



Spartanburg County

Planning and Development Department

Board of Zoning Appeals Minutes

July 25, 2023

Members

Present:

Jack Gowan, Chairman
Angela Geter, Vice Chairman
Thomas Davies
James Langford
Jason Patrick
Stephen Wunder

Members

Absent:

Glenda Brady
Ray Crotts
Kae Fleming

Staff Present:

Joan Holliday, Director of Planning & Development
Leigh MacDonald, Current Planning Manager
Laurie Oakman, Senior Planner
Jeff DeWitt, Senior Planner
Bonnie Gibbs, Development Coordinator II
John Harris, County Attorney

NOTICE: Pursuant to Section 30-4-80 of the S.C. Code of Laws, written notice of its regular meeting schedule was provided at the beginning of this calendar year 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 Jack Gowan called the meeting to order at 4:30 PM.

2. Approval of Minutes – May 23, 2023 Special Meeting

Angela Geter moved to approve the minutes of the May 23, 2023 BZA called meeting. Stephen Wunder seconded the motion. The motion carried with a vote of 6 to 0.

Approval of Minutes – May 23, 2023 Meeting

Angela Geter moved to approve the minutes of the May 23, 2023 BZA meeting. Stephen Wunder seconded the motion. The motion carried with a vote of 6 to 0.

3. Unfinished Business

4. New Business

A. Variance Request:

Ethan Floyd, PTL Construction – 118 Perry Drive Units A & B, Boiling Springs, SC

Tax Map Number: 2-55-04-004.00

Variance to reduce the front setback on Perry Drive from 20 ft. to 6 ft.

Jeff DeWitt was sworn in and presented the following staff reports:

Variance Request

Staff Report

Meeting Date: July 25, 2023			
Address	118 Perry Drive, Spartanburg, SC 29302	Ordinance	ULMO
Factual Dates	Variance Application Received	01/31/2023	
	Deadline for Variance	02/28/2023	
	Public Notice	7/09/2023	
	Adjoining Property Owner Notification	7/11/2023	
	Variance Signs Posted on Property	7/11/2023	
Applicant	Petr Tsioma		
Applicant Status	Owner		
Map Number	2-55-04-004.00		
Acreage	0.51 acres		
Staff	Jeff DeWitt		

Request:

The applicant is requesting to reduce the Front Setback, as per Unified Land Management Ordinance (ULMO) Section 2.02-1 Table 3a “Residential Setbacks and Other Requirements”

Type	Required Front Setback	Proposed Front Setback	Variance
Front Setback	20.0 ft.	6.0 ft.	14.0 ft.

Background Information:

The Applicant, Petr Tsioma, is the owner and Ethan Floyd with PTL Construction is the residential contractor for the property owner. The owner planned to build a residential duplex on the subject site, and the contractor had constructed the foundation when the front setback encroachment was discovered.

The subject site is located on the cul-de-sac of Perry Drive. The rear property line lies within a small stream, Standing Stone Branch. A FEMA-designated flood zone exists on the rear of this parcel, roughly parallel to the stream channel/rear property boundary. The site is also traversed by two sets of overhead electrical lines and their associated easements, running approximately parallel to the rear property boundary. The flood zones and overhead electrical lines are shown on the site survey. The survey shows a 10 ft wide concrete drainage feature along the northern property line of the subject site.

The southernmost front corner of the foundation encroaches on a sanitary sewer right of way controlled by Spartanburg Sanitary Sewer District (SSSD). After reviewing the site survey, SSSD has determined that the encroachment is a minor one and is anticipated to have minimal impact on the operation of the sewer line. SSSD has granted a variance to the property owner. A copy of the variance approval is attached to this report.

Staff Position:

If the Front setback variance is granted, the applicant will be able to meet all other requirements of the Ordinance.

Four Criteria for granting a variance:

The Board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

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

The combination of the flood zones, power line easements, sewer easements, and concrete drainage feature seem to present a unique set of constraints to site development.

Staff Analysis:

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

Staff Analysis:

Other properties bordering Standing Stone Branch are impacted by the FEMA flood zone and the overhead electrical lines and associated easements.

3. 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.

Staff Analysis:

According to the site survey, the rear of the foundation is located 24.98 ft from the nearest overhead electrical line. This electrical line has a 7.5 ft easement, which means there is 17.48 feet between the rear corner of the foundation and the easement for the nearest overhead electrical line. The foundation encroaches on the front setback 13.15 ft., which means that there is room to move the foundation toward the rear of the site and meet the front setback and easement restrictions.

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

Staff Analysis:

The subject site is located on a cul-de-sac, which may limit visibility of the encroachment.

Attachments:

1. Aerial Maps from GIS
2. Variance Application
3. Site plans
4. Street views of Subject Site
5. SSSD Variance Letter

Jeff DeWitt presented the Board with aerial images, street views, images of the site structures, and a copy of the plans for the proposed development on the subject site. He explained that the site is located in the area of the County governed by the Unified Land Management Ordinance (ULMO). He summarized the Staff Report for the site.

The Board and Jeff DeWitt had a brief discussion regarding flood zones, powerlines, easements and if the house could be made to fit within all the setbacks.

Chairman Jack Gowan opened the public hearing and asked if anyone was present to speak in opposition of the variance.

Renee West, neighbor, was sworn in. Ms. West lives on Perry Drive and owns a vacant lot adjacent to the subject lot. She presented Exhibit 1 with pictures of surrounding properties. She stated that the home would not fit with the aesthetic of the neighborhood. She believes that the hardship was created by the applicant since the easements existed on the maps prior to construction. Ms. West also stated that the driveway would not accommodate vehicles. Thomas Davies asked if any other duplexes were in the neighborhood and Ms. West said no.

Maurice Slaughter, neighbor, was sworn in. Mr. Slaughter lives next door to the subject lot. He presented Exhibit 2 with pictures of a fence over his property line. He also stated that the lot floods and it is not well kept.

Beverly Allen, neighbor, was sworn in. Ms. Allen was concerned that the lot will decrease the value of homes in the neighborhood and that taxes would increase. She also reiterated the flooding issue on the lot.

Mr. Gowan asked if anyone was present that wished to speak in favor of the variance. Hearing none, he closed the public hearing and discussed amongst the Board.

Stephen Wunder made a motion to deny the variance request for a reduction on the front setback on Perry Drive from 20 ft. to 6 ft. based on the determination that the request does not meet all the criteria for granting a variance. Angela Geter seconded the motion. The motion carried with a unanimous vote of 6 to 0.

B. Variance Request:

New Pilgrim Baptist Church – 5040 Rainbow Lake Road, Campobello, SC

Tax Map Number: 1-11-00-041.00

Variance to reduce the front setback on Rainbow Lake Road from 40 ft. to 35 ft.

Variance Request

Staff Report

Meeting Date: July 25, 2023			
Address	5040 Rainbow Lake Rd, Campobello, SC	Ordinance	ULMO
Factual Dates	Variance Application Received	6/26/2023	
	Deadline for Variance	6/27/2023	
	Public Notice	7/09/2023	
	Adjoining Property Owner Notification	7/11/2023	
	Variance Signs Posted on Property	7/11/2023	
	Jeremy Hart P.E./ EMC Engineering		
Applicant Status	Engineer for Site Owner		
Map Number	1-11-00-041.00		
Acreage	9.52 acres		
Staff	Jeff DeWitt		

Request:

The applicant is requesting to reduce the Front Setback, as per Unified Land Management Ordinance (ULMO) Section 2.02-1 Table 3b “Commercial & All Other Uses - Setbacks and Other Requirements”

Type	Required Front Setback	Proposed Front Setback	Variance
Front Setback (Collector Road)	40.0 ft.	35.0 ft.	5.0 ft.

Background Information:

Mr. Jeremy Hart PE (Applicant), on behalf of the New Pilgrim Baptist Church (Owner), has made application for a front setback variance. The Owner plans to construct a new church sanctuary and office/educational facility adjacent to the existing church building. The Church has occupied the current site since 1918, with the current brick structure having been built in 1958. Due to the growth of the congregation, a new 299 seat facility is planned. The existing building will be retained by the church body and will be connected to the new structure by a covered walkway.

Staff Position:

If the Front setback variance is granted, the applicant will be able to meet all other requirements of the Ordinance.

Four Criteria for granting a variance:

The Board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

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

Staff Analysis:

The new facility will require a driveway across the rear of the site for normal and emergency access. The cemetery restricts the depth of available building space to approximately 160 ft., which will not allow for the access drive and the building in its proposed configuration.

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

Staff Analysis:

Since the space constraints are related to the size and location of the onsite cemetery as they impact the construction of a new church building, these conditions do not apply to other properties in the site vicinity.

3. 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.

Staff Analysis:

A strict application of the ULMO setback requirements would require a reduction in the size of the building footprint or a re-design of the proposed structure.

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

Staff Analysis:

Applicant states that the variance will not cause any site distance or ingress/egress issues. Applicant further states that the general character of the area is “defined by New Pilgrim Baptist Church and its deep connection with surrounding residents”, and that approval of the variance request would “advance the character of the surrounding area.” The subject site is in a rural area, and adjacent parcels are relatively large with widely spaced structures.

Attachments:

1. Aerial Maps from GIS
2. Variance Application
3. Site plans
4. Street views of Subject Site

Jeff DeWitt presented the Board with aerial images, street views, images of the site structures, and a copy of the plans for the proposed development on the subject site. He explained that the site is located in the area of the County governed by the Unified Land Management Ordinance (ULMO). He summarized the Staff Report for the site.

James Langford recused himself since he was the surveyor for the property. The Board discussed the area at the back of the property regarding the proposed sidewalk.

Chairman Jack Gowan opened the public hearing and asked if anyone was present to speak in opposition of the variance. Hearing none, Mr. Gowan asked if anyone was present that wished to speak in favor of the variance.

Jeremy Hart, applicant, was sworn in. Mr. Hart confirmed that that was a proposed sidewalk at the back of the property. He explained that the contour lines and how the new structure was moved as far back without encroaching on the cemetery. Also, he stated that they did consult with the architect for a solution, but that would reduce the seating and the church members were opposed.

Lilly McCain, church member, was sworn in. Ms. McCain stated that she supports the information provided by Mr. Hart. The church currently only seats 125 people. She was requesting the variance to be granted.

Bo Garland, architect, was sworn in. Mr. Garland explained that the property had a lot of grading issues. They wanted to connect the existing courtyard with the new building so that all are in alignment.

David Parks, church member, was sworn in. Mr. Parks only requested that the church will be able to continue to move forward.

Mr. Gowan closed the public hearing and discussed amongst the Board.

Angela Geter made a motion to approve the variance request for a reduction on the front setback on Rainbow Lake Road from 40 ft. to 35 ft. based on the determination that the request meets all the criteria for granting a variance. Stephen Wunder seconded the motion. The motion carried with a unanimous vote of 5 to 0.

C. Variance Request:

Oaklynn Homes LLC – 174 Sunward Path, Inman, SC

Tax Map Number: 1-29-01-024.04

Variance to reduce the front setback on Sunward Path from 45 ft. from centerline of road to 39 ft. from the centerline.

Variance Request

Staff Report

Meeting Date: July 25, 2023			
Address	174 Sunward Path, Inman, SC		
Factual Dates	Variance Application Received	6/12/2023	
	Deadline for Variance	6/27/2023	
	Public Notice	7/09/2023	
	Adjoining Property Owner Notification	7/11/2023	
	Variance Signs Posted on Property	7/11/2023	
Applicant	Dennis Krasnyanskiy		
Applicant Status	Owner/Contractor		
Map Number	1-29-01-024.04		
Acreage	0.48 acres		
Staff	Jeff DeWitt		

Request:

The applicant is requesting to reduce the Front Setback, as per Unified Land Management Ordinance (ULMO) Section 2.02-1 Table 3a “Residential Setbacks and Other Requirements”

Type	Required Front Setback	Proposed Front Setback	Variance
Front Setback (Minor street, w/ no right of way, measured from the centerline of the road)	45.0 ft.	39.0 ft.	6.0 ft.

Background Information:

The applicant is the property owner and residential contractor, Mr. Dennis Krasnyanskiy. Applicant began construction of a single-family residence on the subject site before the encroachment was discovered. Work on the structure was halted until the encroachment is resolved.

The subject site is located on Sunward Path, which is classified as a minor road. Sunward Path does not have a recorded road right-of-way, so the front setback is determined by measuring from the centerline of the road, per ULMO Section 2.02-1 Table 3a “Residential Setbacks and Other Requirements”, footnote (M).

The construction and operation of septic tanks in South Carolina is regulated by SCDHEC Regulation 61-56 “Onsite Wastewater Systems”. The rear property line is located approximately 15 ft from the actual shoreline of body of water. The regulation requires that onsite septic systems maintain a minimum 75 ft setback from any body of water. The 75’ offset line for this site is shown on the attached Site Plan, and is measured from the actual shoreline, not the rear property line.

Staff Position:

If the Front setback variance is granted, the applicant will be able to meet all other requirements of the Ordinance.

Four Criteria for granting a variance:

The Board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

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

The 75' setback line falls approximately 65 ft from the rear property line. This requires the septic system to be located in the middle portion of the lot and reduces the overall area available for building.

Staff Analysis:

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

Staff Analysis:

The septic tank setbacks will likely apply to all lots lying between Sunward Path and the body of water.

3. 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.

Staff Analysis:

A strict application of the ULMO setback requirements would require the house to be re-designed or re-positioned so that the footprint matched the available building area.

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

Staff Analysis:

The granting of the variance will put the house closer to the road. However, this is a Minor Road with a speed limit of 20 MPH.

Attachments:

1. Aerial Maps from GIS
2. Variance Application
3. Site plans
4. Street views of Subject Site

D. Variance Request:

Oaklynn Homes LLC – 182 Sunward Path, Inman, SC

Tax Map Number: 1-29-01-024.03

Variance to reduce the front setback on Sunward Path.

Variance Request

Staff Report

Meeting Date: July 25, 2023			
Address	182 Sunward Path, Inman, SC 29349	Ordinance	ULMO
Factual Dates	Variance Application Received	6/12/2023	
	Deadline for Variance	6/27/2023	
	Public Notice	7/09/2023	
	Adjoining Property Owner Notification	7/11/2023	
	Variance Signs Posted on Property	7/11/2023	
Applicant	Dennis Krasnyanskiy		
Applicant Status	Owner/Contractor		
Map Number	1-29-01-024.03		
Acreage	0.48 acres		
Staff	Jeff DeWitt		

Request:

The applicant is requesting to reduce the Front Setback, as per Unified Land Management Ordinance (ULMO) Section 2.02-1 Table 3a “Residential Setbacks and Other Requirements”

Type	Required Front Setback	Proposed Front Setback	Variance
Front Setback (Minor street, w/ no right of way, measured from the centerline of the road)	45.0 ft.	41.0 ft.	4.0 ft.

Background Information:

The applicant is the property owner and residential contractor, Mr. Dennis Krasnyanskiy. Applicant began construction of a single-family residence on the subject site before the encroachment was discovered. Work on the structure was halted until the encroachment is resolved.

The subject site is located on Sunward Path, which is classified as a minor road. The western side of Sunward Path does not have a recorded road right-of-way, so the front setback is determined by measuring from the centerline of the road, per ULMO Section 2.02-1 Table 3a “Residential Setbacks and Other Requirements”, footnote (M).

The construction and operation of septic tanks in South Carolina is regulated by SCDHEC Regulation 61-56 “Onsite Wastewater Systems”. The rear property line is located approximately 15 ft from the actual shoreline of body of water. The regulation requires that onsite septic systems maintain a minimum 75 ft setback from any body of water. The 75’ offset line for this site is shown on the attached Site Plan, and is measured from the actual shoreline, not the rear property line.

Staff Position:

If the Front setback variance is granted, the applicant will be able to meet all other requirements of the Ordinance.

Four Criteria for granting a variance:

The Board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

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

Staff Analysis:

The 75’ setback line falls approximately 65 ft from the rear property line. This requires the septic system to be located in the middle portion of the lot and reduces the overall area available for building.

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

Staff Analysis:

The septic tank setbacks will likely apply to all lots lying between Sunward Path and the body of water.

3. 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.

Staff Analysis:

A strict application of the ULMO setback requirements would require the house to be re-designed or re-positioned so that the footprint matched the available building area.

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

Staff Analysis:

The granting of the variance will put the house closer to the road. However, this is a Minor Road with a speed limit of 20 MPH.

Attachments:

1. Aerial Maps from GIS
2. Variance Application
3. Site plans
4. Street views of Subject Site

Jeff DeWitt presented the Board with aerial images, street views, images of the site structures, and a copy of the plans for the proposed development on the subject site. He explained that the sites are located in the area of the County governed by the Unified Land Management Ordinance (ULMO). He summarized the Staff Reports for the sites.

The Board discussed how to measure the setbacks from the center of the road. Joan Holliday explained that the road has prescriptive right of way. John Harris explained that the measurement was based on current conditions and is measured from the center of the road.

Chairman Jack Gowan opened the public hearing and asked if anyone was present to speak in opposition of the variance.

Jennifer Taylor, neighbor, was sworn in. Ms. Taylor stated that the new driveway is almost directly across from her driveway. She stated that the curves in the road impede the view of traffic. She also stated that, in spite of a 'stop work order' for this site, contractors had been onsite earlier this day and were working. She also complained about contractors parking on the very narrow road and impeding traffic.

Petras Karevicius, neighbor, was sworn in. Mr. Karevicius stated that the new driveway is dangerous. He questioned why the home was not being built in the footprint of the lot.

Mr. Gowan asked if anyone was present that wished to speak in favor of the variance.

Dennis Krasnyanskiy, owner/contractor, was sworn in. Mr. Krasnyanskiy offered apologies for the work after the stop work order and for the parking situation. Angela Geter asked why he decided to place the house in that particular spot. Mr. Krasnyanskiy explained that he worked from the DHEC setbacks and did not know about the 45ft setback. Thomas Davies stated that the lines should have been established beforehand.

Mr. Gowan closed the public hearing and discussed amongst the Board.

Angela Geter made a motion to deny the variance request for a reduction on the front setback on 174 Sunward Path from 45 ft. to 39 ft. from the centerline of the road based on the determination that the request does not meet all the criteria for granting a variance. Thomas Davies seconded the motion. James Langford questioned if the house would have to be torn down. John Harris explained that the Board could grant a variance for a lesser amount. Angela Geter stated that she still wished to continue with her motion. Thomas Davies seconded the motion. The motion tied with a vote of 3 to 3, with Thomas Davies, Angela Geter, Jack Gowan voted to deny the variance and James Langford, Jason Patrick, Stephen Wunder voted to grant the variance.

John Harris stated that since the motion failed with a tie vote, the Board could consider another motion.

James Langford made a motion to grant the variance request for a reduction on the front setback on 174 Sunward Path from 45 ft. to 39 ft. from the centerline of the road based on the determination that the request does meet all the criteria for granting a variance. Jason Patrick seconded the motion. The motion carried with a vote of 4 to 2 with Thomas Davies and Angela Geter in opposition.

Jason Patrick made a motion to grant the variance request for a reduction on the front setback on 182 Sunward Path by 45 ft. to 41 ft. based on the determination that the request does meet all the criteria for granting a variance. James Langford seconded the motion. The motion carried with a vote of 4 to 2 with Thomas Davies and Angela Geter in opposition.

4. Other Business

5. Adjourn

Angela Geter moved to adjourn. Thomas Davies seconded the motion. The motion carried with a vote of 6 to 0. Meeting adjourned at 6:27 PM.