



Spartanburg County

Planning and Development Department

MINUTES

Unified Land Management Board of Appeals

July 30, 2019

Members

Present:

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

Members

Absent:

Jonathan Adams

Staff Present:

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 June 18, 2019 Meeting

Angela Geter pointed out a typo on Page 3. Jack Gowan made a motion to approve the minutes as submitted with the correction of the typo. Marion Gramling seconded the motion, which carried with a vote of 8 to 0.

3. Unfinished Business – None

4. New Business –

a. Staff Report Update

Joan Holliday advised the Board that staff would no longer be giving recommendations. The Board had previously requested help with navigating the four criteria and believed that the Board was now in a position to make the determination without staff analysis on each criteria. Staff will still provide facts and position based on the ordinance, but would leave decision on each criteria to the Board.

**b. Variance Request – Spartanburg Buddhist Center of SC, Inc.
770 Bryant Rd., Spartanburg (7-01-00-037.00)**

Leigh MacDonald presented the following staff report:

Factual Dates

Variance Application Received	07/02/2019
Deadline for Variance	07/02/2019
Public Notice – Herald Journal	07/14/2019
Adjoining Property owners notified	07/10/2019
Variance Sign Posted on Property	07/18/2019
Board of Appeals Hearing	07/30/2019

Background Information

The applicant wishes to install a decorative wall and entrance structure that includes 10’x10’ electrical/equipment rooms on both sides of the entrance structure. A wall would not generally be regulated under the Unified Land Management Ordinance, but because the entrance structure includes rooms, it is considered a building. Therefore, the applicant is requesting a reduction of the front setback to 20’ from 40’ for the entrance structure as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements for a Collector Road.

Staff Position

The subject property appears to be capable of housing the proposed use and meeting all requirements as set forth in the ULMO. A 40’ setback at this location on the property would cause the site to lose parking spaces and the use of driveway currently used to access the property.

If the Board grants this variance, all other requirements of the ULMO will be met.

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

Chairman Padgett inquired as to whether the existing fence would be removed to accommodate the new wall and gate. Leigh MacDonald responded that yes, the applicant had advised that the fence would be coming down.

Kae Fleming asked how tall the wall will be. Leigh MacDonald passed around a copy of the provided structural drawings for the Board members to review.

Jack Gowan asked what was to the right of the wall and if it could be moved to meet the setbacks. Leigh MacDonald replied that the applicant could shift the structures to accommodate the setbacks, but the proposed site plan shows where the applicant most wishes to place the gate.

Chairman Padgett asked how far the existing fence is from the setback. Leigh MacDonald advised the Board that the fence is currently in the road right-of-way.

Chairman Padgett opened the public hearing.

Joe Whisenant was sworn-in as the surveyor for the project. He advised the Board that when he was asked to survey the property it was discovered that the fence was currently in the road right-of-way. The proposed new wall would fix that issue. Reducing the setback to 20' would also still allow the use of the driveway that goes in front of the residence. The rooms for the electrical systems will only be 8' x 8'.

Chairman Padgett closed the public hearing.

Chairman Padgett had concerns regarding public safety of reducing setbacks on Bryant Road, which has a heavy amount of traffic. Marion Gramling did not believe this to be a driving hazard as the gate would still be 20' from the road right-of-way.

Jason Patrick mentioned that the only reason the applicant needed the variance would be because of the electrical rooms. He believed the intent of the setback requirement to be for actual buildings and not for 8' x 8' rooms that would likely not require a CO.

Kae Fleming asked about the level of traffic. Joe Whisenant replied that there is usually only about one or two cars on a daily basis; however, there will be more during special events that is usually controlled by County Police.

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) and will resolve the public safety hazard with the current fence. Marion Gramling seconded the motion. The motion carried with a vote of 8 to 0.

**c. Variance Request – Dollar Tree Chesnee
618 S. Alabama Ave., Chesnee (2-19-00-036.00)**

Leigh MacDonald presented the following staff report:

Factual Dates

Variance Application Received	07/02/2019
Deadline for Variance	07/02/2019
Public Notice – Herald Journal	07/14/2019
Adjoining Property owners notified	07/10/2019
Variance Sign Posted on Property	07/18/2019
Board of Appeals Hearing	07/30/2019

Background Information

The applicant is requesting to reduce the side setback to 14’ from 15’ as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks & Other Requirements. An ALTA survey revealed the encroachment into the setback. The original site plan showing the structure meeting the 15’ side setback was approved by the Planning Department Staff on August 21, 2018. The Certificate of Occupancy was issued on March 13, 2019.

Staff Position

The building was constructed 1’ too close to the property line and the applicant is unable to purchase the extra foot from their neighbors due to the parking lot immediately adjacent to the property line. At this stage in the development, forcing the applicant to come into compliance would require tearing the building down, or greatly altering it. All other requirements of the ULMO will be met.

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

Chairman Padgett opened the public hearing.

Andrew Allen, licensed engineer, was sworn-in. He advised the Board that the site was originally designed to comply with the setback requirement; however, there was an error during construction. There is only a 25 square foot portion of the building that encroaches. He provided the Board with images of the building and an ALTA survey showing the 25 square feet. They did discuss the option of purchasing the additional foot but the neighbor was not interested and instead wrote a letter in support of the variance, which was presented to the Board.

David Rosenberg was sworn-in as one of the owners of the property. He exhausted all his options to try and correct the issue and thanked the Board for their consideration.

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). Thomas Davies seconded the motion. The motion carried with a vote of 8 to 0.

**c. Variance Requests – Lake Emory Subdivision
517, 520, 523 Treasure Cv., 709 Outrigger Cv., 615 Hideaway Cv., Inman
(2-42-00-391.00, 393.00, 392.00, 397.00, 418.00)**

Leigh MacDonald presented the following staff report:

Factual Dates

Variance Application Received	06/27/2019
Deadline for Variance	07/02/2019
Public Notice – Herald Journal	07/14/2019
Adjoining Property owners notified	07/11/2019
Variance Sign Posted on Property	07/18/2019
Board of Appeals Hearing	07/30/2019

Background Information

Variance requests have been submitted for multiple properties located in the Lake Emory Subdivision in Inman, SC 29349.

517 Treasure Cv., 2-42-00-391.00

The applicant is requesting the following variance:
To reduce the front setback to 11.4’ from 15’ as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

520 Treasure Cv., 2-42-00-393.00

The applicant is requesting the following variances:

To reduce the front setback to 9.8’ from 15’ as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

To reduce the rear setback to 19.18’ from 20’ as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

523 Treasure Cv., 2-42-00-392.00

The applicant is requesting the following variance:
To reduce the rear setback to 19.9’ from 20’ as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

709 Outrigger Cv., 2-42-00-397.00

The applicant is requesting the following variances:

To reduce the front setback to 9' from 15' as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

To reduce the rear setback to 16.6' from 20' as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

This property has already been sold to new owners.

615 Hideaway Cv., 2-42-00-418.00

The applicant is requesting the following variance:

To reduce the front setback to 13.6' from 15' as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

The subject parcels all received a Certificate of Occupancy prior to May 14, 2019. The setback encroachments were revealed when as-built surveys were subsequently completed.

Staff Position

The subject properties are capable of housing the proposed uses and still meet all requirements as set forth in the ULMO. At this stage in the development, forcing the applicant to bring the existing permitted structures into compliance would be a great hindrance to the project. All other requirements of the ULMO not specified in this report will be met.

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

Chairman Padgett opened the public hearing.

Leslie Horne was sworn-in. He advised the board that a different company built these homes from the rest of the subdivision. A neighbor brought the encroachment to their attention and hired a surveyor to correct the problem. However, the financing on her property made it difficult to swap land. They then went back and had the rest surveyed and discovered the issues with these five cul-de-sac lots. The lots on Treasure Cove were pushed further up due to a bank in the rear.

Joel Escamilla was sworn-in. He lives at 510 Treasure Cove, which is adjacent to two of the subject lots. He had an unpleasant conversation with the builder when the landscaping was modified to accommodate the position of the homes and would like to know what precedent will be set if the variance is granted after the homes are already built. He feels that the closer the homes, the more noise reaches his home and the value of his home is decreased.

Richard Ebert was sworn-in. He also lives in the neighborhood and wanted to know whose responsibility it is to ensure that this does not keep happening and what the County is doing to rectify the situation.

Chairman Padgett responded that the Board's responsibility is solely to determine if each request meets the four state criteria. Thomas Davies added that there are not enough inspectors to go around and the trend is to build houses that are too large for the size of the lots.

Joel Escamilla notified the Board that one of the homes was built smaller to accommodate the size of the lot and felt the remainder could have been similarly adjusted.

Chairman Padgett closed the public hearing.

Kae Fleming inquired as to the restrictions referenced in the applications. Leigh MacDonald responded that the private restrictions on setbacks had been waived for these five properties by the developer.

517 Treasure Cv.

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) and the unique characteristics of the property due to the location of the lot on a cul-de-sac. Jack Gowan seconded the motion. The motion carried with a vote of 8 to 0.

520 Treasure Cv.

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) and the unique characteristics of the property due to the location of the lot on a cul-de-sac. Marion Gramling seconded the motion. The motion carried with a vote of 7 to 1, with Angela Geter being the sole vote against the granting of the variance.

523 Treasure Cv.

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) and the unique characteristics of the property due to the location of the lot on a cul-de-sac. Jack Gowan seconded the motion. The motion carried with a vote of 8 to 0.

709 Outrigger Cv.

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) and the unique characteristics of the property due to the location of the lot on a cul-de-sac. Kae Fleming seconded the motion. The motion carried with a vote of 8 to 0.

615 Hideaway Cv.

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) and the unique characteristics of the property due to the location of the lot on a cul-de-sac. Thomas Davies seconded the motion. The motion carried with a vote of 8 to 0.

d. Variance Request – Butler Knoll

**302, 306, 310, 314, 318, 322, 326, 330, 334, 338, 342, 346 Elevation Ct., Inman
(2-37-00-037.02, .03, .04, .05, .06, .07, .08, .09, .10, .11, .12, .13)**

Marion Gramling recused himself as the surveyor for this development.

Chairman Padgett had concern over acting on this case and wished to remand the project back to the Planning Commission for review and approval of the different setback. Thomas Davies made a motion to remand this request back to the Planning Commission. Jason Patrick seconded the motion. The motion carried with a vote of 7 to 1, with Jack Gowan being the sole vote against remanding the request back to the Planning Commission.

5. Other Business –

Josh Henderson advised the Board that he accepted a job at Greenville County and August 9th will be his last day.

6. Adjournment

There being no other business, Thomas Davies made a motion to adjourn. Angela Geter seconded the motion. The motion carried with a vote of 8 to 0.