



Spartanburg County

Planning and Development Department

MINUTES

Unified Land Management Board of Appeals

February 26, 2019

**Members
Present:**

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

**Members
Absent:**

Jason Patrick
Jonathan Adams
Marion Gramling

Staff Present:

John Harris, County Attorney
Joan Holliday, Interim Planning Director
Joshua Henderson, Senior Planner
Leigh MacDonald, Senior Planner
Laurie Bailey, Senior Development Coordinator
Tiajuana Harris, Development Coordinator

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 January 29, 2019 Meeting

Kae Fleming made a motion to approve the minutes as submitted. Louise Rakes seconded the motion, which carried with a vote of 6 to 0.

3. Unfinished Business - None

4. New Business –

**a. Variance Request – Benjamin & Debra Pruitt
351 Old Power Plant Rd., Duncan (5-31-00-033.01)**

Leigh MacDonald presented the following staff report:

Factual Dates

Variance Application Received	01/22/2019
Deadline for Variance	01/29/2019
Public Notice – Herald Journal	02/10/2019
Adjoining Property owners notified	02/11/2019
Variance Sign Posted on Property	02/11/2019
Board of Appeals Hearing	02/26/2019

Background Information

The applicants currently live in a mobile home on the subject property and wish to add a second residential structure. The lot currently has 52.62’ of frontage along Old Power Plant Road, which would only be enough for one residential dwelling.

Therefore, Mr. & Mrs. Pruitt are requesting the following variance:

To reduce the required road frontage to 52.62’ from 100’ as required in Section 2.02-6 Multiple Buildings on a Lot.

This section of the Unified Land Management Ordinance states the following: “Two single-family, detached residential dwellings, including manufactured/mobile homes (as defined in Section 3.03-1) or any combination of two such dwellings may be established on a single lot or parcel; provided the dimensional requirements on Table 3 shall be met for both dwellings as if they were established on separate lots, and so arranged to ensure public street access, building setback and lot conformance with Section 2.05-4 in the event the property upon which the dwellings are located is subsequently subdivided for sale or transfer. For the purposes of this section, 25-foot flag lots shall not be allowed. The minimum public street frontage required for each dwelling is fifty (50) feet.”

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.

The subject lot is large at 21.971 acres and unusually shaped with the majority of that acreage accessed by the 52.62’ of frontage along Old Power Plant Road.

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

The variance request appears to meet this criteria.

All other lots fronting on Old Power Plant Road have over 100’ of road frontage.

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 does not appear to meet this criteria.

The applicant appears to be capable of placing a second structure on the portion of the parcel that lies across Old Power Plant Road.

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 property to the west is owned by SJWD and according to Spartanburg County Assessor records, the parcel to the east is listed as agriculture residential vacant. The addition of a second residence to the subject property would not impact adjoining properties.

The request to reduce the required road frontage to 52.62' from 100' does not appear 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 is unable to recommend approval of the variance.

Leigh MacDonald presented the Board with an aerial image, site plan, and image of the property.

Mr. & Mrs. Pruitt indicated that the sign was posted on their neighbor's property. Laurie Bailey advised the board that Section 1.04 Application Procedures of the ULMO states, "In addition to public notice in a newspaper, notice of an application for a variance shall be posted by Spartanburg County Planning Department staff on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property."

Chairman Padgett asked if the frontage on the other side of the road can be used. Mrs. MacDonald responded that while the frontage can be used, the applicant wishes to place the second structure on the same side of the road as the existing dwelling and would therefore, not be subdividable.

Chairman Padgett opened the public hearing.

Benjamin and Debra Pruitt were sworn-in. Mr. Pruitt advised the Board that he needs his son to move on the property to help him with the property as he is getting older and this will not affect the neighbors. Chairman Padgett questioned if Mr. Pruitt's son could place the mobile home on the portion of the property located across the street. Mr. Pruitt replied by indicating that there is a power line restricting placement of a dwelling in that area on the property.

Chairman Padgett closed the public hearing.

Chairman Padgett believed the applicant would be able to utilize the portion of the property across the street even with the placement of the Duke Power easement.

Jack Gowan 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:

The subject lot is large at 21.971 acres and unusually shaped with the majority of that acreage accessed by the 52.62' of frontage along Old Power Plant Road.

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

All other lots fronting on Old Power Plant Road have over 100' of road frontage.

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:

Strict application of the road frontage requirement unreasonably restricts the use of such a large parcel to one single family residence, where the size of the lot is more than adequate to accommodate a second dwelling.

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 property to the west is owned by SJWD and according to Spartanburg County Assessor records, the parcel to the east is listed as agriculture residential vacant. The addition of a second residence to the subject property would not impact adjoining properties.

Thomas Davies seconded the motion. The motion carried with a vote of 4 to 2 with Kae Fleming and Chairman Padgett voting against the motion.

**b. Variance Request – Valicion Custom Woodworks
380 Whitney Rd., Spartanburg (7-08-06-085.00)**

Leigh MacDonald presented the following staff report:

Factual Dates

Variance Application Received	01/29/2019
Deadline for Variance	01/29/2019
Public Notice – Herald Journal	02/10/2019
Adjoining Property owners notified	02/11/2019

Variance Sign Posted on Property 02/11/2019
Board of Appeals Hearing 02/26/2019

Background Information

The applicant wishes to utilize the existing building for woodworking, which is classified as light industry in the Unified Land Management Ordinance. The structure was previously permitted in 2002 as American Coliseum, a high intensity commercial business. Light industry is considered more intense than high intensity commercial. An increase in intensity must observe development regulations and can no longer be considered existing nonconforming. The location of the existing structure encroaches into four required setbacks and provides limited space for the required buffer. Therefore, the applicant is requesting the following variances:

1. To reduce the front setback on Whitney Road to 4.02' from 50' as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.
2. To reduce the front setback on Mulligan Street to 4.53' from 30' as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.
3. To reduce the front setback on Old Whitney Road to 5.45' from 30' as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.
4. To reduce the rear setback to 1' from 20' as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements.
5. To reduce or eliminate the rear buffer from a Bufferyard 6A as required in Section 2.02-2 Bufferyards, Table 4 – Side and Rear Bufferyard 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 requests appear to meet this criteria.

The lot must observe front setbacks on four roads and contains an existing structure that was constructed in 1950 prior to the adoption of the ULMO and does not meet current requirements.

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

The variance requests appear to meet this criteria.

No other lots in the vicinity are restricted by front setbacks on four different roads.

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 requests appear to meet this criteria.

The multiple front setbacks would prevent the applicant from re-purposing an existing structure that was built prior to the ULMO.

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 requests appear to meet this criteria.

The structure already exists and the encroachment in all directions will remain the same. The neighboring properties to the rear will likely benefit from the addition of a buffer.

The variance requests appear 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 variances.

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

Chairman Padgett opened the public hearing.

Alex Foksha, was sworn-in. He explained that the property is in bad shape and he will be fixing the front of the building to be used for the manufacturing of cabinets.

Chairman Padgett closed the public hearing.

Thomas Davies made a motion to grant the variance based on the determination that the request does 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:

The lot must observe front setbacks on four roads and contains an existing structure that was constructed in 1950 prior to the adoption of the ULMO and does not meet current requirements.

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

No other lots in the vicinity are restricted by front setbacks on four different roads.

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 multiple front setbacks would prevent the applicant from re-purposing an existing structure that was built prior to the ULMO.

d. The Board concludes that the authorization of the variance will not be of substantial detriment to adjacent property and 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 structure already exists and the encroachment in all directions will remain the same. The neighboring properties to the rear will likely benefit from the addition of a buffer.

Angela Geter seconded the motion. The motion carried with a vote of 6 to 0.

c. Appoint Nominating Committee

Angela Geter, Thomas Davies, and Louise Rakes agreed to serve on the nominating committee.

5. Other Business – None

6. Adjournment

There being no other business, Jack Gowan made a motion to adjourn.

Kae Fleming seconded the motion. The motion carried with a vote of 6 to 0.