



Spartanburg County

Planning and Development Department

MINUTES

Unified Land Management

Board of Appeals

September 25, 2018

Members

Present:

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

Members

Absent:

Jonathan Adams
Marion Gramling

Staff Present:

John Harris, County Attorney
Bob Harkrader, Planning Director
Joan Holliday, Deputy Director
Joshua Henderson, Senior Planner
Leigh Davis, 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 Michael Padgett called the meeting to order.

2. Approval of Minutes of August 28, 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 –

a. Variance Request – FFNCO

2409 Boiling Springs Rd., Boiling Springs (2-51-03-015.00)

Josh Henderson advised the Board that the applicant had requested these variance requests be withdrawn.

Thomas Davies made a motion to accept the withdrawal. Angela Geter seconded the motion. The motion carried with a vote of 7 to 0.

**b. Variance Request – Conquip Rental
8861 Asheville Hwy., Boiling Springs (2-50-00-275.00)**

Josh Henderson advised the Board that the applicant had requested this variance request be withdrawn.

Thomas Davies made a motion to accept the withdrawal. Jason Patrick seconded the motion. The motion carried with a vote of 7 to 0.

**c. Variance Request – N Auto & Truck
157 Page Rd., Campobello (1-21-00-054.13)**

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

Factual Dates

Variance Application Received	07/10/2018
Deadline for Variance	08/28/2018
Public Notice – Herald Journal	09/09/2018
Adjoining Property owners notified	09/10/2018
Variance Sign Posted on Property	09/10/2018
Board of Appeals Hearing	09/25/2018

Background Information

Dimitriy Kolesnik has submitted a variance request for the property located at 157 Page Rd., Campobello, SC 29322. The applicant is proposing to convert the existing metal building into a dealership. The existing building currently encroaches into the required setback for a commercial business.

The applicant is requesting to reduce the rear setback to 15.3’ from 20’ 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 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 appears to meet this criteria.

The subject property is unable to be used as a commercial business without approval of the variance.

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 building will not encroach any further into the required setback than the current placement.

Given the lack of extraordinary conditions of the property, the request to reduce the required rear setback to 15.3' 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.

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

Chairman Padgett asked if the structure had been used as a commercial building previously. Mr. Henderson advised the Board that the electrical permit was issued for a personal use storage building.

Chairman Padgett opened the public hearing.

Dimitriy Kolesnik was sworn-in. He purchased the property with the building already constructed. He was told the previous owner operated a printing business out of the building and prior to that, the property was owned by Duke Energy.

Chairman Padgett closed the public hearing.

Thomas Davies inquired as to the year the structure was built and if it could be considered an existing non-conforming structure. Jack Gowan believed it likely the property was used commercially when it was owned by Duke Power.

John Harris, County Attorney, advised the Board that the Assessor's page reflects this property as non-qualified residential vacant and was not assessed prior to 2016 so a change in the usage is unlikely and the structure was likely considered an accessory structure when Duke Power sold the property in 1997.

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 property was originally owned by Duke Power and believed to have been used commercially and would therefore be considered an existing non-conforming structure.

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 existing non-conforming structures.

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 subject property is unable to be used as a commercial business without approval of the variance.

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 existing structure would not encroach any further into the required setback than the current encroachment.

Thomas Davies seconded the motion. The motion carried with a vote of 7 to 0.

**d. Variance Request – Beverly & James Brookshire
302 Palmetto Dr., Greer (9-02-07-007.01)**

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

Factual Dates

Variance Application Received	08/21/2018
Deadline for Variance	08/28/2018
Public Notice – Herald Journal	09/09/2018
Adjoining Property owners notified	09/10/2018
Variance Sign Posted on Property	09/10/2018
Board of Appeals Hearing	09/25/2018

Background Information

Beverly & James Brookshire have submitted a variance request for the property located at 302 Palmetto Dr., Greer, SC 29651. The applicant discovered his shed does not meet setback requirements upon applying for a building permit and on-site inspection.

The applicant is requesting the following variances:

Variance 1:

To reduce the side setback to 2.52' from 5' as required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks & Other Requirements.

Variance 2:

To reduce the rear setback to 2.3' from 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 requests do 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 requests do 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 requests do not appear to meet this criteria.

Staff finds the property capable of housing the proposed use while maintaining the required setbacks.

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 shed has been placed inside the existing fence and does not appear to impact any of the surrounding properties.

Given the lack of extraordinary conditions of the property, the requests to reduce the required side setback to 2.52' from 5', and rear setback to 2.3' from 5' do 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 variances.

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

Chairman Padgett opened the public hearing.

Stacy Brookshire was sworn-in to speak on behalf of his father, Larry Brookshire. He submitted photographs of the existing structure and property to the Board, as well as a letter from the fire chief in support of the variance. He stated that the property is close to the lake and the topography of the land creates an area that retains water and would cause drainage issues if the structure were to be moved further away from the property lines. He explained that it was to be used for a storage workshop and they had originally hired a contractor to pour the slab, which was done without a footer to support the building and caused them to lose an additional foot.

Chairman Padgett closed the public hearing.

Chairman Padgett explained that the documents for obtaining a building permit state that setback requirement must be met and the building could be moved.

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). There being no second, Mr. Gowan withdrew his motion.

Chairman Padgett asked the applicant if there were any deed restrictions with setback requirements. The applicant was unsure if there were any restrictions or not. In light of the Board's inquiry, John Harris advised there were restrictive covenants that would need to be reviewed.

Thomas Davies made a motion to postpone the decision to the October 23, 2018 meeting to allow time to review the restriction documents. Jonathan Patrick seconded the motion. The motion carried with a vote of 7 to 0.

5. Other Business –

Bob Harkrader advised the Board that after further investigation, additional information had been found regarding the N Auto & Truck request. The previous owner purchased the property in 2010 and between 2008 and 2010, the property was not used as a commercial business. The Board took no action in light of this additional information.

6. Adjournment

There being no other business, Thomas Davies made a motion to adjourn. Kae Fleming seconded the motion. The motion carried with a vote of 7 to 0.