

Spartanburg County

Planning and Development Department



MINUTES

Unified Land Management Board of Appeals

April 24, 2018

**Members
Present:**

Michael Padgett, Chairman
Jack Gowan, Jr., Vice Chairman
Thomas Davies
Kae Fleming
Angela Jeter
Marion Gramling
Jonathan Adams

**Members
Absent:**

Jason Patrick
Louise Rakes

Staff Present:

John Harris, County Attorney
Bob Harkrader, Planning Director
Joshua Henderson, Senior Planner
Leigh Davis, Senior Planner
Ron Kirby, County Engineer

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 Michael Padgett called the meeting to order.

2. Approval of Minutes of February 27, 2018 Work Session

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

Approval of Minutes of February 27, 2018 Meeting

Kae Fleming made a motion to approve the minutes as submitted. Jack Gowan seconded the motion, which carried with a vote of 7 to 0.

3. Unfinished Business – None

4. New Business –

Chairman Padgett introduced the new board member, Angela Jeter.

**a. Variance Request – Rainbow Park, Inc.
325 Chervil Ct., Spartanburg (2-56-04-125.00)**

Josh Henderson was sworn-in and presented the following staff report:

Factual Dates

Variance Application Received	03/26/2018
Deadline for Variance	03/27/2018
Public Notice – Herald Journal	04/08/2018
Adjoining Property owners notified	04/10/2018
Variance Sign Posted on Property	04/10/2018
Board of Appeals Hearing	04/24/2018

Background Information

Rainbow Park, Inc., property owner, has submitted a variance request for the property located at 325 Chervil Ct., Spartanburg. The majority of the property is contained within the 100-year flood plain zone, restricting the buildable area. The applicant is proposing to construct a 30’ by 44’ residential dwelling.

The applicant is requesting to reduce the required front setback to 15’ from 20’ as required in Section 2.02-1 Dimensional Standards, Table 3a - Residential Setbacks & All 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.

A large portion of the rear of the property is contained within the 100 year flood plain zone, leaving a small remaining buildable area.

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

The variance request appears to meet this criteria.

Other properties in the vicinity are able to build residences away from the flood zone and remain outside the required front yard setbacks as required by the ULMO.

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 majority of the parcel is in the flood plain leaving a very restricted buildable area. The Engineering Department has received and evaluated elevation data for this property and has found that the topography on the lot is very flat. Therefore, they support allowing the building to be farther away from the flood zone and, therefore, safer.

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 proposed residence is designed to resemble the homes on the other 35 lots contained within the Melody Creek Subdivision. As proposed, the applicant will not encroach into the side or rear setbacks on adjacent property lines.

Given the extraordinary conditions and lack of impact on adjacent properties, the request to reduce the required front setback to 15' 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 and street view of the property.

Jack Gowan inquired as to the distance from the rear corner of the house to the floodplain. It appeared to him that the home could be shifted and still fit without encroaching into the setback. Flood Plain Manager, Ron Kirby, was sworn in and advised the Board that there is approximately 10' from the proposed home to the flood plain. However, the drop in elevation would make the home closer to the flood zone. It was his professional opinion that the home, property, and inhabitants would be much safer if the applicants are granted the variance and he would recommend approval. Mr. Gowan further inquired if a taller elevation with a higher foundation would be a feasible option. Mr. Kirby had concerns about water on the foundation wall and under the home causing moisture problems.

Chairman Padgett opened the public hearing.

Michael Fowler, applicant, was sworn-in. He advised the Board that the 5' setback encroachment would help assist them in maneuvering the home around the 10' embankment. Thomas Davies asked if any clients were looking to buy. Mr. Fowler responded that while he had been contacted by interested parties, he did not have any purchasers yet.

Chairman Padgett closed the public hearing.

Marion Gramling found that while the home could be slid back, it would be unreasonable to require the same due to the location of the storm drain pipe. Two lots have already been combined in order to produce an adequate building area. Chairman Padgett agreed that denying the variance would create more possibility for collapse and damage.

Marion Gramling 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 this particular property based upon the following finds of fact:

A large portion of the rear of the property is contained within the 100 year flood plain zone, leaving a small remaining buildable area. In addition, the parcel is restricted by difficult topography in relation to the floodplain and an unusual shape of buildable area due to the location of a storm drain pipe.

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

Other properties in the vicinity have a larger area to build away from the flood plain.

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 20' setback requirement unreasonably restricts the property by forcing the home up against a large slope and creating a less safe, unusable or undesirable residence.

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:

Adjacent properties would more likely benefit from having an adjacent home which is safer, and constructed in accordance with the other homes in the subdivision.

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

5. Other Business – None

6. Adjournment

There being no other business, Thomas Davies made a motion to adjourn. Marion Gramling seconded the motion. The motion carried with a vote of 7 to 0. The meeting adjourned at 5:15 p.m..