Meeting Minutes of the Board of Zoning Appeals  
Tuesday, December 8, 2020  
Meeting Minutes

The Board of Zoning Appeals met in person on Tuesday, December 8, 2020 at 5:15 P.M. with the following members in attendance: Ryan Gaylord, Jim Badger, Anne Poliakoff, Reed Teague, and Livia Cantrell. Leana Melnicnuk and Janie Salley were absent. Representing the Planning Department were Martin Livingston, Community Development Director, and Julie Roland, Administrative Assistant.

Roll Call

Mr. Gaylord, 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 – Mr. Gaylord recognized the five Board Members present constituted a quorum; and he proceeded with the guidelines for tonight’s meeting. He had each Board Member introduce themselves for the record.

Approval of Agenda for the December 8, 2020 Meeting

Mr. Teague moved approval of the Agenda for the December 8, 2020 meeting, and he was seconded by Mr. Badger. The motion was unanimously approved by a vote of 5 to 0.

Disposition of the Meeting Minutes from the November 10, 2020 Meeting

Mrs. Poliakoff moved approval of the minutes from the November 10, 2020 meeting as submitted; and she was seconded by Mr. Badger. The motion as unanimously approved by a vote of 5 to 0.

Old Business – None.

New Business:

VAR 20-02-09 Variance Request to district standards – The Owner is seeking permission to reduce the rear yard setback by approximately four feet in order to construct a new single family home on a property in the R-12 zone district (TMS#7-21-00-128.00); from Joshua Armstrong, Owner.

Mr. Martin L. Livingston, Jr., AICP, CPM, Community Development Director was sworn; and he submitted the meeting packets the Board Members had previously received, tonight’s presentation, and slides into Evidence as Exhibit A. He said the project site is an approximately 11,200 square foot substandard lot in the R-12 zone district. The lot is considered substandard because it does not meet the minimum 12,000 square foot lot size. It is currently vacant, and had been owned by the current owner since June 2020; and was located in the Meadowind Farms subdivision, directly adjacent to Old Canaan Road. Meadowind Farms consists entirely of single family homes dating back to as early as 1993; and of the 37 lots platted for the neighborhood, only approximately half had been developed. The property owner wishes to construct an approximately 2,150 square foot single family residence on the lot, and would contain three bedrooms, two bathrooms, and a two-car garage. The proposed floorplan is for a ranch structure, similar in orientation and layout to others found in the community. The building permit application was originally submitted indicating the structure would encroach onto the rear yard setback by approximately five feet. Due to the substandard size of the lot, the result of a cul-de-sac encroachment defining the front property line, it is impossible to move the proposed home forwards or backwards to accommodate the required setbacks. The side setbacks are adequately accommodated. After some
discussion with the property owner and custom home construction representative, it was determined that a zoning variance would be the best course of action. Slides were shown in order to better illustrate the request.

Mr. Livingston informed the Board Members regarding Zoning Ordinance Consistency; the project site has a zone designation of R-12, single family residential. Section 302.1 of the City of Spartanburg Zoning Ordinance outlines the permitted uses in the R-12 zone district. Construction of a single family home is principally permitted. However, since the owners are seeking a reduction to the rear yard setback prescribed in Table 401(A), Table of Area and Dimensional Requirements by District, a Variance must be granted by this Board. Variances may only be granted in the instances listed in Section 603.4; which lists nine particular instances in which the Board may grant a Variance. Of these nine, two are particularly applicable to this request;

Section 603.4(1): To permit any yard less than the requirements of this Ordinance.

Section 603.4(3): To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width.

Mr. Livingston informed the Board Members the Board must utilize Section 603.3(A)(2) and determine if the proposal meets all the criterion for approval. To hear and decide appeals for Variances 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; which he read each criteria and explained Staff’s Findings as follows:

1) There are extraordinary and exceptional conditions pertaining to the particular piece of property – Extraordinary conditions are present on this lot. Due to the substandard lot size as the result of the cul-de-sac at the front of the property, it is impossible to fit the proposed floor plan on the lot. The proposed plan is not excessive, and would meet all required R-12 setbacks if the cul-de-sac was not present.

2) These conditions do not generally apply to other properties in the vicinity – Only one other lot in the community faces the same complications. The lot is directly adjacent to the subject lot, located at 108 Houndsbear Trail (TMS#7-21-00-137.00). The remainder of the lots within the immediate neighborhood appear to meet or exceed current standards.

3) Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and – A variance to the rear yard setback is necessary to construct the proposed project. A reduction of approximately five feet (5”) at the rear yard is required in order to allow the property owner reasonable utilization of his property, a right afforded to all surrounding property owners.

4) The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance;

The variance will not harm the character of the surrounding neighborhood. The owner is adhering to the required front yard setback, in order to maintain a uniform community image. The reduction of the rear yard setback will not be detrimental to any future construction on the lot located behind the property. Additionally, the construction of a home on the lot will substantially increase the community image as a whole, moving the neighborhood one step closer towards completion.

5) 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 - In the event the Board finds that the Variance can be met and the project approved,
conditions of approval are attached to this report. The Board may choose to approve or amend them based on the outcome of this proposal.

Staff’s Recommendation

Staff recommends approval of the five foot (5’) reduction in the rear yard setback, resulting in a new rear yard line of 25’ from the property line.

Board Questions for Staff:

There were no questions for Staff at this time.

Mr. Joshua Armstrong was sworn; and he said he really needed the variance so he would be able to have his home constructed.

Board Questions for Applicant:

Mr. Gaylord asked Mr. Armstrong if this house would be about the same size as the rest of the homes in the neighborhood.

Mr. Armstrong said yes.

There were no other questions for the applicant.

Mr. Gaylord opened the public hearing; and he said if there was anyone present who would like to speak against the project, they could speak by raising their hand button on the computer or use the chat function; or if they were on the telephone they could speak to the Board Members. There was no one to speak in opposition of the request. Mr. Gaylord asked if there was anyone who wished to speak in favor of the request. There was no one to speak in favor of the request. Mr. Gaylord closed the public hearing portion and said they would move on to Board Deliberation.

Board Deliberation:

Ms. Cantrell felt the Staff Report had been very well prepared and well done. She thought the house would be a very pleasing addition to the neighborhood.

Board Members Poliakoff, Teague, and Badger agreed with Ms. Cantrell.

Ms. Cantrell moved to accept the Findings as presented by the City and approve the request as presented by City Staff subject to the Conditions of Approval; and she was seconded by Mr. Badger. The motion was unanimously approved by a vote of 5 to 0.

Staff Announcements:

Mr. Gaylord said that he and the rest of the Board Members would miss Ms. Grothe very much, and had enjoyed working with her. They wished her all the best with her new promotion in York County.

He informed the Board Members that Ms. Melnichuk would be resigning her position on the Board; when she moved out of the City.

Mr. Livingston introduced Logan Witter, Clemson Planning Intern to the Board Members and said he had prepared the report for tonight’s meeting.

Mrs. Roland asked the Board Members if they still preferred the in-person meetings to the Zoom Meetings; and it was the consensus of the Board to hold their meeting in City Hall Council Chambers.

Mrs. Roland said Ms. Melnichuk had just registered to take her on-line Continued Ed Training for 2020, and that would catch up everyone for the CE Training; and New Board Member Janie Salley had her materials for New Board Member Training; and she had one year’s time from being appointed in which to take and complete her training.
There being no further business the meeting adjourned at 5:40 P.M.

[Signature]
Ryan Gaylord, Chair

Edited by Julie Roland, Administrative Assistant