



Spartanburg County

Planning and Development Department

MINUTES

Unified Land Management

Board of Appeals

June 18, 2019

Members

Present:

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

Members

Absent:

Staff Present:

John Harris, County Attorney
Ginny Dupont, County Attorney
Joan Holliday, Interim Planning Director
Joshua Henderson, Senior Planner
Leigh MacDonald, 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 March 26, 2019 Meeting

Marion Gramling made a motion to approve the minutes as submitted. Kae Fleming seconded the motion, which carried with a vote of 8 to 0.

3. Unfinished Business – None

4. **New Business –**

a. Variance Request – 400 Chippendale Ln., Boiling Springs (2-44-00-041.94)

Josh Henderson presented the following staff report:

Factual Dates

Variance Application Received	05/21/2019
Deadline for Variance	05/21/2019
Public Notice – Herald Journal	06/02/2019
Adjoining Property owners notified	06/03/2019
Variance Sign Posted on Property	06/03/2019
Board of Appeals Hearing	06/18/2019

Background Information

A variance request has been submitted for the property located at 400 Chippendale Ln., Boiling Springs, SC 29316. The home was built and permitted prior to the as-built survey revealing the encroachment into the setback.

The applicant is requesting the following variance:

To reduce the front setback to 19.3’ from 20’ as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential 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 does not appear to meet this criteria.

The property does not appear to contain extraordinary or exceptional conditions, which would require a variance.

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

The variance request does not appear to meet this criteria.

There do not appear to be conditions that apply to this property that do not apply to other property in the vicinity.

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 subject property appears to be capable of housing the proposed use and meeting all requirements as set forth in 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 request appears to meet this criteria.

The encroachment is in the direction of the road right-of-way and the home will meet all setback requirements along shared property lines.

The request to reduce the required front setback to 19.3' from 20' 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.

Jason Patrick entered during the reading of the staff report.

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

Chairman Padgett opened the public hearing.

Jessica Brown with Freeland & Associates, Inc. was sworn-in. She believed the builder measured off the curb, which resulted in the incorrect placement of the residence.

David Giardina, representing Essex Homes, was sworn-in. They did not realize they were encroaching into the front setback until they had a customer ready to close last month. Essex decided to hold off on the closing, pending the result of the variance application, but would like to get the family into the home as soon as possible.

Robert Kopstein, neighbor, was sworn-in. He wished to support the new neighbors in getting into their home as well as get some clarification as to why the issue arose and whose responsibility it is to ensure setbacks are met. Ms. Brown explained that they staked the home twice; however, the tape was pulled from the front curb and cul-de-sacs are not usually exactly where they are designed. The resulting encroachment is just due to human error. Essex Homes is willing to take responsibility for the mistake and Mr. Giardina assured the Board that it would not happen again.

Chairman Padgett closed the public hearing.

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 to this particular property based upon the following finds of fact:

The lot is located at the end of the cul-de-sac lot, which changes the way the front setback is measured.

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

Most other properties in the neighborhood are not cul-de sac 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:

The strict application of the ordinance would place a burden on the property owner by creating a cloud on title, which could only be remedied by the removal of the brick on the bay window and would be an unreasonable request.

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 encroachment is in the direction of the road right-of-way and the home will meet all setback requirements along shared property lines.

Thomas Davies seconded the motion. The motion carried with a vote of 9 to 0.

b. Variance Request – 241 N. Radcliff Way, Spartanburg (6-20-00-016.33)

Josh Henderson presented the following staff report:

Factual Dates

Variance Application Received	05/08/2019
Deadline for Variance	05/21/2019
Public Notice – Herald Journal	06/02/2019
Adjoining Property owners notified	06/03/2019
Variance Sign Posted on Property	06/03/2019
Board of Appeals Hearing	06/18/2019

Background Information

A variance request has been submitted for the property located at 241 N. Radcliff Way, Spartanburg, SC 29301. The as-built survey revealed an encroachment into the setback.

The applicant is requesting the following variance:

To reduce the side setback to 1.2' from 3.5' as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential 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 does not appear to meet this criteria.

The property does not appear to contain extraordinary or exceptional conditions, which would require a variance.

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

The variance request does not appear to meet this criteria.

There do not appear to be conditions that apply to this property that do not apply to other property in the vicinity.

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 subject property appears to be capable of housing the proposed use and meeting all requirements as set forth in 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 request appears to meet this criteria.

The property adjacent to the encroachment is reserved for common open space.

The request to reduce the required side setback to 1.2' from 3.5' 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.

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

Thomas Davies asked about the sewer easements. Josh Henderson responded that sewer easements are allowed in common open space but not detention areas. Marion Gramling inquired as to the process for changing the property line between the subject property and common open space. Mr. Henderson advised the Board that a plat would need to be submitted showing the changed property line, after approval by the HOA.

Chairman Padgett opened the public hearing.

Jordan Hammond was sworn-in. He advised the Board that the builder wanted to push the house further away from the existing house and toward the open area and that due to the bend in the road, the house was arranged to face toward the bend rather than straight with the side property lines. There is a closing date currently scheduled for June 28, 2019.

Chairman Padgett closed the public hearing.

Marion Gramling believed there to be a solution to move the property line without the need for a variance.

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 location of the sewer easements makes it difficult to move property lines.

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 are not restricted by these sewer easements.

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:

Side setback requirements are mainly for the purpose of protection for fire safety, which is not applicable to this case. It would be unreasonable to require movement of the home or to hold up a closing to get the HOA to agree to a property swap.

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 adjacent to the encroachment is reserved for common open space.

Jonathan Adams seconded the motion. The motion carried with a vote of 8 to 1, with Angela Geter being the sole vote against the granting of the variance.

c. Variance Request – 190 Blalock Rd., Boiling Springs (2-44-14-044.00)

Josh Henderson presented the following staff report:

Factual Dates

Variance Application Received	05/03/2019
Deadline for Variance	05/21/2019
Public Notice – Herald Journal	06/02/2019
Adjoining Property owners notified	06/03/2019
Variance Sign Posted on Property	06/03/2019
Board of Appeals Hearing	06/18/2019

Background Information

A variance request has been submitted for the property located at 190 Blalock Rd., Boiling Springs, SC 29316. The applicant is proposing to convert the existing residence into a commercial office building.

The applicant is requesting the following variance:

To reduce the front setback to 34’ from 40’ 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 1955, prior to the adoption of the Unified Land Management Ordinance. In 2015, a portion of Blalock Road was widened and reduced the distance between the residence and the road right-of-way.

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

The variance request appears to meet this criteria.

The property is located in a transitional area and other residences were converted to commercial businesses prior to the widening of Blalock Road.

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.

The variance request appears to meet this criteria.

The property is located in a transitional area with many other commercial businesses and the building will not encroach any further into the required setback than the current placement. The location of the existing building would not create any additional detriment to adjacent properties by conversion to a commercial business.

The request to reduce the required front setback to 34' from 40' 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 image of the property.

Chairman Padgett opened the public hearing. There being no parties in attendance to speak in favor of or against the granting of the variance, 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:

According to Spartanburg County Assessor records, the existing single family residential building was constructed in 1955, prior to the adoption of the Unified Land Management Ordinance. In 2015, a portion of Blalock Road was widened and reduced the distance between the residence and the road right-of-way.

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

The property is located in a transitional area and other residences were converted to commercial businesses prior to the widening of Blalock Road.

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 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 is located in a transitional area with many other commercial businesses and the building will not encroach any further into the required setback than the current placement. The location of the existing building would not create any additional detriment to adjacent properties by conversion to a commercial business.

Jonathan Adams seconded the motion. The motion carried with a vote of 9 to 0.

5. Other Business –

John Harris advised the Board that there would be changes coming for attorney assignments and short term planning would now be overseen by Ginny Dupont.

6. Adjournment

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

Jason Patrick seconded the motion. The motion carried with a vote of 9 to 0.