

Minutes
Unified Land Management
Board of Appeals
April 26, 2005
4:30 p.m.

Members Present

Gerald Lawson, Chairman
Ray Morris
Gerry Noe
Craig Sims
Kyle Atkins
Ronnie Culbreth
Jackie Moss
Kerry O'Brien

Members Absent

Roy Pinckney

Staff Present

Joan Holliday
Edwin Haskell
Laurie Horton
Albert Lee
Savannah Sabo
(Transcriptionist from Freelance)

1. Call To Order

Gerald Lawson, Chairman, called the meeting to order.

2. Approval of Minutes of March 22, 2005

Kyle Atkins made a motion to approve the March 22, 2005 minutes. Ray Morris seconded the motion. The vote carried unanimously.

3. Old Business

Phillip Barr (Carried over from 12/21/2004) – Albert Lee, Land Use Inspector, was sworn in and read the findings of fact to the Board:

Mr. Phillip D. Barr is seeking a variance from the Unified Land Management Ordinance, Section 2.02-1 Dimensional Standards Table 3, front lot line. The

lot is located at 89 Faith Drive, Campobello. This paved, but narrow road is not county maintained.

There is a mobile home as well as a residence on this parcel. The mobile home was permitted to be placed on this parcel under the Mobile Home Ordinance #477 as a temporary accessory residential use for hardship. The newer Planning Enabling legislation does not allow for medical hardship and, therefore, the ULMO does not allow for medical hardship. No one has occupied the mobile home or the house fulltime for several years. Mr. Barr's sister, Cindy Wilson, has kept the power on in the mobile home and reportedly stays there on weekends at times.

The landowner Mr. Albert Barr and the resident Cindy Wilson, his daughter, signed a statement on May 15, 1996. The statement was in regards to Article 6-20.10 of the Mobile Home Ordinance for temporary hardship, which states that the Ordinance requires certification and renewal on an annual basis prior to April 15th of each year. According to the Building Codes Department, this has never been done. In the meantime, the applicable County ordinances have changed.

The Unified Land Management Ordinance, Section 2.02-6 Number of Principal Building on a Lot states that "Table 3 shall be met for both dwellings as if they are established on separate lots." Mr. Barr will not be able to meet the requirements for frontage on an all-weather or paved public or privately maintained road built to county standards.

Note: This matter was heard at the December 21, 2004 Board of Appeals meeting. The Board voted to carry over Mr. Barr's request and instructed him to bring proper documentation regarding his purchase of the property to the next meeting. The County Attorney said that this document must be a binding contract for sale.

Albert Lee presented to the Board the binding contract for sale between Phillip Barr and Albert Barr requested by the County Attorney at the December 2004 meeting. The contract was entered into the record as exhibit #2 and also the old variance folder from 2000 as exhibit #1.

Phillip Barr, son of the property owner, was sworn in and stated that he intended to live in the mobile home while making renovations to the house on the property. Mr. Barr stated he was currently in the process of buying the property from his

father, Albert Barr.

Ray Morris asked Mr. Barr how much time would he need to bring the stick built home up to code. Mr. Barr replied approximately two years. Mr. Barr stated that he had been living in the mobile home since the last of November 2004.

Mike Hannon, adjoining property owner, was sworn in and stated he was against granting the variance. Mr. Hannon gave some background information on the previous owners of the property. Mr. Hannon stated that the adjoining property owners had spent a lot of money for upkeep on this private drive. Mr. Hannon handed the Board copies of two letters to be read into the record. One letter was from the Building Codes Department addressed to the Barrs and the other letter was a copy of a violation letter pertaining to the mobile home on the property. Mr. Hannon stated that in the spring of 2004 he had a realtor look at their property and the realtor stated that the mobile home on the Barr's property would depreciate the Hannon's property by approximately \$20,000. Mr. Hannon stated that they had built their home in 1992, and that the Barr's had moved this mobile home on the property in 1996. The mobile home should have been gone six years ago. Also, at one time during the six years, the property was overgrown. The Hannon's are against a mobile home remaining on the property. Mr. Hannon stated that former adjoining property owners were denied building permits by Planning Commission because Faith Drive was a private road, and therefore the Barrs should be denied.

Jackie Moss asked Mr. Hannon about the decision of the Planning Commission. Mr. Hannon said that he did not have it in writing. Ms. Moss also asked about a realtor's statement to show that the value of his property would be diminished by the Barr's mobile home. Mr. Hannon said that he had no such document. Craig asked if there were recorded restrictions on the property. Mr. Hannon said no. Kyle Atkins asked Mr. Hannon if he would have the patience to allow the Barr's to live in the mobile home until they have repaired the house. Mr. Hannon said no. Mr. Hannon stated that the Barr's did not have any intention on staying in the mobile home because they still had Florida license tags on vehicle and the fact that no work has even been started on the stick built home.

Mr. Hannon presented a notarized letter read into the record as exhibit #5 from Jason Ashmore of 25 Faith Drive. Mr. Ashmore stated in the letter that he was opposed to the mobile home remaining on the property. He stated that the property had not been maintained and was a detriment to the other properties located on Faith Drive. The house on the property should have been renovated and brought up to code if the Barrs intended to reside on Faith Drive.

Steve Prince, adjacent property owner, was sworn in. Mr. Prince handed the Board

a letter that was read into the record as exhibit #5 from his mother, Dolores B. Prince. The letter stated that she was vehemently opposed to the placement of this mobile home on the property for any reason whatsoever. The mobile home was temporarily placed on the property without permission and is in violation of the covenants and restrictions. Mr. Barr has had ample time to make repairs to the stick built home.

Gerald Lawson closed the Public Hearing.

Jackie Moss made a motion to go into executive session with the County Attorney. Gerry Noe seconded the motion. The vote carried unanimously.

The Board members and the County Attorney left the room for an executive session.

Upon returning, Craig Sims made a motion to come out of executive session. Kyle Atkins seconded the motion. The vote carried unanimously.

Geald Lawson explained to the public that no action was taken in executive session. The Board discussed the legal aspects of the case with the County Attorney.

Ray Morris made a motion to deny the variance. Craig Sims seconded the motion. The Board concluded that the request did not meet the criteria for granting a variance established in the SC Codes of Laws, Section 6-29-820. The medical hardship is no longer valid so the mobile home must be removed. The vote carried unanimously.

Ray Morris left the Land Management Board of Appeals meeting after the vote.

Friendship Baptist Church - Albert Lee, Land Use Inspector, was sworn in and read the findings of fact to the Board:

Mr. William Powe, who is the spokesman for the Friendship Baptist Church, is requesting that the Board of Appeals grant a variance from the Unified Land Management Ordinance. The proposed church is located at 250 Morning Dive, Arcadia, S.C. The propose church will front on a minor street. The right side of the property is also on a minor street. The front and left side of the property is residential. At the rear of the property is a Mobile Home Park.

The Friendship Baptist Church is requesting a variance from the Unified Land Management Ordinance Section 2.02-2 Bufferyards.

The Friendship Baptist Church is requesting to reduce the bufferyards on the front, left side and rear property lines. The Unified Land Management Ordinance calls for a Class 4 bufferyard on the front, left and rear, which is a 25' wide area. They are requesting that the front and left side be reduced to a Class 3c, which is a 15' wide area with 48 shrubs in a 100' length. They are also requesting that the rear bufferyard be reduced to a Class 2d, which is a 6' wooden privacy fence and they would be glad to place trees or shrubs on the outbound side of this fence.

Albert Lee presented several photos to the Board.

Mr. William Powe, spokesman for Friendship Baptist Church, was sworn in. Mr. Powe asked for the Land Management Board to strongly consider their request for the variance so that construction can begin.

There was no one at the meeting to speak against the variance.

Gerald Lawson closed the public hearing.

The Board was in discussion on the two variances Friendship Baptist Church had requested.

Jackie Moss made a motion to grant the variance to reduce the front and left bufferyards from a Class 4 to a Class 3c and also to reduce the rear bufferyard from a Class 4 to a 2d. Craig Sims seconded the motion. The vote was unanimous. The Board determined that the request meets the four criteria required by State Law. The front of church could not be seen unless the front buffer was reduced. The neighbor to the side wished to reduce the side buffer for safety reasons. The Board determined that granting the request would not be of detriment to the surrounding properties.

Gerald Lawson stated that the Board would give Friendship Baptist Church the option to or not to plant Leyland Cypress along with the fence for the buffer at the rear of the property.

V & V Auto Repair - Albert Lee, Land Use Inspector, was sworn in and read the findings of fact to the Board:

Mr. Vitaliy Moroz is the owner of the home and property located at 421 River Road, Cowpens. He is requesting a variance from the Unified Land Management Ordinance Section 2-02.2 Bufferyards and Section 2-02.1 Dimensional Standards Table 3 Minor Street set backs.

Mr. Moroz has an existing residence and a three-bay garage on this property that he is proposing to use as an auto repair shop. The property is one acre in size. The front of the property is addressed on River Road and the right side is off Shelnut Drive, both in Cowpens. Shelnut Drive is a county-maintained road.

The garage has an extension, which is five feet off the edge of the road, and would need a 25-foot variance. If Mr. Moroz removed the extension the garage would be 14 feet from the edge of the road and would need a 16-foot variance. The Unified Land Management Ordinance states that commercial use must be 30 feet off the road right of way. Mr. Moroz cannot meet the road set back of 30 feet required by the Ordinance. Mr. Moroz would have the required sixty feet of road frontage if he wanted to subdivide for a commercial use.

Mr. Moroz is requesting a variance from a Class 5 buffer to a Class not in the Ordinance. He is asking to place an 8-foot wooden privacy fence off of Shelnut Drive and also at the rear of property. Auto repair is classified as High Intensity. There is a mobile home across the road from the garage. Shelnut Drive is classified as a minor road and Table 4 states that one must buffer along a minor street as if the property were an adjacent parcel. The bufferyard would be a Class 5 and Mr. Moroz does not have the enough space for this classification.

Albert Lee presented several photos to the Board, exhibit #1.

Mr. Vitaliy Moroz, owner of the home and property located at 421 River Road, was sworn in. He stated that he would like to keep the 7' x 7' addition to the garage for storage purposes. He said that he could remove it if he has to.

Gina Price, adjoining property owner, was sworn in and stated that she was against the variance. She stated that she had two small children at home and that the garage was located very close to her home. Mrs. Price presented to the Board several photos of the garage and her home, exhibit #2. She stated that rollbacks were in

and out of Mr. Moroz's property two to three times a day. Mrs. Price stated that she was ordered to get rid of her two unlicensed vehicles that were once on her property. Mr. Moroz has at least eight unlicensed vehicles on his property.

Jeff Mabry, adjoining property owner, was sworn in. He stated that he had sold the property and garage to Mr. Moroz years ago. The property has since then been filled with junk cars, parts, etc.

Jerry Guest, executor of his parent's property on River Road, was sworn in and stated that he was against the variance. He stated that it was not within the public's interest to grant the variance. Mr. Guest stated that Mr. Moroz's garage was in a blind curve on River Road. This additional traffic would endanger children who live in the area. He said that he does not want to cause a hardship for the owner, but this business would be better somewhere else.

Janice W. Harris, of 173 Stonewall Drive, was sworn in and stated that she was against the variance. The rollbacks coming in and out of Mr. Moroz's property were blocking the top of their driveway.

William A Gunter, of 185/195 Stonewall Drive, was sworn in. He stated that he was opposed to the variance. Mr. Gunter stated that there was too much traffic on this road already. He said that if it was made legal, it would be worse.

Gerald Lawson closed the Public Hearing.

Gerry Noe made a motion to deny the variance of the reduction of the bufferyard located at 421 River Road, Cowpens. The request does not meet the four criteria for granting a variance established in the SC Code of Laws, Section 6-29-820. Craig Sims seconded the motion. The vote carried unanimously.

Una Fire Department – Laurie Horton, Land Use Inspector, was sworn in and read the findings of fact to the Board:

Una Fire Department made an application to construct a new fire department at 1025 Hayne Street, Spartanburg with a grant from the County's Community and Economic Development Department. According to the Unified Land Management Ordinance a fire department is classified as a high intensity use. A class 5 buffer is required where residential property adjoins.

A class 5Bb has been installed according to the site plan along the left and right property lines. Along the left rear and right rear areas evergreen trees were to be added to the existing pine trees on site. The pine trees have been removed. The fire department now has only deciduous trees left in this area. A class 5Ab is required. The fire department would like a reduction in buffer yard requirements from a class 5Ab to a class 1b.

The County Attorney stepped down from any advice to the Land Management Board of Appeals due to a conflict of interest.

Ken Crenshaw, representing the Una Fire Department, was sworn in and presented several photos, a letter and a petition which was entered into the record as exhibit #1.

Mr. Lawson stated that the Una Fire Department appeared to want to be a good neighbor. They had done their homework.

There was no one present at the meeting to speak against the Una Fire Department.

Kyle Atkins left the Land Management Board of Appeals meeting before the vote.

Craig Sims made a motion to grant the variance to reduce the buffer yard along the left rear and right rear property lines to a Class 1b. The Board concluded that the request met the criteria for granting a variance established in the SC Code of Laws, Section 6-29-820. The Board established that the granting of the variance would cause no negative impacts on surrounding properties. The only neighbor on the side where the buffer is being reduced appeared in favor of granting the variance. Jackie Moss seconded the motion. The vote was four to one in favor of granting the variance.

The vote was as follows: Craig Sims, Jackie Moss, Ronnie Culbreth and Kerry O'Brien voted for the variance and Gerry Noe voted against the variance.

4. Adjourn

There being no other business, Craig Sims made a motion to adjourn and Jackie Moss seconded the motion. The vote carried unanimously.

The meeting adjourned at 5:52 p.m.