

Meeting Minutes of the Board of Zoning Appeals Tuesday, November 8, 2016

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, November 8, 2016 at 5:15 P.M. with the following members in attendance: Joshua Lonon, Reed Teague, Anne Poliakoff, Jim Badger, and Ryan Gaylord. Don Bramblett and Marshall Irby were 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 – Five members were present, constituting a quorum.

Approval of Agenda for the November 8, 2016 Meeting

Mr. Gaylord moved approval of the Agenda for the November 8, 2016 meeting, and he was seconded by Mr. Badger. The motion was approved by a vote of 5 to 0.

Disposition of the minutes from the October 11, 2016 meeting of the Spartanburg Board of Zoning Appeals

Mr. Gaylord moved approval of the October 11, 2016 Meeting minutes, with second by Mrs. Poliakoff. The motion was approved by a vote of 5 to 0.

Old Business – None.

New Business:

VAR 16 2-04 - Request for Variance from W. Mark Hall, President, 64 Tune, Inc., Owners. The Applicants are requesting a maximum of twenty (20') foot reduction in the Bufferyard 5 requirement along the western edge of the property that borders two R-15, Single Family Residential zoned properties, and a maximum of five (5') foot reduction in the Bufferyard 2 requirement along the eastern edge of the property that borders a B-1, Neighborhood Shopping District zoned property, in order to construct and operate a light-service, automotive service business on the property at 1617 John B. White Senior Boulevard. The property is further identified as Parcel 062.00 on Spartanburg County Tax Map Sheet 6-21-13.

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, a copy of an email exchange from the property owner who lived at 1619 John B White Sr. Blvd. and the petitioner, into Evidence, as Exhibit A. Slides were shown of the location map, aerial view of the property; and she explained the parcel was an irregular shaped lot that was five feet shorter than what was required by the B-1 zone, and the request was to place a light automotive service repair use on the property. Ms. Rosario said when considering buffer requirements the zoning ordinance did not distinguish between light and heavy automotive repair, the way the use table did, and that this would require a Bufferyard Five. Light automotive was allowed in this zone but with the shape and the size of the lot it would be hard to reach the Bufferyard 5 requirement because it would be against a single-family home; and that was why the request was to take it from a 25' buffer to a 5' buffer which she explained was due to a SCDOT requirement.

[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 located at 1617 John B. White Sr. Blvd is 5' shorter in width than as required by the B-1; Neighborhood Shopping Zoning District Dimensional Requirements (Table 401 (B), pp. 41). It is

irregular shaped and shorter in depth (smaller in size over-all) than the other B-1 zoned parcels in the general area.

- 2) *These conditions do not generally apply to other property in the vicinity* – Other parcels in the area do exhibit similar conditions, although some of these were developed before the current ordinance standards and are existing nonconforming. Others are not developed and will need to contend with similar issues, or be recombined/replatted in order to suit potential developments.
- 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* – The South Carolina Department of Transportation has required that the full access drive be located on the eastern side of the property. This would be the same for any development on this lot, causing the building to need to be set as far to the west as is possible to ensure the parking lot circulation is safe, and that there is adequate area for a dumpster pad. In addition, the rear “pork chop” will likely need to be used for storm water mitigation.

If the use was a low-intensity commercial use, the required buffer yard along the western edge of the lot would be a buffer yard 3, requiring a structure (not necessarily masonry), 15’ of greenspace and 5 canopy trees per 100 linear feet within said greenspace. If the 20’ variance in the buffer yard 5 is not approved, then for this particular use as a light auto repair, and therefore high intensity use, the site is effectively restricted for the utilization of the property. It is possible that a use of lighter intensity, with a smaller building might choose to locate at this property, however when taking into account the intensity of uses along John B. White Sr. Blvd, it is not as likely that such a use (less than 20 vehicle trips per day, 1000 square feet gross floor area, individual-to-individual based services) would locate on this stretch of the corridor.

- 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 authorization of this variance may be of substantial detriment to the adjacent property due to the minimal amount of spacing between the proposed building and the adjacent home. Staff has recommended the developer install an at least 8 foot masonry wall and an increase in canopy trees and foliage (additional shrubbery, ornamental trees beyond the ordinance’s required 5 per 100 lf) to strengthen the buffer in an effort to reduce negative impacts of the use, if such a reduction in buffer yard is granted.

The character of the district, however, will not be harmed by the granting of the variance, as this portion of John B. White Sr. Blvd. is one of the most intensely developed corridors within the City of Spartanburg’s jurisdiction and is envisioned as a General Activity Center in the 2004 Comprehensive Plan. The GAC includes zones of Limited Office District, Limited Commercial, Neighborhood Shopping, and General Business, and is described as “Intended to be a general commercial area, serving a neighborhood or regional market; to contain a wide variety of commercial, repair, service and offices uses”.

- 5) *Orientation and spacing of improvements or structures* – If granted, this variance will result in typical orientation and spacing of structures for a commercial site design. It would be atypical in its implementation of the required bufferyards.

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 character of the district, but will have the potential for adverse impacts on the immediately adjacent property owners. Consequently, staff recommends **Conditional Approval** of VAR#16-02-00004. Staff recommends the following conditions, or any such that the Board sees fit to require of the site and its developer to mitigate potential adverse impacts to nearby property owners and residents.

- Buffer yard along the western edge of the property must maintain 10’ in depth
- 8’ masonry wall along the western edge of the property
- Additional 2 conifer trees per 100’ lf of buffer yard
- 5 canopy trees of at least 3” in diameter at breast height per 100’ lf.

Mt. Taylor Hall came forward and was sworn; and informed the Board Members when the owners of the property purchased the property in 2012, it was their understanding the property met all zoning requirements for the same use, but they may need to construct a wall and add additional landscaping to the sides of the property. He said when the owners first purchased the property they had a different site plan for the property that showed the entrance for the business coming in from the western side of the property, and after conversations with SCDOT they had asked them to flip the entrance to the right side of the property which would push the building over to the left. He explained what they would propose to do would be per the variance procedure was to put an 8 foot masonry wall adjacent to the property line to cut down on visibility, noise, and also put in some landscaping trees. He said this plan did not show it and he did not have an updated site plan to this effect, however he had talked with their engineer who told him the building did not have to sit right on the property line, it could move more toward the center of the parking lot and then they could put an 8 foot masonry wall on the property line and move the building over a little bit and build a nice product, something that would look good and be a nice asset to the area; and that was what they were now requesting to do.

Board Questions:

- Mr. Badger asked how tall the building would be.
- Mr. Hall explained he was not exactly sure, and he did not have an updated plan; but they would have new plans drawn up if the request was approved tonight.
- Mr. Badger asked would there be hydraulic lifts?
- Mr. Hall said yes, and he felt they would need eighteen to twenty feet.
- Mr. Badger felt it would probably need to be a two-story building. He asked when the 8' wall went towards the street, how far from the sidewalk would it end.
- Ms. Rosario felt for visibility purposes the SCDOT would need at least ten feet back; but they may ask for more than that.
- Mr. Hall said it would be far enough down the parking lot to block any noise and mirror the parking spots there, and incorporate the city buffer and allow any residents a line of site to be able to pull in and out of their property. They would also be happy to talk to the next door neighbors to find a solution to where they would like it to be as well.
- Mrs. Poliakoff asked if they moved the building to center how much would they be talking about in terms of feet.
- Mr. Hall said right now on the east side there was 30 feet between the parking area on the right side which was 5' off the adjacent property and 5' from the building. He explained they could move it all the way to the other side of the property, but it would make it tougher for a truck to enter and pick up the trash from the dumpster in the back. He said they had about 40' in between the property lines where the building could go. He said they could move it completely out of the buffer all together if they needed to.
- Mrs. Poliakoff asked if that had been considered.
- Mr. Hall explained they would be happy to consider anything.
- Mr. Badger asked where the bay doors would be.
- Mr. Hall said there would be three facing the road and three facing behind.
- Mr. Badger asked if he would be planting the trees he spoke about to the left of the wall.
- Mr. Hall said they would put trees along the property line.
- Ms. Rosario said generally the way the buffer went was the wall would be closer to the property line and behind that the trees; but if the property owner decided they would rather see trees rather than the wall she didn't see why they could not switch that around; but by the Ordinance it would be on his side of the wall. The biggest concern would be the width.

- Mrs. Poliakoff asked was that a vacant lot on the other side.
- Ms. Rosario said it was.
- Mr. Teague asked about the building across the street.
- Mr. Hall said that was a vacant bank where the proposed Cook-Out had announced they would be going in. There was a shopping center behind that, and a Spinx on the corner.
- Mr. Hall said he had spoken with the owner on the adjacent side, as well as SCDOT; regarding a shared driveway, but the owner was not interested in a shared driveway.

Mr. Lonon, the Chair informed Mr. Hall that by City Ordinance in order to grant a Variance, the Board Members had to make certain findings, one of which was that the application of the ordinance as it stands now, would effectively prohibit or unreasonably restrict the utilization of the property; and he asked him if he could speak to that effect as to how that would that prohibit him and his company from doing what they wished to do.

Mr. Hall explained according to the ordinance, that twenty-five (25') feet of pure landscaping was required, and with 0.45 of an acre took away a good amount of the land; as well as with parking which they met those requirements right now, with everything else they would need to get on the property it would make the project not feasible.

Mr. Lonon asked Mr. Hall if he had mentioned in a letter they had the property for sale for a while.

Mr. Hall explained after the company originally purchased the property, due to the way the engineer had done the detention, they thought it was not going to work. They spoke to another engineer who thought they might could make it work, but that turned out to be way too much money doing an above ground retention; and that for almost two years the property had been on the market; but with the current buffer it would not be big enough to have a high intense use (the types of business that would want to locate there) and regarding traffic, etc., the property was just not big enough. The types of uses that would want to go in there could not develop it with that buffer in place.

Mr. Gaylord said his business was described as light service automotive; and could he give them an example of what the business was.

Mr. Hall explained the Franchisee was a Precision Tune Auto Care; and it would be routine oil change, brake work, light tune up. No body work or any heavy high intense repair.

Mr. Lonon asked Ms. Rosario were there any plans in the works for the City to consider the zoning of that area on John B. White Sr. Boulevard.

Ms. Rosario said it was mostly commercial along that corridor except for this area, going back towards the County.

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

- Mrs. Ruth Hillman Davis of 1619 John B. White Sr. Boulevard came forward and said she did not agree with the buffer and she explained that was at their bedroom and the entranceway to their property. She was mainly concerned with how he wanted to place the building and how he planned to utilize the property. She said he would not be utilizing all of the property that went back to her garage; and they have had problems with theft and homeless people living behind the building. She said they had their grand-children there a lot and she wanted to make sure if he was going to put in a wall that it would be a very good wall and one that no one could climb over; and she also wanted the trees put in.
- Mr. Lonon informed Mrs. Davis that City Staff had recommended that the Board Members grant the request as long as certain conditions were met; and asked her if those were met would she be in favor of the Board Members granting the request.

- Mrs. Davis said the location of the building would not satisfy her; and also she would need to know exactly what would the building be like and how high it would be. How would they be able to have a garbage container and a truck coming in and out She felt like the petitioner needed to go back to the drawing board and come back with something more agreeable.
- Mr. Malcom Turner of 113 Rockwood Drive, Spartanburg, came forward and said he owned the property on the other side of the property at 1613 John B White Sr. Boulevard. He said he had not seen any kind of plans, but from what was just proposed regarding buffer yards, he did not see anything even close to what the City Ordinance stated. He said after looking at the City Ordinance and after looking at what was proposed he did not see how it could be approved.
- Mr. Lonon asked Mr. Turner if there were any conditions the Board could put on the variance to satisfy him.
- Mr. Turner said not from what he had seen tonight.
- Mr. Badger asked Mr. Turner where exactly his property was located.
- Mr. Turner said to the right of the proposed property.
- Mr. Badger asked Mr. Turner if anyone had spoken to him about a shared driveway.
- Mr. Turner explained he already had one shared driveway with the owner on the other side of him; and he was not interested in another shared driveway.

Mr. Lonon asked if there was anyone else to speak in favor or against the request. No one else came forward. Mr. Lonon closed the public hearing.

Board Discussion/Questions of City Staff/Deliberation:

- Mr. Lonon asked Ms. Rosario what was the reasoning behind the current requirements, and what was the difference between the current requirements and what the City was proposing they condition.
- Ms. Rosario explained the reasoning was to protect the adjacent property owners, especially the single-family owners against a higher intensity use. She said she had been thinking of a way to make this project work and what she suggested was if it was possible to move the building over; that it would be as far away from the single family residence as possible.
- Mrs. Poliakoff said she would feel more comfortable if the Board had a more definite site plan to look at in order to discuss buffers; and from what they heard in the public hearing she felt they should have one regarding those concerns.
- Ms. Rosario explained the Board could make a requirement in order to move forward that a definite site plan be presented; but that making that requirement would require the petitioner to spend more money, which would be up to the petitioner in order to do that.
- Mr. Badger agreed with Mrs. Poliakoff.
- Ms. Rosario said if the building could be moved over it would eliminate the problem on one side regarding the buffer and then they would just need to put in the wall, trees, etc.; and then they would just need to meet the requirements on the other side.
- Mr. Gaylord asked Ms. Rosario about the buffer requirements on the back side of the property.
- Ms. Rosario explained what the situation would be in that scenario.

Mr. Gaylord moved to table the request to the next meeting to give the petitioner additional opportunity to provide additional information to neighboring property owners regarding a more acceptable plan; and he was seconded by Mrs. Poliakoff. The motion was unanimously approved by a vote of 5 to 0.

VAR 16 2-04 - Request for Variance from Juha Parkonnen, on behalf of WLM Company, LLC and Lyman Capital Group, LLC, Owners. The Applicant is asking for a maximum reduction in distance of ten (10') feet into the dimensional setback requirements for single-family homes in the

R-8/PDD, General Residential Planned Development District, Lakes at Canaan Subdivision for ten (10) vacant lots on Windigo Road and ten (10) vacant lots on Vermillian Drive. The properties are identified as vacant Parcels 178.00, 179.00, 181.00, 182.00, 183.00, 184.00, 185.00, 186.00, 187.00, 200.00, 201.00, 202.00, 203.00, 204.00, 205.00, 206.00, 207.00, 208.00, 210.00, and 211.00 on Spartanburg County Tax Map Sheet 7-21-00.

Mr. Lonon introduced the case to the Board Members.

Ms. Rosario, Planner III came forward and was sworn; and she informed the Board Members she had made an error in the report as to the number of lots, which should be eleven (11) lots on Windigo Road, and nine (9) lots on Vermillian Drive. Ms. Rosario explained the properties being considered were currently owned by WLM Company, LLC and Lyman Capital Group, and consisted of twenty (20) vacant lots located in the unfinished Lakes of Canaan subdivision. She showed some slides of the area and some lots that showed a very steep slope regarding a pipeline. She referenced a plat and explained the setbacks. A slide of the location map and aerial were shown, as well as some of the topography of the lots. She said there was a large pipeline that ran through the neighborhood in an area which she pointed out on a slide of the properties; and she explained they had a very steep slope. The requested variance was to reduce the front building setback from 30' to 20', in order to allow for a slightly bigger back yard in order to build houses that were more marketable, and be more usable for future owners' use.

[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 majority of the lots in question feature steep slopes (the rear 40 feet of the lots feature prominent 12' drop offs (Vermillian Drive) or upward slopes (Windigo Road). There are other properties in the subdivision that have similar conditions, but the majority of the lots are level.
- 2) *These conditions do not generally apply to other property in the vicinity* – Conditions of this severity are not present in the majority of the other properties, although there are other properties on Carnahan Drive (333 and 331) as well as other lots on Windigo Road (226, 228, 230) that exhibit similar rear slopes, which future developers may or may not request a similar variance in order to build upon.
- 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* – The rear 40' of these lots are far steeper than the rear 40' of the other lots in the general area, effectively restricting the comfortable utilization of the rear of the properties. A reduction of the front setback by 10' would allow for a larger rear yard for the use of future homeowners, thereby increasing the marketability of the homes. In comparison to the homes that do not have these slopes, the rear yards of these homes would be restricted by the 30' setback requirement in conjunction with the features of the sites.
- 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 owner plans to build 20 single-family residential homes on these lots, which is in keeping with the character of the district. Staff is of the opinion that this use and type of construction will not be of substantial detriment to adjacent property or to the public good, and that the character of the district will not be harmed by the granting of the variance.
- 5) *Orientation and spacing of improvements or structures* – If granted, this variance will result in some homes that are 10' closer to the street than others in the vicinity, resulting in an irregular building pattern that was not intended in the original plan. However, because the majority of these lots are adjacent to one another, the change in setback will not have large and detrimental of an impact to the character of the neighborhood as it would if the sites were scattered (which would result in a randomized and disorderly change in setback throughout the neighborhood). Their proximity to one another will maintain the uniformity of the street, with the exception of the properties at either end of the rows, which will have a setback of 30', unless the owner of those properties should seek a setback variance in the future.

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#16-02-00005.

Mr. Juha Parkonnen of DeYoung Rd, Lyman, S.C. came forward and was sworn; and he referenced a slide of the area along Windigo Road, and pointed out at the toe of the slope there were also drainage structures as well regarding the vacant lots, and between the drainage and the slope it limited the usable area in the back. He felt that a 30' front setback was a little bit unusual in his opinion; and compared that to 20' front setback in Spartanburg and Greenville counties which was pretty typical regarding subdivisions. He felt that adding 10' in the back of each yard on this road would make for at least a little bit more of a rear yard for future homeowners to be able to enjoy a back yard. He showed a slide of Vermillian Drive and the topography which he explained to the Board Members. He referenced some slides of Vermillian Drive which was worse than on Windigo Road, and he said the building envelope right now on Vermillian Drive was so restricted that if they could pull toward the street ten feet would be a little bit better. He felt what they were asking for and suggesting was a better suggestion than what they had to work with.

Board Questions:

- Mr. Badger asked about the fuel line.
- Mr. Parkonnen explained at the top of the hill was a gas or natural gas pipeline. He thought it was a 50' right-of-way and they did not want to mess around with the slope too much.
- Mr. Badger asked about the drainage.
- Mr. Parkonnen submitted five pictures to the Board Members regarding catch basins and drainage which was entered into Evidence as Exhibit B (collectively) and he explained them to the Board Members.
- Mr. Badger asked about the 20' setback.
- Mr. Parkonnen explained it was to the nearest point on the house.
- Mr. Lonon, the Chair said one of the things the Board Members had to find in order to be able to grant a variance was that the ordinance as it stood effectively prohibited or unreasonably restricted the use of the property; and he asked if they were to deny his request what would be his Plan B.
- Mr. Parkonnen explained that he would just have to build houses with much smaller yards. He would like to be able to build houses that people would want to purchase.
- Mr. Gaylord asked about any restrictive covenants, including setbacks.
- Mr. Parkonnen said it was all previously approved by the Planning Commission some years ago for 30' front and 30' rear setbacks.
- Mr. Lonon asked Mr. Parkonnen were the setbacks listed in the restrictive covenants.
- Mr. Parkonnen said it was on the plans, and he just thought that was a requirement of the City stated in the plans.
- Mr. Teague asked who ran the HOA.
- Mr. Parkonnen did not think an HOA was ever set up.
- Mr. Badger asked if the lots on Vermillian Drive had the same problem as Windigo Road.
- Mr. Parkonnen explained that his lots on Vermillian had trouble with a drop off. He showed the Board Members a large plan and explained the grade of the lots on Vermillian Drive.

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

- Mr. Antonio Johnson of 116 Vermillian Drive came forward and said his home was right beside where you made the turn into the development. He informed the Board Members the neighborhood was supposed to have street signs, sidewalks, as well as a lot of other things that were never taken care of by the original developer, and a HOA was never put into effect. Mr. Johnson submitted two pictures into evidence that were recorded as Exhibit C to show how his yard looked that were marked to show where ten foot would be in front of his own house, as well as on a new house that was just built. Mr. Johnson said when you looked at lots 118, 120 & 122 those lots had a retention. He showed two additional pictures which were entered into evidence as Exhibit D. Mr. Johnson said there was a pond in the back of the development, and in the ten years he had lived there they had lost about 1/3 of the pond thus far. He explained because there were no silt fences and for years and years they had problems with erosion. He said although Mr. Parkonnen was doing a very good job in what he was trying to do and he knew it was not his fault, but the erosion was due to no one taking care of the property from the original developer; and he said there were no sidewalks in the new areas that were being developed. He said everyone that was present tonight had bought into the neighborhood and did not get what they were promised. There was no HOA to help them or to help maintain the neighborhood. Mr. Johnson said Mr. Parkonnen had just built a beautiful house that had no sidewalks that he presented to the Board which was introduced into evidence as Exhibit E.

Board Questions:

- Mr. Teague asked Mr. Johnson if Mr. Parkonnen was the original developer.
- Mr. Johnson said Seppala was the original developer. He was concerned the homeowners already living in the neighborhood would have even more problems if they kept taking land. Mr. Johnson explained he had talked to a lot of the homeowners in the neighborhood and some of them would be willing to pay to have an HOA. He explained he represented most of the other homeowner's concerns as well. Mr. Johnson expressed most of the entire neighborhood felt the same way as himself; and they needed to have their problems addressed as a new development moved forward.
- Mr. Lonon asked Mr. Johnson if he had ever examined the restrictive covenants to see if the HOA could be activated.
- Mr. Johnson said it could be activated but would require a 100% vote; and to get every home owner in the neighborhood to agree to pay a small fee would be extremely difficult.
- Mr. Lonon asked if the restrictive covenants provided for a HOA.
- Ms. Rosario said when Seppala or Tower Homes sold all the lots, an HOA was supposed to be put together at that time but never was.
- Mr. Lonon asked if sidewalks were the goal, who would pay for that.
- Mr. Johnson said for people who would purchase new homes, they should be put in by the developer. He said for the people that had already been living in the neighborhood perhaps the citizens who owned the homes would be a possibility. He said he would be willing to pay for his own sidewalk at this point.
- Mr. Teague asked if new homes were built with bigger back yards and be more marketable, would that not add value to the other properties.
- Mr. Johnson said it would, but that ten feet was a lot to take away; and he did not think it would make the houses line up well.

Mr. Lonon asked if anyone else wished to speak in opposition of the request to come forward.

- Mrs. Cindy Singh of 304 Carnihan Drive came forward and said her concern was not really related to the setback issue, but she had been told these were going to be turned in to be apartment buildings.

She said she was concerned about that and went to forty of her neighbors houses today and encouraged them to come to the meeting tonight and say no. She apologized if she was wrong.

- Mr. Lonon asked Mrs. Singh assuming that they were only going to build houses instead of apartments, would she have any objections.
- Mrs. Singh said while it would be nice to have some new houses, they did have the problems Mr. Johnson had previously mentioned.

Mr. Lonon asked anyone else who wished to speak in opposition of the request to come forward.

- Mr. Dave Singh came forward and echoed what his wife who had just spoke had stated.
- Ms. Ann Meadows of 100 Vermillian Drive came forward and agreed with Mr. Johnson's comments.
- Mrs. Poliakoff asked Ms. Meadows if her yard was affected in the back with the slope like some of the other lots.
- Ms. Meadows said it was and she felt like they had enough room. She said as far as the Neighborhood Association, that some of them had been talking about it.
- Mr. Badger said there was an office downstairs in City Hall that could help them with that issue.
- Ms. Rosario explained there were two City departments, the Community Services Department and the Neighborhood Development Department. She explained to the home owners that the Assistant City Manager Chris Story had asked her to get their information and that the City could get together with them for another meeting in order to discuss some of these issues because it was a City neighborhood and it was concerning to the City.
- Ms. Rosario said the original plat and plan was submitted by Seppala homes; and no one had taken responsibility regarding what the original owners/developers were supposed to do.

Mr. Lonon asked if anyone else wished to speak regarding the request.

- Mr. Thomas Meadows of 100 Vermillian Drive came forward and said he agreed with the rest of the homeowners that had spoken on the matter; and there were some people who had purchased houses that had no back yards at all.

Mr. Lonon asked if anyone else wished to come forward. No one else came forward. Mr. Lonon closed the public hearing.

Board Discussion/Questions /Deliberation:

- Mr. Badger asked Mr. Parkonnen about the average house and lot sizes.
- Mr. Parkonnen said he thought the average lot size was between 8000 and 8800 square feet which would correspond to the building envelope; and the minimum size house would be between 1600 to 2000 sq. ft. depending on the lot size.
- Mr. Parkonnen said he would put sidewalks along Vermillian on the side that he owned lots on, as well as on Windigo Road.
- Mr. Lonon informed the neighborhood property owners that his occupation was a Real Estate Attorney, and he felt a lot of the issues that were brought up tonight were issues that could be resolved by the neighborhood organizing themselves. He felt it they looked into their restrictive covenants there should be a mechanism built-in for the creation of an HOA, probably with a majority vote by electing officers. He suggested the neighborhood do two things: the City had resources in place to create a neighborhood association, but a home owner's association had a lot more power.
- Mr. Lonon said he personally would have a hard time granting the variance with so many people speaking against it; however he was struggling with that comment because he felt from listening to their own comments that the developer was a professional builder who built very nice houses that could probably create a positive effect on the neighborhood.

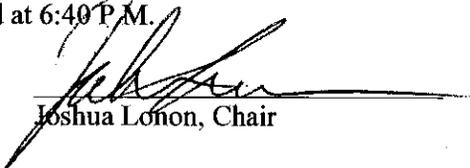
- Mrs. Poliakoff agreed with Mr. Lonon. She also felt the homeowners should start with creating an HOA to protect themselves.

Mr. Teague made a motion to deny the petitioner's request, and was seconded by Mr. Lonon. The motion was unanimously approved by a vote of 5 to 0.

Staff Announcements

- Mrs. Roland said she had given all the Board Members a Text Amendment to the Zoning Ordinance to replace and insert as directed into their current zoning ordinances.
- She also said all the members were up to date on their training.

There being no further business the meeting adjourned at 6:40 P.M.


Joshua Lonon, Chair

Edited by Julie Roland, Administrative Assistant