



Spartanburg County

Planning and Development Department

Board of Zoning Appeals MINUTES

November 24, 2020

Members

Present:

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

Members

Absent:

Glenda Brady
Marion Gramling
Louise Rakes

Staff Present:

Joan Holliday, Interim Planning Director
Telly Shinas, Development Manager
Richard Carpenter, Planner IV
Rachel Dill, Development Coordinator I

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 Jack Gowan, Jr. called the meeting to order.

2. Approval of Minutes of September 29, 2020 Meeting

Thomas Davies made a motion to approve the minutes. Kae Fleming seconded the motion which carried with an affirmative vote of 6 to 0.

3. Unfinished Business –

4. New Business –

A. Variance Request:

Terry A & Brenda L Bragg- 104 Lake Front Circle, Lyman

Tax Map Number: 5-05-12-037.00
 Variance on setback

Rick Carpenter was sworn in and presented the Staff Report for Terry A & Brenda L Bragg.

Variance Request

Staff Report

Terry & Brenda Bragg			
Meeting Date: November 24, 2020			
Reference Name	104 Lake Front Circle	Jurisdiction	County (ULMO)
Factual Dates	Variance Application Received	10/20/2020	
	Deadline for Variance	10/27/2020	
	Public Notice	11/3/2020	
	Adjoining Property Owner Notification	11/12/2020	
	Variance Signs Posted on Property	11/12/2020	
Applicant	Randy Settle		
Applicant Status	Contractor		
Map Number	5-05-12-037.00		

Request:

1. The applicant is requesting to reduce the total side setback required in Table 3a – Residential Setbacks and Other Requirements of the Unified Land Management Ordinance.

Required Setback	Proposed Setback
5 Feet	3 Feet

Background Information:

The subject site is currently vacant and was previously occupied by a single family residence. The original residence was approximately 2,432 square feet and built in 1962. The applicant is proposing a new single family dwelling. The original home was demolished with the intent to re-build. The newly proposed construction required an engineered septic system to be placed adjacent to the dwelling. This septic system has altered the plans for the proposed single family dwelling due to its location on the lot.

Total Acreage:

5-05-12-037.00 – Approximate parcel acreage is .23 ac.

Applicable Ordinance and Zoning:

Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks and Other Requirements

Staff Planner(s):

Richard Carpenter – Planner IV

Staff Position:

The previous residence and the proposed single family residence are a conforming use per the Unified Land Management Ordinance (ULMO). The applicant is proposing a fourteen (14) foot by thirty-two (32) foot deck. This deck is surveyed to encroach into the five (5) foot side setback by two (2) feet. The original house was purchased and subsequently demolished by the property owners. The original septic system was destroyed in addition to the dwelling. The new engineered septic system was approved by the Department of Health and Human Services of South Carolina, but the location of the system on the lot cannot be moved.

The applicant wishes to seek relief from the strict application of the zoning ordinance in relation to side setback. Single family dwellings have a side setback of five (5) feet and the applicant has requested a reduction of two (2) feet on that setback. This reduction would allow the developer/applicant the ability to complete the construction using their proposed design for a fourteen (14) by thirty-two (32) foot covered deck along the side of the structure.

Staff Analysis:

The board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings.

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

Staff Analysis. The subject property is impacted by the engineered septic system requirements, the shape of the lot, and the general proximity to a body of water. It is these compounding factors that, combined, illustrate the applicant’s position as it pertains to any exceptional conditions on the property.

See Attachment 2 for the applicant’s response to the hardship caused by strict application of the ordinance.

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

Staff Analysis. The conditions subjected to the subject site do not apply to all properties in the general vicinity. Some of the adjacent parcels face similar limiting lot configuration characteristics, while others enjoy larger lot sizes. Generally, lots that abut the water’s edge are narrow in design as compared to neighboring dwellings that do not front the water.

See Attachment 2 for the applicant’s response to the hardship caused by strict application of the ordinance.

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. Strict application of the ordinance would not limit the applicant's ability to build their proposed dwelling unit, but it would restrict the size of the proposed covered deck. Strict application of the ordinance would decrease the width of the deck to approximately twelve (12) feet instead of the proposed fourteen (14) feet.

See Attachment 2 for the applicant's response to the hardship caused by strict application of the ordinance.

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 authorization of a variance, as it relates to the side setback, would not have a negative impact on overall community character. The properties that front the water are generally closer to side lot lines than other dwellings in the community.

See Attachment 2 for the applicant's response to the hardship caused by strict application of the ordinance.

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

Staff Analysis. The primary argument for this variance is the location of the new septic system and the width of the covered deck. The project could continue without the variance if the deck was reduced in size. However, the applicant feels that the reduction of the deck would be detrimental to the design and not conform to the surrounding area.

Attachments:

1. Context map
2. Application
3. Site design
4. Frontal view of project site

Mr. Carpenter presented the Board with the application for a setback variance located at 104 Lake Front Circle, Lyman. Mr. Carpenter was unable to connect to the screens in the Council Chambers

and requested that the board to use the information and images located in the packet for reference while he presented the staff report.

Mr. Carpenter stated that the applicant was seeking a side setback of three feet instead of the required five foot side setback. Mr. Carpenter also said the setback variance was requested in order to build an attached deck to the residential structure.

Chairman Jack Gowan opened the Public Hearing and asked if anyone was there to speak in favor of the variance.

Property owner, Terry A Bragg, was sworn in. Mr. Bragg stated that he learned at the onset of construction that the location of a new septic tank would not be allowed to go in the location they had previously planned. He said that due to the engineered plans and the problems they had encountered with drainage that he and his wife had lost the use of much of the property that they would have originally used.

Tom Davies asked why Mr. Bragg did not have a twelve-foot deck instead of a fourteen-foot deck and eliminate the need for a side setback variance. Mr. Bragg stated that he had a deck on the rear of his home that was fourteen feet and that since so much of his buildable property was compromised, he wished to have as much square footage possible to enjoy what was left of the buildable property.

Chairman Jack Gowan asked if anyone else wished to speak in favor of the variance request. Hearing none, Chairman Gowan asked if anyone wished to speak in opposition of the variance.

Robin Pridemore was sworn in. Ms. Pridemore said that she was the neighbor on the side of the property referenced in the variance request. She asked if the Braggs would have to obtain another variance approval in order to turn the deck they planned to build into a sunroom.

Vice Chairman, Mike Padgett, stated that if they chose to enclose the deck that the Braggs would not have to obtain another variance, but would have to go through the proper channels at Building Codes and obtain a permit.

Chairman Jack Gowan asked if anyone else wished to speak in opposition of the variance. Hearing none, he closed the Public Hearing.

The board discussed the matter among themselves.

Mike Padgett asked for clarification on whether an open air deck was part of the actual structure. Development Coordinator, Rachel Dill, stated that the Planning Department considered any part of a residential structure must be inside the building envelope. She also said that if the deck was not attached to the residential structure it would be considered an accessory, but would still have a side setback of five feet from the property line. Interim Planning Director, Joan Holliday, confirmed the comment made by Rachel Dill.

Chairman Gowan reopened the Public Hearing when a gentleman spoke up in the audience.

Randy Settle, contractor for Terry and Brenda Bragg, was sworn in to speak in favor of the variance. Mr. Settle stated that the deck was not part of the foundation, but that it was attached to the home.

Chairman Jack Gowan asked if anyone else wished to speak in favor or opposition of the variance. Hearing none, he closed the Public Hearing.

Tom Davies made a motion to deny the side setback variance based on the determination that the request does not meet 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 6 to 0.

5. Other Business

Mike Padgett asked whether the County Attorney had researched his question from the past meetings regarding a deck is considered part of the residential structure. Ms. Holliday stated that the Planning Department considers it a part of the structure and requires it to be inside the building envelope.

6. Adjourn

There being no other business, Jason Patrick made a motion to adjourn. Angela Geter seconded the motion. The motion carried with a vote of 6 to 0.

