6 zone requires a front setback of 15', side setback of 5', and a rear setback of 20'. The odd shape of the property extensively limits building of a house of the shape and size comparable to the houses on similar sized lots in the neighborhood (see attached survey).
- 2) *These conditions do not generally apply to other property in the vicinity* – These conditions do not apply generally to any other property in the vicinity as most properties are square or rectangular in shape.

- 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 – 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 – The granting of the variance will not be of substantial detriment to adjacent property or to the public good, as it is slated to be a single family home, similar to the other properties on Bethel Street and in the neighborhood; and the property would comply to the 15' front setback requirement.
- 5) Orientation and spacing of improvements or structures – Any proposed orientation of the house with a front setback of 20', side setback of 5', and rear setback of 14' will be suitable for the lot, and will contemplate the setbacks of the other homes on the street (see attached analysis).

STAFF'S RECOMMENDATION

Staff recommends approval of the proposed variance request.

Board Questions:

- Mr. Badger had a question regarding the house she had shown on one of the slides.
- Ms. Kumar showed that slide again and explained it was of a house on a neighboring lot in the cul-de-sac.

Mr. Bramblett asked the petitioner or their representative to come forward.

Mr. Dan Estell, Construction Manager, on behalf of WJH, LLC, and Owner came forward and was sworn.

Mr. Bramblett asked if there were any Board Questions for Mr. Estell.

Board Questions:

- Mr. Gaylord said looking at photographs from the record it seemed that most of the homes in this neighborhood were roughly the same square footage and similar floor plan as the proposed home.
- Mr. Estell said that was correct; and if the variance was granted they would build the same home on the proposed lot, and it was about 1200 to 1220 square feet in size.
- Mr. Gaylord asked if the home he would contemplate building on this lot #28 according to the plat would be the exact same home that had been shown on lot #27 from the slide that was shown.
- Mr. Estell said that was correct.
- Mr. Gaylord asked were there homes currently constructed looking at the plat on lots 26 and 29 that would be located at the corner of Shilo Dr. and Bethel St.
- Mr. Estell said the proposed lot would be the last available lot to be built on in that neighborhood; and they had previously come in and purchased the additional property and had since built approximately 30 homes in that neighborhood.

Mr. Bramblett opened the public hearing and asked anyone who wished to speak in opposition of the request to come forward. There were none. Mr. Bramblett asked anyone who wished to speak in favor of the request to come forward.

- Mr. Tommy Quick, Pastor of the Promised Land Church came forward and was sworn. He informed the Board Members he was familiar with the development; and it was his church that had sold the property to Mr. Estell. He said their only concern was they planned to development the property adjacent to the church as they expand their church; and if that house was built would it affect the church property next door regarding their boundary requirement on the church side.
- Mr. Bramblett said that was a very good question; and the Planner could correct him if he was wrong; but he thought if the variance was granted it would only apply to the property line. He did not think the church would have to move their proposed building on the other side of the property line to

accommodate the five or six feet of variance that the builder would be granted if the proposed case was approved.

- Mr. Quick asked would it be possible at this meeting to ask that any consideration be given to have the builder put up a fence along the property line between the church and the proposed property. He mentioned problems they had experienced during church construction regarding a worker being robbed from someone living in a nearby neighborhood; and from people walking through from a surrounding area; and he thought a fence would help deter most of that type of activity. Mr. Quick explained where there were already some fences in place; and their property was considered institutional.
- Mr. Bramblett said regarding the Zoning Ordinance that it may be that the church would be the one that would need to install the fence.
- Ms. Rosario, Planner III came forward and said a single family home was never required to buffer to any use; and the buffer would depend on what was adjacent. She said being that the church property was institutional it would probably be a small buffer depending upon how close that building was to the actual property line; and the other item is that placing a fence along that entire line would require each property owner to agree to putting up that fence; and maybe it was something that the church and all of the property owners could take up with the applicant. Ms. Rosario explained this was not really something the Board of Zoning Appeals could decide.
- Mr. Bramblett agreed; and said it was not in the Board's purview to be able to decide that issue.

Mr. Bramblett asked if there was anyone else who wished to speak regarding the request, or who may have questions, to come forward. No one else came forward. Mr. Bramblett closed the public hearing.

Board Questions/Comments:

- Mr. Badger said if they were going to grant that the applicant could exceed the limits; and they had the church concerned with their piece of property – it would seem that the Board would not want to let the house be built exceptionally close to the church property. Mr. Badger asked would it be possible for it to be built closer to the street.
- Ms. Cantrell said under Section 1, what the applicant was requesting was to adjust the rear setback.
- Ms. Melnichuk said the house would be built five or six feet closer to the church property.
- Ms. Cantrell said if she understood correctly, Mr. Quick's concern was with the traffic coming through on to the property; and she said that was not within the Board's purview to decide upon.
- Mr. Quick informed the Board Members that was not his only concern; however he agreed with Mr. Badger's suggestion regarding building the house closer to the street.
- Mr. Gaylord felt in looking at the survey that had been provided as part of the packet, that to adjust the front (since they did not know to what degree it would need to be adjusted or exactly what they were looking at) and also he felt it may end up creating a whole additional issue within the neighborhood.
- Mrs. Poliakoff agreed with Mr. Gaylord; and according to City Staff the application met all the criteria in order for the variance to be granted which was important; and her feeling was it was not an unreasonable request.
- Mr. Bramblett asked Ms. Kumar should the church build an institutional building on their currently vacant church owned lot, about the buffer that would be required.
- Ms. Kumar referenced a slide of the property and said there were definitely a lot of trees along the back of the property that seemed to provide a buffer, but she was not sure if Mr. Bramblett was talking about the trees on the proposed applicant's property or the church property.
- Mr. Bramblett asked when the institutional church expansion was built, would there need to be a buffer and probably a fence.

- Ms. Kumar said the liability would be on the institutional zone.
- Mrs. Poliakoff asked again that this would be the last house able to be built.
- Mr. Estell said it was the last house to be constructed.

Board Deliberation:

Mr. Gaylord moved to adopt the findings of the City and approve the variance as submitted; and he was seconded by Mrs. Poliakoff.

Mr. Bramblett asked was there any discussion of the motion. There was no discussion.

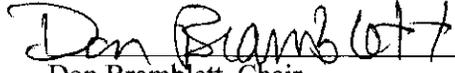
The motion was approved unanimously by a vote of 6 to 0.

Mr. Bramblett informed the petitioner he would receive a letter that included an order that pertained to this decision by mail.

Staff Announcements

Ms. Roland said there were still two Board Members who needed to get their required three hours of 2018 MASC Training Credits for the year; and they were both scheduled to take that training on October 17, 2018 by the ACOG who was having that training in the basement of City Hall in Spartanburg.

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


Don Bramblett, Chair

Edited by Julie Roland, Administrative Assistant