

**Meeting Minutes of the Board of Zoning Appeals
Tuesday, May 14th, 2024, at 5:15 PM
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, May 14th, 2024, at 5:15PM with the following members in attendance **Dominique Dawkins, Brian Murdoch, McKay Moore and Don Bramblett**. Representing the Planning Department is **Martin Livingston, Community Services Director, Fredalyn Frasier, Planning Director, Nan Zhou, Planner II**.

Roll Call:

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

Mr. Murdoch: 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 4-0.

Mr. Bramblett: I move we approve the agenda for this night's meeting.
Ms. Dawkins: Second
Mr. Murdoch: All in favor?
Attendees: Aye.

Mr. Murdoch: Also, the meetings are the approval of minutes from last month. What I think we'll do, we will push that to next month. I was not here last month. So, we don't have but three to approve, so we'll move that to next month.

Approval of to Meeting Minutes from April 9th, 2024, has been moved to next month.

Old Business: None.

New Business:

The City of Spartanburg's Board of Zoning Appeals has received a request for a variance to the lot size for properties located at 1374 and 1376 Drayton Road (TMS: 7-09-13-113.00); with a zoning designation of R-12 (General Residential District). Owner/Applicant: Fernando Geiss and Henry Partowidjojo.

Project Description and History

The project site is an approximately 23,000 foot lot located at 1374 and 1376 Drayton Road (TMS: 7-09-13-113.00); with a zoning designation of R-12 (General Residential District). The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the lot size requirements which is less than 12,000 square

feet for each of the property. The applicant submitted a survey for approval, but staff noted that the survey did not meet the lot size requirement. Staff also requested a survey of the second lot to determine if any other variances would be required. The applicant provided a survey that indicated that the lot frontage and the lot size also did not meet the zoning ordinance.

Variances from the regulations of this Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the standards established in section 603, and may be granted only in the following instances and in no others:

1. **To permit any yard less than the requirements of this Ordinance;**
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; (*)**
3. **To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;**
4. To permit the same off-street parking facility to qualify as required facilities for two or more units, provided that substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week;
5. To reduce the applicable off-street parking or loading facilities required by not more than one (1) parking space or loading space, or twenty-five percent (25%) of the required facilities, whichever number is greater;
6. To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance;
7. To increase by not more than forty percent (40%) the maximum distance that required parking spaces are permitted to be located from the use served;
8. To permit the height of a fence in the required rear, side and corner side yard to exceed the maximum height allowed by this Ordinance up to eight (8) feet when property is exposed to exceptional nuisances of traffic, dust, noise, glare, and vandalism; and (*)
9. To reduce the setback requirement for portable signs provided that no variance shall be granted to permit such signs within the triangular area formed by the right-of-way lines of intersecting streets (or a street and a driveway), and a line joining points on the right-of-way lines twenty-five (25) feet from the point of their intersection. If the property in question has no defined driveway to its parking area the Board shall satisfy itself that the proposed location of the portable sign will not interfere with traffic by blocking reasonable sight lines for streets, sidewalks and driveways before any variance is granted. The application for such variance shall be accompanied by a scaled drawing showing all information relevant to the variance request. (**)

Analysis

Zoning Ordinance Consistency

The project site is an approximately 23,000 foot lot located at 1374 and 1376 Drayton Road (TMS: 7-09-13-113.00); with a zoning designation of R-12 (General Residential District). The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the lot size requirements which is less than 12,000 square feet for each of the property. The applicant submitted a survey for approval, but staff noted that the survey did not meet the lot size requirement. Staff also requested a survey of the second lot to determine if any other variances would be required. The applicant provided a survey that indicated that the lot frontage and the lot size also did not meet the zoning ordinance.

Based on Section 603.4(1-3) Variances, the Board has the authority to permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots,

but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;

The Board must utilize Section 603.4(1-3) and determine if the proposal meets all the criterion for approval. To hear and decide appeals for a **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 –***

No. There are no extraordinary and exceptional conditions pertaining to the particular piece of property. The project site is an approximately 23,000 foot lot located at 1374 and 1376 Drayton Road (TMS: 7-09-13-113.00); with a zoning designation of R-12 (General Residential District). The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the lot size requirements which is less than 12,000 square feet for each of the properties. The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the lot size requirements which is less than 12,000 square feet. All documentation provided by the applicant indicates that the lots were originally separate lots and combined by a survey. Currently, the lot in its present condition is considered existing non-conforming to the zoning ordinance. If the variance is approved, the lots would meet the zoning ordinance requirements. A majority of the lots in the area have 80 feet frontage, but may not meet the lot size requirements or have lot frontage less than 80 feet.

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

Yes. There are several lots in the area that have similar conditions. The three lots on Drayton Road which are less than 12,000 feet in size. The applicant provided a survey for both lots which indicate lot sizes less than 12,000 feet and one lot frontage less than 80 feet.

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 –***

No. The application of the ordinance would not unreasonably restrict the utilization of the property. The property can still be used in its current condition but would be nonconforming to the zoning ordinance

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–*

Yes. The authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and authorization of the district will not be harmed by the granting of the variance. Several lots in the area do not meet the lot size requirement and frontage measurements. Approval of the variance to reduce the lot size and the frontage would also meet the 80% rule required in Section 603.4(3) of the Zoning Ordinance.

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–*

Yes. Staff recommends, if approved, that a survey indicating all setbacks be required to be submitted for review and approval for both lots. Approval of this variance would eliminate the non-conforming condition. The application of the variance would create two single-family lots. The variance from the regulations of the zoning can be granted by the Board of Zoning Appeals only in accordance with the standards established in section 603, and can be granted in the following instances:

1. To permit any yard less than the requirements of this Ordinance;
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; (*)
3. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width; the activity is less intense.

Summary and Recommendation

The proposed request meets all the required Findings for approval of the Variance, Staff recommends approval of the variance to the lot size and lot frontage requirements to create two single-family lots.

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 issue or direct the issuance of a permit. 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 the law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest.

Applicant:

Fernando Geiss and Henry Partowidjojo.

Public Comment:

Discussion:

The Variance meets the requirements.

A motion was made by Ms. Dawkins, seconded Ms. Moore to approve the Variance with conditions to provide updated survey as presented by city staff with a vote by 4-0.

The City of Spartanburg's Board of Zoning Appeals has received a request for an appeal to the permitted use table regarding a dog grooming business, Tails in the City, located at 222 E. Blackstock Road (TMS: 6-20-12-089.00); with a zoning designation of B-1 (Neighborhood Shopping District). Applicant: Rebekah DeHart, Tails in the City.

Project Description and History

In earlier 2024, a building inspector found out that a dog grooming business was open without a Certificate of Occupancy and did not have an exhaust system installed inside the business. Later, when the business owner applied for the Certificate of Occupancy, planning staff became aware that the business use, pet grooming, is not allowed per the current City of Spartanburg Zoning Ordinance. Upon review of the City's Zoning Ordinance, staff noticed that pet grooming services are not stand alone uses but are recognized under Animal Kennel & Veterinary Clinic.

A. COMMERCIAL USES	GID	LOD	LC	B-1	B-3	B-4	I-1	I-2
5. Animal Kennel - a fully enclosed building with soundproofed exterior walls in accordance with the Building Code for the temporary lodging and boarding of domestic house pets. Outdoor kennels and cages are permitted. Medical treatment, clipping, and <u>grooming are permitted</u> , as is retail sale of pet products and accessories (see Veterinary Clinic and Veterinary Hospital in Table B, 40 and 41 below)					P	P	P	P

B. OFFICE, INSTITUTIONAL/PUBLIC AND QUASI-PUBLIC USES	GID	LOD	LC	B-1	B-3	B-4	I-1	I-2
41. Veterinary Clinic - (a fully enclosed building) used for the medical treatment of domestic house pets and allowing for their overnight treatment and/or observation until the veterinary doctor releases the same. <u>Outdoor kennels and cages are not permitted</u> . The overnight lodging of pets, if not medically necessary, <u>is prohibited</u> , as are <u>clipping (except where medically necessary), grooming, and retail sale of pet products and accessories</u> (See Animal Kennels under Section 303.5. Commercial Uses)		P		P	P	P	P	P

The proposed business is located at a strip mall shopping center that has a zoning designation of B-1, Neighborhood Shopping District. Based on the City of Spartanburg Zoning Ordinance Section 301 to 303: District Use Regulations and **Section 303.6 Table of Permitted Uses**, grooming is a service that will be allowed under Animal Kennel. However, Animal Kennel is **not** permitted use for properties under B-1, Neighborhood Shopping District zoning. Veterinary Clinic

is allowed for businesses with B-1 zoning designation, but **prohibiting** clipping, grooming, and retail sales of pet products and accessories.

The applicant is seeking an appeal to allow her business of a dog grooming business to stay open at 222 E. Blackstock Rd. Ste E. An appeal stays all legal proceedings in furtherance of the action appeal from, unless the officer from whom the appeal is taken certified to the Board, after the notice of appeal shall have been filed with him, that by reason of facts states in the certificate a stay would, in his opinion, cause imminent peril to life and property.

Analysis

Zoning Ordinance Consistency

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. 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
- 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 –***
Staff does not recognize any extraordinary and exceptional conditions pertaining to this particular piece of property. This dog grooming business sits in a small strip mall center surrounded by offices and retail stores. Given the proposed use, staff confirmed with the Building Official that an exhaust ventilation system will be required to install upon approval of the request.
2. ***These conditions do not generally apply to other properties in the vicinity –***
There are no other pet grooming businesses in the immediate vicinity, other than a PetSmart located a few blocks away on E. Blackstock Rd. Both PetSmart and Petco, on E. Main St. are currently sitting on lands with a zoning designation of B-1, Neighborhood Shopping District. Both PetSmart and Petco are mainly retail stores selling pet products, with dog grooming services provided by request or appointment only. Neither of them is specializing in pet grooming services only.
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 –***

Per the current City of Spartanburg Zoning Ordinance, animal kennel, which allows for a pet grooming business, is NOT allowed under B-1, Neighborhood Shopping District. While veterinary clinic, which DOES NOT allow pet grooming business, is allowed under B-1, Neighborhood Shopping District. Therefore, a pet grooming business is not allowed either because of the current zoning designation restrictions or because of the service.

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–*

Staff do not believe the authorization of a dog grooming business at this strip mall center will cause substantial detriment or harm to the general public good or adjacent property. The character of this strip mall shopping center will still remain as retail stores, health care center/offices, and insurance company. Staff do not see issues about keeping the pet grooming business at the strip shopping center since it does not pose adverse impact to the surrounding businesses.

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 that the Board finds that the findings can be met, and the project approved, conditions of approval are attached to this report. In exercising the power, the Board of Appeals may, in conformity with the provisions of this chapter, 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 issue or direct the issuance of a permit.

Applicant:

Rebekah Dehart, Tails in the City.

Public Comment:

None.

Discussion:

The applicant should not be penalized for the unspecified zoning ordinance.

A motion was made by Ms. Moore, seconded Ms. Dawkins to approve the Appeal with condition of exhaust ventilation system installation with a vote by 4-0.

The City of Spartanburg’s Board of Zoning Appeals has received a request for a variance to the lot frontage for property located at 558 Hugh Street (TMS: 7-11-08-121.00); with a zoning designation of R-8 (General Residential District). Applicant: Hall Dillard, H. Dillard Company, Inc.

Project Description and History

The project site is an approximately 18,000 Square foot lot located at 558 Hugh Street (TMS: 7-11-08-121.00); with a zoning designation of R-8 (General Residential District). The site is located in a traditional single-family neighborhood with a vacant lot that was sold at the Forfeited Land Commission which is the current applicant – a contract for sale is included in the application. The applicant is seeking a variance to the requirements in the zoning ordinance related to Table 401(A) Table of Area and Dimensional Requirements by District which requires 8,000 square feet of lot

area for a single-family property. The current size of the property is approximately 18,000 square feet would allow two lots to be developed for single-family housing. The zoning ordinance also requires a 60 feet minimum lot frontage. The lot frontage is 106 feet and would not allow for two 60 feet lot frontage. The applicant is proposing to split the lots with 8,773 square feet and 8,597 square feet each and 52.96 feet of frontage for each lot.

Variances from the regulations of this Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the standards established in section 603, and may be granted only in the following instances and in no others:

- 1. To permit any yard less than the requirements of this Ordinance;**
- 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; (*)**
- 3. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;**
4. To permit the same off-street parking facility to qualify as required facilities for two or more units, provided that substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week;
5. To reduce the applicable off-street parking or loading facilities required by not more than one (1) parking space or loading space, or twenty-five percent (25%) of the required facilities, whichever number is greater;
6. To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance;
7. To increase by not more than forty percent (40%) the maximum distance that required parking spaces are permitted to be located from the use served;
8. To permit the height of a fence in the required rear, side and corner side yard to exceed the maximum height allowed by this Ordinance up to eight (8) feet when property is exposed to exceptional nuisances of traffic, dust, noise, glare, and vandalism; and (*)
9. To reduce the setback requirement for portable signs provided that no variance shall be granted to permit such signs within the triangular area formed by the right-of-way lines of intersecting streets (or a street and a driveway), and a line joining points on the right-of-way lines twenty-five (25) feet from the point of their intersection. If the property in question has no defined driveway to its parking area the Board shall satisfy itself that the proposed location of the portable sign will not interfere with traffic by blocking reasonable sight lines for streets, sidewalks and driveways before any variance is granted. The application for such variance shall be accompanied by a scaled drawing showing all information relevant to the variance request. (**)

Analysis

Zoning Ordinance Consistency

The project site is an approximately 18,000 Square foot lot located at 558 Hugh Street (TMS: 7-11-08-121.00); with a zoning designation of R-8 (General Residential District). The site is located in a traditional single-family neighborhood with a vacant lot that was sold at the Forfeited Land Commission which is the current applicant – a contract for sale is included in the application. The applicant is seeking a variance to the requirements in the zoning ordinance related to Table 401(A) Table of Area and Dimensional Requirements by District which requires 8,000 square feet of lot area for a single-family property. The current size of the property is approximately 18,000 square feet would allow two lots to be developed for single-family housing. The zoning ordinance also requires a 60 feet minimum lot frontage. The lot frontage is 106 feet and would not allow for two 60 feet lot frontage. The applicant is proposing to split the lots with 8,773 square feet and 8,597 square feet each and 52.96 feet of frontage for each lot.

Based on Section 603.4(1-3) Variances, the Board has the authority to permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;

The Board must utilize Section 603.4(1-3) and determine if the proposal meets all the criterion for approval. To hear and decide appeals for a **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 –

No. There are no extraordinary and exceptional conditions pertaining to the particular piece of property. The adjacent lot at 566 Hugh Street has a lot frontage of only 52.8 feet. Many of other lots in the area meet or exceed the lot frontage requirements.

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

Yes. There are several lots in the area have similar conditions. The most adjacent lot is less than 60 feet wide. Several of the lots in the area are vacant and may be considered lots of record prior to the establishment of the zoning ordinance. Lots on adjacent streets meet the zoning ordinance requirements.

5. 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 –

No. The application of the ordinance would not unreasonably restrict the utilization of the property. The property can be developed for duplexes or one single-family structure. The applicant is proposing to split the lot and build two single-family structures for sale. The lot frontage would meet Section 603.4(1-3) requirements and meet the 80% requirements and would be consistent with the ordinance.

6. 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 –

Yes. The authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and authorization of the district will not be harmed by the

granting of the variance. Several lots in the area do not meet the frontage requirements but meet the lot size requirements. Approval of the reduced lot frontage would also meet the 80% rule required in Section 603.4(3) of the Zoning Ordinance.

7. ***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—***

No. No additional conditions of approval would be required. Approval of this variance would not create a non-conforming use. The application of the variance would create two single-family lots that can be developed for housing. The variance from the regulations of the zoning can be granted by the Board of Zoning Appeals only in accordance with the standards established in section 603, and can be granted in the following instances:

1. To permit any yard less than the requirements of this Ordinance;
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; (*)
3. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;

Summary and Recommendation

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

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 issue or direct the issuance of a permit. 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 the law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest.

Applicant:

Hall Dillard, H. Dillard Company, Inc.

Public Comment:

None.

Discussion:

The proposed project is well put together and welcomed to the area. The site would benefit by adding a driveway for the safety of flow of traffic and would potentially alleviate emergency vehicles coming and going into the neighborhood.

A motion was made by Mr. Bramblett, seconded Ms. Moore the Variance was approved with a condition of including a driveway with a vote of 4-0.

The City of Spartanburg's Board of Zoning Appeals has received a Variance request to the front and rear setbacks and building coverage for property located at 128 League St. (TMS

7-16-10-124.00); with a zoning designation of R-8, General Residential District. Owner/Applicant: Angela Cardona.

Project Description and History

The project site is an approximately 5,445 square foot (0.125 acre) vacant lot with a zoning designation of R-8, General Residential District. The project site abuts League Street to the north boundary. The surrounding properties of the project site are all zoned for R-8, General Residential District.

The applicant is proposing to build a single-family house on the lot that is closer to the front and rear setback requirements without reducing the footprint of the proposed house plan. Properties to the left and right side of the project site are existing non-conforming houses that were built prior to the adoption of City of Spartanburg Zoning Ordinance. Therefore, for the applicant to build a house that is consistent with other houses along League Street, the applicant is requesting a variance of reducing the front setback from 30 ft to 20 ft, and the rear setback from 30 ft to 20 ft.

Analysis

Zoning Ordinance Consistency

The project site has a zone designation of R-8, General Residential District. **Section 302.3 R-8 General Residential District Uses Permitted by Right** of the City of Spartanburg Zoning Ordinance, R-8, General Residential District, does allow Single Family dwellings.

A Variance may be granted by the Board of Zoning Appeals to the minimum setback standards required in the Ordinance. Variances may only be granted in the instances listed in Section 603.4. Section 603.4 lists nine instances from which the Board may grant a Variance. Of these nine, one is applicable to this request:

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 –*

Staff do not recognize any extraordinary and exceptional conditions that would prevent the proposed single-family house from meeting the current front and rear setback requirements. The topography of the lot is relatively flat, and there is no natural obstacles preventing the owner to meet the current setback requirements for R-8 zoning designation. Property to the east side of the project site is an existing non-conforming house that was built prior to the current Zoning Ordinance (The house was demolished before but left the foundation on the site. The contractor is renovating the house now).

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

The adjacent lots of the project site are already built with single-family houses. The lots across from the street are currently vacant. The property to the east side of the project site is an existing non-conforming house and the house to the west side of the project site meets the front and rear setback requirements. The other two vacant lots along League Street (132 & 134 League Street) need to meet the current zoning setback requirements when houses are proposed to be built on those lots.

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 and rear setback from 30 ft to 20 ft, it will allow the applicant to build a single-family house that is approximately consistent in size with other lots in immediate surroundings. Otherwise, the project cannot be built as proposed in terms of keeping the same footprint square footage.

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–*

Staff do not recognize any detriment or harm that will be caused to the general public. The character of the district will still remain as residential neighborhoods. However, staff do not see the hardships of the lot where the current setback requirements cannot be met.

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

Based on the above Findings, Staff **do NOT recommend approval** of this request since no hardships or exceptional circumstances pertaining to the lot can be found.

Applicant:

Angela & Daniel Cardona, Owner.

Public Comment:

Jair Ramisez, 920 Logan St.

Discussion:

The proposed project is within the percent coverage for the lot size. Building a home presented as-is wouldn't be detrimental to the environment but improve the surrounding area.

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

The City of Spartanburg's Board of Zoning Appeals has received a request for a variance to the front and interior side lot setback for property located at 187 Carlisle Street (TMS: 7-12-14-286.00); with a zoning designation of R-8 SFD (General Residential – Single-family District). Owner: Thomas Wooten / Applicant: Gabriel Weisser; Taylored Homes.

Project Description and History

The project site is an approximately 6800 square feet lot located at 187 Carlisle Street (TMS: 7-12-14-286.00); with a zoning designation of R-8 SFD (General Residential – Single-family District). The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the front and interior side setbacks. The applicant received approval to develop a single-family home on the property consisted with the Board of Architectural Design and Historic Review (HARB) standards.

On October 12, 2023, the City of Spartanburg's Board of Architectural Design and Historic Review (HARB) approved the design of the structure in the Hampton Heights Neighborhood Historic District on a vacant lot. At that meeting, the city as a condition of approval failed to require the applicant to submit an application to the Board of Zoning Appeals (BZA) for the setback requirements for the front setback to be consistent with the historic district. Staff expedited the application to bring it before the Board to address the front and side setback requirements.

Variances from the regulations of this Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the standards established in section 603, and may be granted only in the following instances and in no others:

- 1. To permit any yard less than the requirements of this Ordinance;**
- 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;**
(*)
- 3. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;**
4. To permit the same off-street parking facility to qualify as required facilities for two or more units, provided that substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week;
5. To reduce the applicable off-street parking or loading facilities required by not more than one (1) parking space or loading space, or twenty-five percent (25%) of the required facilities, whichever number is greater;
6. To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance;
7. To increase by not more than forty percent (40%) the maximum distance that required parking spaces are permitted to be located from the use served;

8. To permit the height of a fence in the required rear, side and corner side yard to exceed the maximum height allowed by this Ordinance up to eight (8) feet when property is exposed to exceptional nuisances of traffic, dust, noise, glare, and vandalism; and (*)
9. To reduce the setback requirement for portable signs provided that no variance shall be granted to permit such signs within the triangular area formed by the right-of-way lines of intersecting streets (or a street and a driveway), and a line joining points on the right-of-way lines twenty-five (25) feet from the point of their intersection. If the property in question has no defined driveway to its parking area the Board shall satisfy itself that the proposed location of the portable sign will not interfere with traffic by blocking reasonable sight lines for streets, sidewalks and driveways before any variance is granted. The application for such variance shall be accompanied by a scaled drawing showing all information relevant to the variance request. (**)

Analysis

Zoning Ordinance Consistency

The project site is an approximately 6,800 square feet lot located at 187 Carlisle Street (TMS: 7-12-14-286.00); with a zoning designation of R-8 SFD (General Residential – Single-family District). The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the front and interior side setbacks. The applicant received approval to develop a single-family home on the property consisted with the Board of Architectural Design and Historic Review (HARB) standards.

Based on Section 603.4(1-3) Variances, the Board has the authority to permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;

The Board must utilize Section 603.4(1-3) and determine if the proposal meets all the criterion for approval. To hear and decide appeals for a **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
- 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 –***

No. There are no extraordinary and exceptional conditions pertaining to the particular piece of property. The project site is an approximately 6800 square foot lot located at 187 Carlisle Street (TMS: 7-12-14-286.00); with a zoning designation of R-8 SFD (General Residential – Single-family District). The site is located in a traditional single-family neighborhood and surrounded by other single-family lots. The applicant is requesting a variance to the front and interior side setbacks. The applicant received approval to develop a single-family home on the property consistent with the Board of Architectural Design and Historic Review (HARB) standards. All other structures on lots that have front setbacks that are less than 20 feet on the street and the neighborhood.

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

Yes. There are several lots in the area that have similar conditions. A review of the lots in previous BZA cases indicated side lot setbacks of 5 feet and front yard setbacks less than 20 feet.

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 –***

No. The application of the ordinance would not unreasonably restrict the utilization of the property. The property can still be used in its current condition but would not be consistent with other structures on the lot in the street and in the neighborhood.

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–***

Yes. The authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and authorization of the district will not be harmed by the granting of the variance. The side yard setbacks would meet the 80% rule, the front yards setback would not meet the requirements. All other requirements in Section 603 will be met with the approval of the variance.

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–***

No. Staff does not recommend any additional conditions be considered. The variance from the regulations of the zoning can be granted by the Board of Zoning Appeals only in accordance with the standards established in section 603, and can be granted in the following instances:

1. To permit any yard less than the requirements of this Ordinance;
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;
3. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty percent (80%) of the required area and width;

Summary and Recommendation

Staff recommends approval of the Variance. The proposed request meets all the required Findings for approval of the Variance except the 80% limits requirements for the front yard setback. The Board has the authority to approve the front yard setbacks because of the other consistent conditions on the street and the neighborhood.

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 issue or direct the issuance of a permit. 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 the law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest.

Applicant:

Gabriel Weisser; Taylored Homes.

Public Comment:

None.

Discussion:

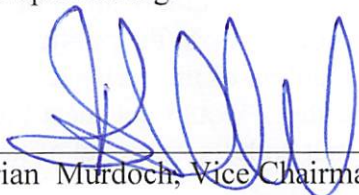
The project meets the requirements of zoning ordinance.

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

Staff Announcements:

Welcoming new Planning Director, Fredalyn Frasier to City of Spartanburg.

The meeting was adjourned at 7:30 PM.



Brian Murdoch, Vice Chairman