



Spartanburg County

Planning and Development Department

MINUTES

Unified Land Management

Board of Appeals

January 29, 2019

**Members
Present:**

Michael Padgett, Chairman
Jack Gowan, Jr., Vice Chairman
Angela Geter
Louise Rakes
Kae Fleming
Thomas Davies
Marion Gramling

**Members
Absent:**

Jason Patrick
Jonathan Adams

Staff Present:

John Harris, County Attorney
Joan Holliday, Interim Planning Director
Joshua Henderson, Senior Planner
Leigh Davis, Senior Planner

NOTICE: Pursuant to Section 30-4-80 of the S.C. Code of Laws, the annual notice of meetings for this Board was provided on or before January 1, 2015 via the County website. In addition, the Agenda for this Meeting was posted on the bulletin board at the entrance to the Administration Building as well as on the County's website and was emailed to all persons, organizations, and news media requesting notice.

1. Call to Order

Chairman Mike Padgett called the meeting to order.

2. Approval of Minutes of December 18, 2018 Meeting

Marion Gramling made a motion to approve the minutes as submitted. Louise Rakes seconded the motion, which carried with a vote of 7 to 0.

3. Unfinished Business - None

4. New Business –

a. Variance Request – New Hotel

123 Sloan Garden Rd., Boiling Springs (2-51-00-121.05)

Josh Henderson presented the following staff report:

Factual Dates

Variance Application Received	12/14/2018
Deadline for Variance	12/31/2018
Public Notice – Herald Journal	01/13/2019
Adjoining Property owners notified	01/15/2019
Variance Sign Posted on Property	01/15/2019
Board of Appeals Hearing	01/29/2019

Background Information

A variance request has been submitted for the property located at 123 Sloan Garden Rd., Boiling Springs, SC 29316. Although the property will not be accessed from Interstate 85, Table 3b – Commercial & All Other Uses – Setbacks and Other Requirements, Footnote (Z) of the Unified Land Management Ordinance states, “All setbacks on roads are front setbacks as required by the road classification”. Therefore, the project must observe a front setback of 50’ from the right-of-way of an arterial road rather than a rear setback of 20’.

The applicant is requesting the following variance:

To reduce the front setback to 10’ from 50’ as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.

On September 28, 1999, the neighboring parcel to the west received a variance for a Denny’s Restaurant to reduce the same setback to 10’ because of the 150’ Duke Power right-of-way that runs across the property as well as the subject parcel.

Staff Recommendation

The Board may grant a variance if it makes the following findings:

a.) There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The variance request appears to meet this criteria.

No portion of the building will be allowed in the 150’ Duke Power right-of-way, which restricts development over a large area of the parcel.

b.) These conditions do not generally apply to other property in the vicinity.

The variance request appears to meet this criteria.

Variances have been granted to mitigate the restrictions placed on surrounding properties by the Duke Power right-of-way.

c.) 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.

The variance request appears to meet this criteria.

The buildable area of the lot is minimal without the approval of the variance.

d.) The authorization of a variance will not be of substantial detriment to 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 request appears to meet this criteria.

The site has been designed in line with those developments to the east and west of the subject parcel. The proposed encroachment will be in the direction of the road right-of-way and the project will meet all setback requirements along shared property lines.

The request to reduce the required front setback to 10' from 50' appears to meet the four criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29). Therefore, staff recommends approval of the variance.

Josh Henderson presented the Board with an aerial image, site plan, and street view of the property.

Chairman Padgett opened the public hearing.

Stephen Wonder, representing the buyer was sworn-in. He advised the Board that the buyer is an honest man who is looking forward to working on this project and believes the hotel will enhance the community.

Chairman Padgett closed the public hearing.

Thomas Davies made a motion to grant the variance based on the determination that the request meets all criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29).

a. The Board concludes that the Applicant(s) does have an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to this particular property based upon the following finds of fact:

No portion of the building will be allowed in the 150' Duke Power right-of-way, which restricts development over a large area of the parcel.

b. The Board concludes that these conditions do not generally apply to other property in the area based on the following findings of fact:

Variations have been granted to mitigate the restrictions placed on surrounding properties by the Duke Power right-of-way.

c. The Board concludes that 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 based on the following findings of fact:

The buildable area of the lot is minimal without the approval of the variance.

d. The Board concludes that the authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance based upon the following findings of fact:

The site has been designed in line with those developments to the east and west of the subject parcel. The proposed encroachment will be in the direction of the road right-of-way and the project will meet all setback requirements along shared property lines.

Angela Geter seconded the motion. The motion carried with a vote of 7 to 0.

**b. Variance Request – Discovering Purpose Youth Home
135 Cunningham St., Arcadia (6-17-08-033.00)**

Josh Henderson presented the following staff report:

Factual Dates

Variance Application Received	11/27/2018
Deadline for Variance	12/31/2018
Public Notice – Herald Journal	01/13/2019
Adjoining Property owners notified	01/15/2019
Variance Sign Posted on Property	01/15/2019
Board of Appeals Hearing	01/29/2019

Background Information

A variance request has been submitted for the property located at 135 Cunningham St., Arcadia, SC 29320. The applicant is proposing to convert the existing residential dwelling into a group home that would provide constant care for 5-6 children who suffer from depression, PTSD, or other related difficulties, usually arising from abuse and neglect. Group homes are classified as commercial businesses and therefore, must observe a front setback of 30' from the right-of-way of a minor road.

The applicant is requesting the following variance:

To reduce the front setback to 15.4' from 30' as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.

Staff Recommendation

The Board may grant a variance if it makes the following findings:

a.) There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The variance request appears to meet this criteria.

According to Spartanburg County Assessor records, the existing single family residential building was constructed in 1922, prior to the adoption of the Unified Land Management Ordinance.

b.) These conditions do not generally apply to other property in the vicinity.

The variance request appears to meet this criteria.

Adjacent properties are single frontage lots and therefore, are not affected by the additional restrictions of double frontage lots.

c.) 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.

The variance request appears to meet this criteria.

Without approval of the variance, the applicant will be unable to move forward with the project as planned and all future use of the property will be limited to single family residential.

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

With conditions, the variance request appears to meet this criteria.

The group home will retain the outward appearance of a single family residential dwelling with no changes to the existing structure.

The request to reduce the required front setback to 15.4' from 30' appears to meet the four criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29). Therefore, staff recommends approval of the variance.

Josh Henderson presented the Board with an aerial image, site plan, and street view of the property.

Chairman Padgett asked for clarification regarding the state law classification of group homes for mentally handicapped. Mr. Henderson read the statute and advised the Board that the ULMO does not contain a definition for group homes. Joan Holliday added that staff did not find this project to fall under the exemption under the state law.

Chairman Padgett opened the public hearing.

Chelsea Rikard, attorney for the applicant was sworn-in. She explained the purpose of the home is to provide a safe and nurturing residence for 5-6 male youths between the ages of 13 and 16 years old. There will be 1-2 staff members present at all times along with the director, who will help teach the boys independent living skills and become productive members of society. Most of the boys have been removed from other caretakers and will be vetted and selected by DSS to live in the home. Convictions of violent juvenile crimes will disqualify any individuals for selection so there should not be any additional danger to the neighborhood. The staff will also be providing transportation to and from school and will coordinate with case workers from DSS for visits. While on paper, the business is classified as commercial, the technical and practical use will be residential.

Pastor Dickie Adams was sworn-in. He is a case manager and has worked with many of the youth in similar situations. He knows the applicant really cares about the kids and has already taken the community into consideration.

Roland Dry was sworn-in. He advised the Board that the residence is only a two bedroom, one bathroom home and believes this to be too small for the intended use. The neighborhood is predominantly vulnerable senior adults and he is concerned about introducing troubled youths. He believes the addition of a commercial business would change the character of the area and requests the Board deny or delay the request.

Marsha Wood was sworn-in. She has been a resident of the neighborhood for 33 years and many of her family members reside on Cunningham Street. She presented a petition from the neighbors to prevent this type of business from entering the neighborhood and also believes the house is too small.

Joe Gosnell was sworn-in. He does not reside in the neighborhood; however, many close family members who live in the area have had to install security cameras, motion detectors, and fences due to regular drug and theft occurrences. He is in favor of doing something for the youth but does not believe the neighborhood to be a safe and nurturing environment.

Chris Wood was sworn-in. She lives across the street from the backyard of the property. She reiterated that the home is very small and a youth home is not for this community.

Joan Davies was sworn-in. She lives two doors down from the property. She is concerned about the safety of the children with the prevalence of drugs, prostitution, and theft rings in the community. There are recent instances of sheriff raids and people living in a condemned home that ended up with a meth explosion.

Chairman Padgett closed the public hearing.

Marion Gramling made a motion to deny the variance based on the determination that the request does not meet all criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29).

a. The Board concludes that the Applicant(s) does have an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to this particular property based upon the following finds of fact:

According to Spartanburg County Assessor records, the existing single family residential building was constructed in 1922, prior to the adoption of the Unified Land Management Ordinance.

b. The Board concludes that these conditions do not generally apply to other property in the area based on the following findings of fact:

Adjacent properties are single frontage lots and therefore, are not affected by the additional restrictions of double frontage lots.

c. The Board concludes that 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 based on the following findings of fact:

Without approval of the variance, the applicant will be unable to move forward with the project as planned and all future use of the property will be limited to single family residential.

d. The Board concludes that the authorization of the variance will be of substantial detriment to adjacent property and the public good, and the character of the district will be harmed by the granting of the variance based upon the following findings of fact:

After hearing the response from the community, the Board finds that reducing the setback to allow for a commercial business would be adverse to the residential character of the area and could potentially pose safety risks for both the existing elderly residents as well as the children that would reside in the home.

Jack Gowan seconded the motion. The motion carried with a vote of 5 to 2, with Angela Geter and Thomas Davies voting against the motion.

5. Other Business – None

6. Adjournment

There being no other business, Thomas Davies made a motion to adjourn.

Jack Gowan seconded the motion. The motion carried with a vote of 7 to 0.