



Spartanburg County

Planning and Development Department

Board of Zoning Appeals

MINUTES

February 22, 2022

Members

Present:

Michael Padgett, Vice Chairman

Glenda Brady

Thomas Davies

Kae Fleming

Angela Geter

Jason Patrick

Members

Absent:

Jack Gowan, Jr., Chairman

Marion Gramling

Staff Present:

Joan Holliday, Director

Leigh MacDonald, Manager

Jeff DeWitt, Senior Planner

Bonnie Gibbs, Development Coordinator I

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

Vice Chairman Michael Padgett called the meeting to order at 4:32 PM.

2. Approval of Minutes November 30, 2021 Meeting

Thomas Davies moved to approve the minutes of the November 30, 2021 BZA meeting.

Michael Padgett seconded the motion. The motion carried with a vote of 6 to 0.

3. Unfinished Business

Mike Padgett mentioned two code enforcement concerns and asked staff to follow up on those matters.

4. New Business

A. Selection of Nominating Committee

Thomas Davies, Kae Fleming and Glenda Brady

B. Variance Request:

Single Family Residence, 109 Bay Tree Court

Tax Map Number: 2-22-00-467.00

1. Front Setback Requirement

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

Variance Request

Staff Report

Single Family Residence			
Meeting Date: February 22, 2022			
Address	109 Bay Tree Court, Inman, SC 29349	Ordinance	ULMO
Factual Dates	Variance Application Received	01/21/2022	
	Deadline for Variance	01/25/2021	
	Public Notice	01/31/2022	
	Adjoining Property Owner Notification	02/08/2022	
	Variance Signs Posted on Property	02/08/2022	
Applicant	Traci Y. Belk		
Applicant Status	Attorney for Owner		
Map Number	17.4 feet		
Acreage	0.22 acres		
Staff	Jeff DeWitt		

Request:

The applicant is requesting to reduce the total front setback required in Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks and Other Requirements.

Type	Required Setback	Proposed Setback	Variance
Front Setback – Bay Tree Ct	20 feet	17.4 feet	2.6 feet

Background Information:

The subject site is a residential lot that is developed with a single-family home. The site is part of the Woodfin Ridge subdivision. The current home was built in 2009, and a

Certificate of Occupancy was issued.

The property is surrounded by other lots within the subdivision, all of which are developed with single-family residential structures similar to the one on the subject site.

Staff Position:

If granted the front setback variance, 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 current site structure was built in 2009 and a Certificate of Occupancy (CO) was issued by Spartanburg County. The structure is built on a slightly curved section of Bay Tree Road, which affects the location of the setback lines relative to the buildable area of the lot.

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

Staff Analysis:

Most of the other lots are designed so that the side property lines are perpendicular to the front property line.

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:

If a variance is not granted, a portion of the of attached garage and second floor bonus room would have to be removed to bring this structure into compliance with the ULMO.

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 current structure was constructed in 2009 and other homes in the immediate vicinity were constructed between 2006 and 2015. A review of records from the Planning and Development Department did not identify any complaints regarding a setback encroachment at the subject site.

Attachments:

- 1. Aerial Map from GIS**
- 2. Variance Application**
- 3. Site plan**
- 4. Frontal view of project 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 then summarized the Staff Report for this site.

Vice Chairman Michael Padgett opened the public hearing and asked if anyone was present to speak in favor of the variance. Mr. Padgett recognized Ms. Lynelle Henderson to speak in support of the variance. Ms. Henderson was sworn in.

Vice-Chair Padgett asked if anyone was present that wished to speak in opposition of the variance. Mr. Khayri McLean was sworn in. Mr. McLean explained that he wasn't necessarily in opposition to the variance, but that he simply wanted an explanation of what the variance was about. He is the owner/occupant of the home immediately to the right of the subject site at 113 Bay Tree Ct and he wanted to know if a variance would impact his property. Mr. Padgett explained the front setback regulation and stated that the choices are to grant a variance or remove 2.6 feet of the existing home. He explained that the variance will not impact Mr. McLean's property.

Vice-Chair Padgett then asked if anyone was present that wished to speak in opposition of the variance Hearing none, he closed the public hearing.

The Board discussed the request among themselves. Ms. Brady expressed frustration that the BZA frequently deals with setback encroachments in new developments. During the discussion among the members, various options to deal with this issue were mentioned, including having County staff verify setbacks before foundations are poured, requiring foundation or as-built surveys by the builder/developer prior to issuance of the Certificate of Occupancy, or allowing Planning staff the discretion to approved minor variances. During discussion, Angela Jeter asked County Attorney John Harris what option might exist for the BZA to address this issue. Mr. Harris explained that the options discussed by the BZA could be addressed by adding a step or steps to the development process by adding the footing/foundation survey. Planning Department staff does not have the time, equipment or survey expertise to perform foundation surveys. He explained that this issue would likely be addressed through a change in policy or ordinance by County Council. Mr. Harris stated that some jurisdictions do require a foundation survey but that Spartanburg County currently does not. He added that a second option to reduce the number of

setback variances that come before the BZA would be to allow Planning staff to grant administrative variances in limited cases. In jurisdictions that allow this, staff is typically granted the ability to approve variances of up to ten percent of the standard setback. A change in the County zoning ordinances would be required to implement this change. Lastly, Mr. Harris emphasized that the BZA only deals with a very small percentage of the houses being built in the County. When compared to the total number of new homes built over the past several years, the number that have come before the BZA for a variance is actually a very small percentage. After brief discussion, Thomas Davies moved to approve the variance as requested and Jason Patrick seconded the motion. The motion carried unanimously (6-0) in favor of the variance.

4. Other Business

5. Adjourn

There being no other business, Glenda Brady moved to adjourn, and Angela Geter seconded the motion. Motion carried with a vote of 6 to 0. Meeting adjourned at 5:04 PM.