

**Meeting Minutes of the Board of Zoning Appeals
Tuesday, November 14th , 2023, at 5:15 PM
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, November 14th, 2023, at 5:15PM with the following members in attendance **McKay Moore, Darren Matz, Brian Cohen, Brian Murdoch and Don Bramblett**. Representing the Planning Department is **Nan Zhou, Planner II, Tia Keitt, Planner II, and Oksana Holbrooks, Administrative Assistant**.

Roll Call:

Mr. Bramblett: Don Bramblett
Ms. Moore: McKay Moore.
Mr. Matz: Darren Matz.
Mr. Murdoch: Brian Murdoch
Mr. Cohen: Brian Cohen

Mr. Matz: The Freedom of Information Act Compliance. Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the requirements of the City of Spartanburg Zoning Ordinance.

Approval of Agenda:

A motion was made by Ms. Moore, seconded Mr. Murdoch to approve the agenda. The motion was approved with a vote of 5-0.

Ms. Moore: I move we approve the agenda.
Mr. Murdoch: Second
Mr. Matz: All in favor of motion say aye?
Attendees: Aye.

Mr. Matz: The next item is the disposition of meeting minutes. I believe we had some additional changes?

Approval of Meeting Minutes from October 10th, 2023.

A motion was made by Ms. Moore seconded Mr. Bramblett The motion was approved with a vote of 5-0.

Ms. Moore: I move that we approve the changes.
Mr. Bramblett: Second.
Mr. Matz: All in favor?
Attendees: Aye.

Old Business: None

New Business:

VAR-23-020-0014: The City of Spartanburg's Board of Zoning Appeals has received a request for a Variance to the front setback to allow for renovations to a home located at 107 Kent Place (TMS: 7-13-06-062.00); with a zoning designation of R-15 (Single Family Residential District). Owner/Applicant: Alane and Rex Russell; The Contessa's Cottage, LLC.

Project Description and History

Property owners Alane & Rex Russell of 107 & 109 Kent Place are renovating both homes and have decided to enclose the carport at 107 Kent Place to increase the livable space for future residents. Following the renovation, the owners planned to add a carport to the front of the home, essentially, extending the front of the driveway by no greater than 22 feet. By adding the carport, the 20' x 20' addition will encroach into the 40ft setback required for R15 residential zoning. The owners anticipate the carport not encroaching beyond 22ft from the property line. The owners are requesting a Variance to the setback requirements to allow for a carport to be added to the home.

According to the owners, they have added a bathroom, laundry room and storage space where the original carport was located. The original carport space has been enclosed and the owners want to offer a covered parking space for future homeowners. The owners quickly learned that installing a carport would exceed the setbacks for R15 zoning; therefore they are before the BZA asking for a Variance.

Analysis

Zoning Ordinance Consistency

§ 201. ZONING DISTRICTS

R-15 These districts exist for the protection of areas, most of (Single Family Residential) them large in size, that have been and are being developed predominantly for low-density single-family dwellings and low-density planned unit developments. Accordingly, the use of land and buildings within such areas is limited to single family detached dwellings, mixed dwellings permitted in PDDs and to such nonresidential uses as generally support and harmonize with these low-density residential districts.

§603.3(2) THE BOARD OF APPEALS HAS THE FOLLOWING POWERS:

To hear and decide appeals for Variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the findings [below].

§603.4 VARIANCES.

The Board must utilize **Section 603.4(1)** and determine if a Variance may be granted only in the following instances and in no others: **To permit any yard less than the requirements of this Ordinance**; The Board may grant approval of the Variance in an individual case of unnecessary hardship if the Board makes and explains in writing the following Findings:

FINDINGS

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

Compared to neighboring homes, 107 & 109 Kent Place structures are closer to the front property line, yet both homes do meet the 40' front setback required in R15 zoning districts. Once the owners decided to turn the carport into a livable space, they figured they would install a new carport in the existing driveway, ultimately erecting a 20x20 structure beyond the front of the home. Staff did ask the owners if they considered creating parking in the rear of the home, to which they explained the grading challenges and a significant drop closer to the rear property line makes that project not quite worth the time or money.

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

Kent Place is a very small subdivision of single-family parcels where some homes with an attached carport sit beyond 40' setback. R15 zoning districts provide a sizable front yard for property owners, 3600 sf, compared to 750 sf in R6 zoning districts. While 107 Kent Pl meets the minimum front yard requirements, compared to neighboring structures that are situated further from the front property line, 107 Kent Pl sits closer to the road. After reviewing the County's GIS One Map, the contour lines confirm a steep slope in the rear of the property, which probably motivated the developer to build these homes closer to the front property line.

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; and

The application of the R15 40ft zoning front setback would not effectively prohibit or unreasonably restrict the use of the property. The owner wants to provide covered parking, a residential amenity to protect vehicles, and not being able to offer this convenience cancels a feature that was once built into the home. The neighborhood has a mixture of homes, some with or without carports. Homes with carports share the same roof line, a common style for this housing development.

d. The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance.

The Planning Staff does not foresee the request as being a substantial detriment to adjacent properties, especially because the proposed structure will be a carport and not an enclosed garage. A traditional carport design (4 posts and a roof) is open, offers some visibility for adjoining properties, minimizing the intrusiveness of the addition to the home.

e. In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Variances from the regulations of this Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the standards established above. At the **November 14, 2023** meeting, the Board may Approve the Variance and allow the 20x20 carport encroach into the zoning setback. Approve w/ conditions that includes any requirements listed by Staff and/or designated by the Board of Zoning Appeals, or Deny the request.

In exercising its powers, the Board of Zoning Appeals may, in conformity with the provisions of Section 603, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination, and to that end, has all the powers of the officer from whom the appeal is taken and may direct the issuance of permit approval. The Board, in the execution of the duties specified

in this Chapter, may subpoena witnesses and in case of contempt may certify this fact to the circuit court having jurisdiction.

All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record. All Findings of Fact and conclusions of law must be separately stated in final decisions or orders of the Board which must be delivered to parties of interest by certified mail.

Applicant:

Alane and Rex Russell, 107 Kent Pl, Spartanburg, SC.

Public Comment:

Daniel Russell, 102 Cinder Ter, Spartanburg, SC.

Mitchell Kyllonen, 109 Kent Pl, Spartanburg, SC.

Constantine Ramantanin, 2426 Wallace Ave, Spartanburg, SC.

Discussion:

By constructing the carport this will enhance the neighborhood appeal and raise the property value to the surrounding area.

A motion was made by Mr. Murdoch, seconded Mr. Cohen to approve but no closer than 20' setback with a vote of 5-0.

VAR-23-002000015 The City of Spartanburg's Board of Zoning Appeals has received a Variance request to the side setback to property located at 341 and 353 Allen Street. (TMS # 7-12-09-056 & 7-12-09-055.00); with a zoning designation of DT-3 (Downtown Urban District). Owner/Applicant: Mike Ball

Project Description and History

The project sites are approximately 24,831 square foot lots located in the DT-3 (Downtown Urban District) zone. The project sites abut Allen Street to the north boundary and railroad to the south boundary. Properties to the northside of the project site and properties along side the project site are all zoned for DT-3, Downtown Urban District. Properties to the other side of the railroad (on the southside of the project site) are currently zoned for B-4, Heavy Commercial District.

Currently, the applicant/owner only owns the lot of 341 Allen St. and states that he purchased the lot of 353 Allen St. from Rice Ruby. Based on Tax Accessor's website record, 353 Allen St. is still under Rice Ruby's name with Contract for Sale (CS) to Mr. Mike Ball.

There is a primary structure on 341 Allen St with three detached accessory buildings in the back yard that were built without building permits. On 353 Allen St., there are five detached accessory structures (two in the front yard and three in the back yard) without a primary structure on the lot. Both lots have some code violations on file with the City of Spartanburg Code Enforcement Department. Based on the current City of Spartanburg Downtown Zoning Ordinance Accessory Building Standards, accessory structures are only allowed to be placed in the side or rear yard.

The applicant stated that one of the accessory buildings standing in the front yard of 353 Allen St. was built prior to the Downtown Zoning Ordinance. Therefore, the applicant is required to remove the other accessory building standing in the front yard on 353 Allen St. and other three accessory buildings on 341 Allen St. that were built without a building permit.

The applicant/owner is seeking a variance to the side setback to property (primary structure) located at 341 Allen St. The primary structure on 341 Allen St. was built 4 feet from the side property line. The current City of Spartanburg Downtown Zoning requires a 6 feet side setback from the property line.

Analysis

Zoning Ordinance Consistency

The project site has a zone designation of DT-3, Downtown Urban District. **Section 3.1.4 Use Standards by Zone Downtown Code of the City of Spartanburg** does allow for Dwelling Single Family.

The applicant is seeking side setback reduction variance for the primary structure on 341 Allen St. A Variance may be granted by the Board of Zoning Appeals to the minimum interior side setback standards required in the Downtown Code. Variances may only be granted in the instances listed in Section 603.4. Section 603.4 lists nine particular instances in which the Board may grant a Variance. Of these nine, two are applicable to this project;

Section 603.4 (2): to permit the reduction of any required setback being in compliance with all applicable Building and Fire Codes and subject to review by the Building Official.

The Board must utilize **Section 603.3(A)(2)** and determine if the proposal meets all the criterion for approval. To hear and decide appeals for Variance from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship. A Variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- b. These conditions do not generally apply to other properties 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; and
- d. The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance.
- e. In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Findings

1. ***There are extraordinary and exceptional conditions pertaining to the particular piece of property –***

The owner constructed an addition to the house throughout the years without knowing the right interior side setback requirement of the downtown urban district. There is no documentation or record from the Building Department relating to the building permit and inspection to the addition. Prior to constructing the addition to the primary structure, the primary structure was conforming to the Downtown Code.

2. ***These conditions do not generally apply to other properties in the vicinity –***

Property (359 Allen St.) to the right of the project site was built closer to the interior side property line back in 1917 based on Tax Accessor's record. It is a legal non-conforming property. Property across from the project site (342 Allen St.) was also built close to the street side property line back in 1949 based on Tax Accessor's record. It is a legal non-conforming property. The neighborhood surrounding Allen St and Short Allen St. is an older neighborhood where lots of houses were constructed prior to the adoption of the Downtown Code. Therefore, lots of the primary structures are legal non-conforming.

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; and –*

By granting the reduction of interior side setback for the primary structure on 341 Allen St., it will allow the applicant to keep his primary structure on the lot. Otherwise, the owner needs to move the foundation of the structure 2 more feet to meet the Downtown Code.

4. *The authorization of a Variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the Variance-*

No substantial detriment or harm will be caused to the general public good. The character of the district will not be harmed by the granting of the Variance since the neighborhood will still remain as residential uses. However, the owner/applicant needs to work in his due diligent with Code Enforcement Department to clean the lot(s) and meet the Zoning Ordinance requirements.

5. *In granting a Variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare-*

In the event the Board finds that the Variance finding can be met and the project approved, conditions of approval are attached to this report. The Board may choose to approve or amend them based on the outcome of this proposal.

Applicant:

Mike Ball, 341 and 353 Allen Street, Spartanburg SC.

Public Comments:

None.

Discussion:

The Code Enforcement violations that had been placed prior on this property will not affect the applicant obtaining approval for the BZA case.

A motion was made by Mr. Cohen, seconded Mr. Murdoch to approve the two-foot setback with a vote of 4-1.

Staff announcements.

The meeting was adjourned at 6:15 PM.



~~Darren Matz~~, Chairman

Brian A. Murdoch, Vice Chair