

**Meeting Minutes of the Board of Zoning Appeals
Tuesday, March 12th, 2024, at 5:15 PM
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, March 12th, 2024, at 5:15PM with the following members in attendance **Dominique Dawkins, Brian Murdoch, McKay Moore, Don Bramblett and Darren Matz**. Representing the Planning Department is **Martin Livingston, Community Services Director, Nan Zhou, Planner II, and Oksana Holbrooks, Administrative Assistant**.

Roll Call:

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

Mr. Matz: 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 Ms. Dawkins to approve the agenda. The motion was approved with a vote of 5-0.

Mr. Bramblett: I make a motion.
Ms. Dawkins: Second
Mr. Murdoch: All in favor?
Attendees: Aye.

Mr. Matz: Next item is the disposition of meeting minutes from previous meeting February 13th, 2024?

Approval with edits to Meeting Minutes from February 13th, 2024.

A motion was made by Ms. Moore seconded Ms. Dawkins the motion was approved with a vote of 5-0.

Ms. Moore: I approve with edits.
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 Variance request to the front and rear setbacks to property located at 206 Butternut Rd. (TMS 7-21-00- 138.00); with a zoning designation of R-12, General Residential District. Owner: Live Strong Investments, LLC / Applicant: Ethan Floyd – PTL Construction

Project Description and History

The project site is an approximately 13,068 square foot vacant lot with a zoning designation of R-12, General Residential District. The project site abuts Butternut Rd. to the west boundary. The surrounding properties to the west side of the project site are all zoned for R-12, General Residential District. The properties to the north and east sides of the project site are zoned for R-8 PDD, General Residential Planned Development District. The applicant/agent are proposing to build a house on the lot that is closer to the front and rear setback requirements. Given the fact that the rear portion of the lot is adjacent to a retention pond, the size of this lot is reduced by approximately 1/3 as compared to the other regularly shaped lots along Butternut Rd. Therefore, in order for the owner / applicant to build a house that is consistent with other houses along Butternut Rd., the applicant is requesting a variance of reducing the front setback from 35 ft to 25 ft, and the rear setback from 30 ft to 20 ft.

Analysis

Zoning Ordinance Consistency

The project site has a zone designation of R-12, General Residential District. **Section 302.2 R-12 General Residential District Uses Permitted by Right** of the City of Spartanburg Zoning Ordinance, R-12, General Residential District, does allow Single Family dwellings. However, given the fact that the lot "lost" approximately 1/3 in size due to a retention pond to the rear of the property, in order for the owner / applicant to build a house that is consistent in size with other houses along Butternut Rd., the applicant is seeking front and rear setbacks reduction variance to accomplish the proposed project. 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 –

There is a retention pond located to the rear of this property that takes approximately 1/3 of the lot, making this property's size smaller than the other three lots down on Butternut Rd. on the block.

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

The other three lots down on Butternut Rd. on this block do not have a retention pond in the back that reduces the size of the lot.

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 front setback from 35 ft to 25 ft and reduction of the rear setback from 30 ft to 20 ft will allow the applicant to build a house that is consistent in size with the other lots. 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:

Ethan Floyd – PTL Construction

Public Comment: None.

Discussion:

The building is being built to code. The requested setbacks is not detrimental to the surrounding properties and meets the 5 criteria's.

A motion was made by Ms. Moore, seconded Mr. Murdoch and Ms. Dawkins to approve the Variance with conditions of approval for the lot coverage be modified to 25% with a vote of 4-1.

The City of Spartanburg's Board of Zoning Appeals has received an appeal to the decision regarding the side yard setback for a survey of the property located at 2127 E. Main Street (TMS: 7-09-00-017.07); with a zoning designation of B-1 (Neighborhood Shopping District). Owner/Applicant: Maude Davis; Spartan Main, LLC.

Project Description and History

The project site is an approximately 13-acre commercial lot located at 2127 E. Main Street (TMS: 7-09-00-017.07); with a zoning designation of B-1 (Neighborhood Shopping District). The site includes two commercial shopping centers. The applicant submitted a plat and survey request to combine an adjacent parcel which appear to be a storm water pond and sewer easement (2105 E. Main Street) and the existing shopping center (2127 E. Main Street) and split the properties into two commercial parcels. If the plat is approved the parking standards for the properties may not be met because of the reduction in parking for the larger store (Extra Space Storage). The property owner would be required to have a shared parking use agreement on file if the appeal is approved.

The subject property is zoned B-1, Neighborhood Shopping District. Section 401(B) requires interior side yard setbacks for buildings with a maximum height of 35 feet to be five (5) feet. Presently as constructed the building is existing non-conforming with a building height greater than 35 feet. The interior side yard setback has a further designation of letter (I) which refers to section 403.1(I) which requires staff to consider building heights and setbacks. Building heights greater than 35 feet require the setback to be 1/5 of the building heights. Currently the measurement for the setbacks on the submitted plat is a little over six feet for both buildings. The buildings are twelve (12) feet apart. Section 403.1(I) requires that buildings over 35 feet require a setback of 1/5 the building height. The current building is 44 feet tall. Based on the standards, the setbacks from the interior building line is required to be 8.8 feet. The applicant is proposing a setback of 7.4 feet.

Section 403.1: Exceptions and Modifications Supplementing The Table of Area and Dimensional Requirements.

I. For the B-1 District there shall be a minimum interior side yard of five (5) feet. However, if the building height exceeds thirty-five (35) feet, the interior side yard shall be equal to one-fifth (1/5) of the building height.

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. Such an appeal shall be submitted no later than ten (10) days after the start of construction or within thirty (30) days after a decision by a board, commission, or bureau, or a decision of the Zoning Administrator, whichever is lesser. Such notice of an appeal, special exception, or variance shall be accompanied by a check **in the amount of \$50 payable** to the City of Spartanburg to partially defray the cost of giving public notice of such hearing, none of which shall be refundable. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which action appealed was taken from.

An appeal stays all legal proceedings in furtherance of the action appealed 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. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by this Board or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. To 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.

Analysis

Zoning Ordinance Consistency

The project site has a zoning designation of B-1 – Neighborhood Shopping District. The interior side yard setback is required to meet a minimum of five feet. The Neighborhood Shopping District has a further requirement in Section 403.1(I) regarding an increase in the setback based on the height of the building. The applicant requested to submit an appeal to address the building height and setback requirements.

The Board must utilize **Section 603.3(A)(2)** and determine if the proposal meets all the criterion for approval. To hear and decide Appeal from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship. An appeal 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 –***

Currently the structures on the property are existing structures. The property owner is attempting to split the properties into two parcels. Section 403.1(I) requires that buildings over 35 feet require a setback of 1/5 the building height. The current building is 44 feet tall. Based on the Zoning Ordinance, the setbacks from the interior building line is required to be 8.8 feet. The applicant is proposing a setback of 7.4 feet. If the plat is approved, one property will meet the requirements and the other property will not meet the side yard setback requirements. Also, it does not appear that the properties will meet the parking standards required in the ordinance because of the reduction of the parking spaces for the Extra Space Storage. A shared use agreement would be required prior to approval of the plat. There are no extraordinary or exceptional conditions pertaining to this property.

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

Surrounding properties are typical commercial developments. Most of the surrounding commercial structures meet the standards. A majority of the properties in the Neighborhood

Shopping District meet the front and side yard setbacks. The conditions at this property do generally apply to other properties except where the properties may decide to split the properties.

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 –***

The application of the ordinance to the particular piece of property would not effectively prohibit or unreasonably restrict the utilization of the property. The property is currently in use as a commercial shopping center. Prohibiting the replating of the property would not prohibits its existing use.

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–***

Approval of a variance to the appeal would not be of substantial detriment to the adjacent properties and would not influence the property values, public health, safety, or general welfare of the public. There is no indication that having the property lines adjusted would affect fire and building codes requires. According to the Building Official, if a building is 10 feet apart, it typically meets building codes requirements. A building less than 10 feet apart would require extensive improvements to the exterior wall to meet fire code rating 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–***

Approval of this appeal will be specific to this site and will NOT AFFECT the zoning ordinance and staff enforcement of the current requirements. Currently the measurement for the setbacks on the submitted plat is a little over six feet for both buildings. Section 403.1(I) requires that buildings over 35 feet require a setback of 1/5 the building height. The current building is 44 feet tall. Based the standards, the setbacks from the interior building line is required to be 8.8 feet. The applicant is proposing a setback of 7.4 feet. The Board may wish to require a shared use parking requirement as a condition of approval should the use of the existing property change to a retail store which would require additional parking. Section 504: Off Street Parking Standards - Number 67. Self-Service Storage Facility – requires One space per 2,000 sq. ft. of gross floor area.

Staff and Recommendation:

If this was submitted as a Variance the staff would recommends approval of this Variance.

Applicant:

Maude Davis, Spartan Main, LLC.

John Jamison, Spartan Main, LLC.

Public Comment: None.

Discussion:

The building has the two hour firewall rating and required while it was constructed. The building meets the requirements today. There is a declaration in place for parking.

A motion was made by Mr. Murdoch, seconded Ms. Dawkins to approve the Variance with condition the side setbacks apply with a vote of 5-0.

Staff announcements.

The meeting was adjourned at 6:12 PM.



Darren Matz , Chairman