

**Meeting Minutes of the Board of Zoning Appeals
Tuesday, December 12th, 2023, at 5:15 PM
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, December 12th, 2023, at 5:15PM with the following members in attendance **McKay Moore, Dominique Dawkins, Brian Murdoch and Don Bramblett**. Representing the Planning Department is **Martin Livingston, Community Services Director, Nan Zhou, Planner II, Tia Keitt, Planner II, and Oksana Holbrooks, Administrative Assistant**.

Roll Call:

Mr. Bramblett: Don Bramblett
Ms. Moore: McKay Moore
Mr. Murdoch: Brian Murdoch
Ms. Dawkins: Dominique Dawkins

Mr. Murdoch: The Freedom of Information Act Compliance says this. 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 Mr. Bramblett, seconded Mr. Dominique to approve the agenda. The motion was approved with a vote of 4-0.

Mr. Bramblett: So moved.
Ms. Dawkins: Second
Mr. Murdoch: All in favor?
Attendees: Aye.

Mr. Murdoch: The next item is the disposition of meeting minutes from our last meeting November 14th, 2023. Any discussion from the minutes from anyone?

Approval of Meeting Minutes from November 14th, 2023.

A motion was made by Ms. Moore seconded Ms. Dawkins The motion was approved with a vote of 4-0.

Ms. Moore: I move that we approve the minutes.
Ms. Dawkins: Second.
Mr. Murdoch: All in favor?
Attendees: Aye.

Old Business: None

New Business:

The City of Spartanburg's Board of Zoning Appeals has received a request for an appeal to the permitted uses table Section 302 in the zoning ordinance to allow a temporary office use for property located at 101 Saint Matthews Lane (TMS: 6-21-01-004.00); with a zoning designation of R-15 (Single Family Residential District). Owner: Saint Matthews Episcopal Church / Applicant: St. Lukes Free Medical Clinic / Agent: Michael Gloystein.

Project Description and History

The Agent, Michael P. Gloystein, submitted an application on behalf of St. Lukes Free Medical Clinic to install a prefab shipping container / medical clinic (160 sf) in the rear of Saint Matthews Episcopal Church. The church currently offers free medical service to uninsured adults on Wednesdays (one day a week) in their gym. With the help of a parishioner (the Agent), the church now has the opportunity to provide this service in a stand-alone structure. The church is facing a zoning obstacle to operate on the site, coupled with requirements from the Building Official to operate a business inside of a container, permanently. The property is zoned R-15 where, even as a Home Occupation (See Section 303.62), a physician's office is not allowed to operate within this zoning district. However, in R-12 or lower, a physician's office can operate as a home-based business. After doing some preliminary research, the Agent learned that the R-15 zoning district where the church is located requires BZA approval for the proposed use. The Applicant is appealing §302 Use Regulations for Residential Districts.

Analysis

Zoning Ordinance Consistency

603.3 Appeals.

The Applicant is seeking an appeal to §302 USE REGULATIONS FOR RESIDENTIAL DISTRICTS. An appeal stays all legal proceedings in furtherance of the action appeal from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property.

The Board must utilize Section 603.3(A)(1) and determine if the proposed Appeal meets all the criterion for approval. The Board must hear and decide Appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

The Board may grant approval of the appeal in an individual case of unnecessary [site] 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;

The church campus is zoned R-15 and includes the sanctuary, church offices, a day care, church garden and a playground that is managed by the City of Spartanburg Parks & Recreation Department. Staff does not see any extraordinary nor exceptional conditions pertaining to this particular piece of property outside of the restrictions outlined in the residential zoning district.

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

Saint Matthews Episcopal is operating as a Special Exception in an R-15 residential zoning district, so their vision as a community resource comes under scrutiny through the zoning ordinance. The Planning Department has consulted with the Church to consider rezoning as their campus expand.

R-15 strictly enforces single family residential living, but allows for Home Occupations where there is no exterior evidence of the use permitted (no signage, no customers). R-12 or lower does allow for home occupations where limited signage and customers are allowed.

St. Lukes already provides this service at the church once a week on Wednesdays, now they'd like to move this service to a separate building.

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 Ordinance would not effectively prohibit or unreasonably restrict the use of the property. The church is able to function as is and the parishioners / volunteers are able to offer resources to the community in the existing space. However, despite the management of their supplies and resources it is obvious that operating both the food giveaway and the medical clinic in the gym, at the same time, has come down to making efficient use of space. With the aid of moveable all partitions, St. Lukes is able to create privacy for patient care.

d. The authorization of a [Appeal] 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, the authorization of the Appeal will not be of substantial detriment to the adjacent property or to the public. The church has been offering these services to the community for quite some time, so the weekly volunteers seem to have an efficient process in place. Allowing the container to be installed would give the church more space and provide the church the opportunity to utilize the gym differently during their food distribution.

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.

Staff recommends approval.

At the December 12, 2023, meeting, the Board may grant approval of the Appeal and allow the church to approve the appeal with conditions that includes Staff comments and any additional conditions designated by the board, or deny the request. In the case of a denial, the applicant would be required to meet the signage requirements as it is written, or appeal the Board's decision. If necessary, the Board can also table the matter for the next meeting and request additional information for review.

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:

Michael Gloystein, 228 W. Camelton Dr, Woodruff, SC.

Public Comment:

None.

Discussion:

The temporary structure is not noticeable from the road or an eyesore. By allowing the temporary use of the office, it provides great service to the community and will allow the church to serve the needs of people with little to no income.

A motion was made by Ms. Moore, seconded Ms. Dawkins to approve an appeal for temporary office use for property with a vote of 4-0.

VAR-23-00200017 The City of Spartanburg's Board of Zoning Appeals has received a Variance request to the side setback to property located at 1033 Glendalyn Cir. (TMS 7-13-05-047.00); with a zoning designation of R-15, Single Family Residential District. Owner / Applicant: Charlotte and Hunter Dawkins; Agent: Lucy Lynch, Lynch Architects.

Project Description and History

The project site is an approximately 29,580 square foot lot located in Converse Heights neighborhood with a zoning designation of R-15, Single Family Residential District. The project site abuts Glendalyn Cir. to the west boundary. The surrounding properties are all zoned for R-15, Single Family Residential District.

The applicant/agent are proposing to build a two-story addition to the rear yard encroaching 5' into 15' side yard setback requirement (a triangular area of about 50 SF will encroach into the setback area). Therefore, a variance of reducing the side setback than required (from 15' to 10') is requested in order for the applicant to accomplish the addition project in the rear yard.

Analysis

Zoning Ordinance Consistency

The project site has a zone designation of R-15, Single Family Residential District. **Section 302.1 R-15 Single Family Residential District Uses Permitted by Right** of the City of Spartanburg Zoning Ordinance, R-15, Single Family Residential District, does allow Single Family dwellings.

However, given the size of the two-story addition in the rear yard, it will encroach 5' into the 15' minimum side setback requirement. The applicant is seeking side setback reduction variance for the addition to be built in the rear yard. A Variance may be granted by the Board of Zoning Appeals to the minimum side setback standards required in the ordinance. 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, one is 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 existing primary structure was built closer to the left property line. The owner stated that the lot is a split-level house which creates more design challenge for them to pick a proper placement of the proposed two-story addition. After discussing with their architect, the best location for the addition in the rear yard would be closer to the left of the premises.

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

Given the shape of the lot getting narrower to the back and the condition that it is a split-level house, it adds some unique challenges to the design and placement of the proposed two-story addition. The surrounding properties in the vicinity of the project site all either have wider space on the side or have a regular lot shape.

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 the side setback from 15' to 10' for this project, it will allow the applicant to add a nicely designed addition in the back yard accommodating the need of a growing family. Otherwise, the proposed project cannot be built as proposed.

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. The proposed project may add value to the neighborhood.

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.

Summary and Recommendation

The proposed project meets all the required Findings for approval of the Variance. Staff recommends approval based on the Findings listed above.

Applicant:

Hunter Dawkins, 1033 Glendalyn Cir, Spartanburg SC.

Public Comments:

None.

Discussion:

The proposed project meets all required Findings. Granting a Variance to the applicant will not affect other surrounding properties.

A motion was made by Ms. Moore, seconded Ms. Dawkins to approve the side setback with a vote of 4-0.

Staff announcements.

The meeting was adjourned at 6:15 PM.



Brian Murdoch , Vice Chairman