



Spartanburg County

Planning and Development Department

Board of Zoning Appeals MINUTES

June 30, 2020

Members

Present:

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

Members

Absent:

Jason Patrick
Marion Gramling

Staff Present:

Joan Holliday, Interim Planning Director
Laurie Oakman, Senior Planner
Rachel Dill, Development Coordinator
Bonnie Gibbs, Development Coordinator
Ginny DuPont, County Attorney

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 February 25, 2020 Meeting

Tom Davies made a motion to approve the minutes. Angela Geter seconded the motion, which carried with an affirmative vote of 7 to 0.

3. Unfinished Business –None

4. New Business –

A. Variance Request:

Doris Ghionis- 336 Oliver Drive, Inman

Tax Map Number: 1-30-01-010.01
Variance on rear setback

Joan Holliday informed the Board that the Staff had changed the format a bit and made it more comprehensive, adding back the staff's position as to whether the variance request meets the four criteria required to be addressed by the Board under State Statute.

Ms. Holliday was sworn in and presented the following Staff Report.

1. Factual Dates

Original Dates – Meeting Cancelled Due to COVID-19 Work-Home Order of Governor

a.	Variance Application Received	02/21/2020
b.	Deadline for Variance	03/03/2020
c.	Public Notice – Herald Journal	03/15/2020
d.	Adjoining Property owners notified	03/20/2020
e.	Variance Sign Posted on Property	03/12/2020
f.	Meeting Cancelled	03/26/2020
g.	Adjoining property owners notified by phone	03/30/2020
	Property Owner Notified by letter of canceled hearing date	03/31/2020
h.	Board of Appeals Hearing	03/30/2020

New Dates

a.	Variance Application Received	02/21/2020
b.	Deadline for Variance	06/02/2020
c.	Public Notice – Herald Journal	06/14/2020
d.	Adjoining Property owners notified	06/15/2020
e.	Variance Sign Posted on Property	06/17/2020
f.	Board of Appeals Hearing	06/30/2020

2. Owner/Applicant: Doris L Ghionis

3. Agent: Randy Settle

4. Location: 336 Oliver Drive, Inman, SC 29349

5. Request: Randy Settle, Agent on behalf of Doris L Ghionis, the property owner, has submitted a variance request for 336 Oliver Drive (Lot 42 of the Burns Subdivision). The purpose of the variance request is to allow new deck (270 sq. ft.) within the required rear yard setback. The required rear set back from the required rear lot line in accordance with Section 2.02-1 Dimensional Standards, table 3 a Residential Setbacks and All Other Requirements is 20 feet, the applicant is requesting a setback of 13.4 feet, a reduction of 6.6 feet. A variance is needed due to SCDHEC requiring the placement of the septic tank on the street side of the house necessitating that the house be pushed back towards the Lake. The change in the datum that moved the 827' contour line, the Spartanburg Water ownership contour, further reduces the size of the property.

6. Background Information: The Burns Subdivision was platted in 1962 prior to adoption of subdivision regulations by Spartanburg County. As such, this is a Lot of Record as defined by the Spartanburg County Unified Land Management Ordinance. Many of the homes in this community do not meet the current setback requirements of the ULMO since they pre-dated the Ordinance.

Another lot (1-30-01-019.00) on this street was granted a setback variance at the February 24, 2015 Land Management Board of Appeals.

7. Total Acreage: 0.16 acres (Lot 42 of the Burns Subdivision)

8. Detailed Description:

The South Carolina Department of Health and Environmental Control (DHEC) issued a permit to install a septic system to serve this 2-bedroom home. The septic tank and drain lines are shown on the permit to be installed between the new house and Oliver Drive. The installation of the septic tank in the front pushes the house and the deck closer to the 827' contour line in the rear.

The staff asked the applicant to bring the variance for the deck to a later meeting since the County cancelled the initial meeting due to the coronavirus. Since the house did not encroach into the rear setback, construction was allowed to begin.

Applicant's Statement: The applicant is requesting to reduce the required rear setback to 13.4 feet from the 20-foot requirement along the rear lot line as required in Section 2.02-1 Dimensional Standards, Table 3a Residential Setbacks & All Other Requirements for a new deck.

9. Applicable Ordinance and Zoning: Unified Land Management Ordinance (ULMO) Section 2.02-1, Dimensional Standards Table 3A, Residential Setbacks and Other Requirements – Requirement for rear setback is 20 feet.

10. Staff Planner(s): Telly Shinas and Bonnie Gibbs

11. Staff Position: The Staff realizes that this is a property affected by the change in the 827' Spartanburg Water ownership contour and, as such, would support the variance. This neighborhood was established prior to any Spartanburg County land use or zoning ordinances and prior to the change in the datum that moved the contour lines. SCDHEC has required the septic tank be placed on the street side of the new house necessitating that the placement of the structure be pushed back toward the Lake.

12. See attached information for applicant's response to required criteria for granting a variance as outlined in SC Statute.

13. Staff Analysis of Four Variance Criteria: After reviewing the application for variance, materials, reviewing and findings outlined below in the applicant's application and Unified Land Management Ordinance, staff determined that the findings that must be noted according to the ULMO Section 5.02-2 2. a-d can be substantiated, including that granting such variance to be more profitably is not a consideration in this case.

Required Findings: Such variance may be granted in such individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing the following findings:

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

Staff Comment: The rear of the property has changed due to the contour line to 827' Spartanburg Water ownership contour. This neighborhood was established prior to any Spartanburg County land use or zoning ordinances and prior to the change in the datum that moved the contour lines. SCDHEC has required the septic tank on the street side of the house necessitating that the house be pushed back toward the Lake, because of this special circumstance applicable to the rear topography of the lot, finding (a) can be met.

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

Staff Comment: The variance request meets this criteria. The lots in this area are not typically as narrow as the lot in question, and some still do not meet setback requirements. While all lots were affected by the contour line and individual property line around Lake Bowen, homes have already been constructed on most of the lots and encroach into to the rear setbacks. Other lots in the area have been combined resulting in a larger building envelope. There is precedence already established within the Burns Subdivision for the reduced rear setback. As such, Finding (b.) can be met.

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.

Staff Comment: The subdivision was platted in 1962 prior to adoption of subdivision regulations by Spartanburg County. As such, this is a Lot of Record as defined by County ordinance. Most of the homes in this community do not meet the current setback requirements of the Unified Land Management Ordinance since they pre-dated the Ordinance. As such, the application of the Ordinance to this lot of record would effectively prohibit or unreasonably restrict utilization of the property, in this case the rear property line. The strict application of a 20-foot rear setback will limit the size of the deck and the enjoyment of this waterfront lot. Finding (c.) can be made.

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 area will not be harmed by the granting of the variance.

Staff Comment: The variance for this lot of record will not be of substantial detriment to the adjacent property owner, or the public good, and the character of the area will not be harmed by granting the variance. Staff recommends supporting the applicant's request for a minor reduction of the rear setback from 20' to 13.4 feet. As noted in (C) of the same variance request that was previously granted at the neighboring lots in the Burns Subdivision. As such, Finding (d.) can be made.

The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

Staff Comment: Staff's assessment is that the modification is being requested due to the regulations in the ULMO, where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property due to change in 827' contour line, and placement of the septic system to the front of the property, that the literal enforcement of the Ordinance would result in unnecessary and undue hardship, as such Finding that the variance may be more profitably is not a consideration.

Ms. Holliday presented the Board with an aerial view, site plan, plat, and surrounding properties of 336 Oliver Drive, Inman.

Ms. Holliday stated that, at the time of Spartanburg County's closure due to the coronavirus and the BZA meeting was cancelled, construction on the home was allowed to commence since it met the setbacks. She said that Mrs. Ghionis was seeking the variance to allow a deck to be built onto the back of her new home that was still under construction. The requested setback was a reduction of 6.6 feet from the required 20 foot rear setback. Ms. Holliday presented the Board with other properties that did not meet current setbacks due to contour change. She also showed a slide of a neighboring residence that was granted a variance based on the contour change.

Ms. Holliday told the Board that the Staff gave their assessment of the four criteria in the new format, and she hoped that it would be helpful to the Board in formulating motions that address the criteria as required by State Statute.

Chairman Padgett asked Ms. Holliday if a deck was actually considered part of the structure. She said that it is and that every part of the house should be inside the building envelope. Chairman Padgett requested that County Attorney, Ginny Dupont, look into the specific requirements for open air decks for future clarification.

Kae Fleming asked if the deck were not attached to the home what it would be considered. Ms. Holliday told her that it would be considered an accessory and would have lesser setback requirements.

Chairman Padgett opened the public hearing, asking if anyone would like to speak in favor of the variance.

Homeowner, Doris Ghionis, was sworn in. Ms. Ghionis said that she was very pleased with the lot and the builder, but expressed distress in the aesthetic nature of the home if she were unable to have a deck on the back of the house. She requested that the Board members take into consideration that the pole portion of her deck would be the only part of the structure in the area where she requested the setback.

Contractor, Randy Settle was sworn in. Mr. Settle stated that the home was actually 120 feet or more from the water and that prior to the contour change this home would have met setbacks. He said he the deck would be in close proximity to the lake and mentioned that he questioned the possibility that a mistake had been made in former surveys of the property.

Chairman Padgett asked if anyone was there to speak in opposition of the variance. There being none, Chairman Padgett closed the public hearing. The board discussed the matter among themselves.

Tom Davies made a motion to grant the variance based on the determination that the request meets all the 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) as expressed in the Staff Report. Kae Fleming seconded the motion. The motion carried with a vote of 7 to 0.

5. Other Business –

Vote on slate of officers for 2020. The nominations are Jack Gowan as Chairman, Mike Padgett as Vice Chairman, and Thomas Davies as Secretary.

Mike Padgett read aloud the nominations and asked if there were any nominations from the floor. There being none, Jack Gowan was appointed Chairman, Mike Padgett, Vice Chairman, and Thomas Davies as Secretary all by acclamation.

6. Adjournment

There being no other business, Tom Davies made a motion to adjourn. Jack Gowan seconded the motion. The motion carried with a vote of 7 to 0.