

**Meeting Minutes of the Board of Zoning Appeals  
Tuesday, April 9<sup>th</sup>, 2024, at 5:15 PM  
City Hall Council Chambers**

The Board of Zoning Appeals met in City Hall Council Chambers on Tuesday, April 9<sup>th</sup>, 2024, at 5:15PM with the following members in attendance **Dominique Dawkins, Brian Cohen, 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. Cohen: Brian Cohen  
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 move we approve the agenda.  
Ms. Dawkins: Second  
Mr. Matz: All in favor?  
Attendees: Aye.

Mr. Matz: Next item is the disposition of meeting minutes from previous meeting March 12<sup>th</sup>, 2024. Anybody comments?

**Approval with edits to Meeting Minutes from March 12<sup>th</sup>, 2024.**

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

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

**Old Business:   None**

## **New Business:**

**The City of Spartanburg's Board of Zoning Appeals has received a request for a Special Exception to open a school in the existing wing of the Eastside Baptist Church located at 1850 Fernwood Glendale Road (TMS # 7-14-02-001.01) with a zoning designation of R-15, Single Family Residential district. Owner / Applicant: Eastside Baptist Church**

### **Project Description and History**

The project site is an approximately 326,264.4 square foot (7.49 acres) lot located in the R-15 (Single Family Residential District) zoning designation. The project site abuts Fernwood Glendale Road to the south boundary and Sloans Grove Road to the north boundary. The project site is surrounded by R-15, Single Family Residential District, neighborhood to the west, and R-6 PDD, General Residential Plan Development District, neighborhood to the east.

Eastside Baptist Church currently has a kid's ministry and student's ministry that provide engaging learning experiences to kids and students, equipping each student through meaningful discipleship relationship that will ensure their growth. The kid's ministry is operated on Sundays (Sunday School at 9:30 am and Children's Church at 10:30 am)

The applicant, East Baptist Church, is proposing to open a school for kids with special needs within the existing children's wing of the church (in the front section of the building) that will house approximately 15 to 30 children during normal school hours, Monday through Friday from 7:am to 3:30 pm.

### **Analysis**

#### *Zoning Ordinance Consistency*

The project site has a zone designation of R-15, Single Family District. **Section 302.1 R-15 Single Family Residential District Uses Permitted by Special Exception Section 302.1 B** of the City of Spartanburg Zoning Ordinance, R-15, Single Family District, does allow uses for churches, synagogues, and other places of worship and public schools and private and parochial schools having a curriculum approximately the same as ordinarily given in public school.

A Special Exception may be granted by the Board of Zoning Appeals to the usage listed in the zoning ordinance Section 302.1 B Uses Permitted by Special Exception. Special Exceptions may only be granted under use regulations for residential districts as uses permitted by special exception.

The Board must utilize **Section 603.53 Guidelines** and determine whether a special exception should be granted, in addition to specific criteria in district regulations:

- a. Traffic impact;
- b. Vehicle and pedestrian safety;
- c. Potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property;
- d. Adverse impact of proposed use on the surrounding area including the aesthetic character of the area; and
- e. Orientation and spacing of improvements or structures.
- f. Compliance with the Comprehensive Plan

The Board may prescribe appropriate conditions and safeguards to relieve or reduce adverse impact of a special exception and to protect the character of the area. No variance may be granted by the Board in connection with the granting of a special exception.

## **Findings**

1. ***Traffic impact –***

Currently, the Eastside Baptist Church has a big parking lot with a 24 ft driveway in the front and two entrances allowing for vehicle queuing for drop off and pick up of students. The applicant indicates that the proposed school will only have 15 to 30 students with an average of 15 to 20 cars per hour Monday through Friday from 7-8 am and 3:30 pm to 4 pm.

2. ***Vehicle and pedestrian safety –***

Unfortunately, staff has not received a vehicle traffic flow plan yet. However, the applicant indicates that due to the sufficient length of the parking lot driveway, there will not be any road congestion generated along the parking lot driveway and pedestrian safety will be maintained by proposed measures that would require vehicles to be stopped and engines to be turned off when dropping off or picking up children.

3. ***Potential impact of noise, lights, fumes, or obstruction of air flow on adjoining property –***

Currently, the Church has kids' ministry and student's ministry services on Sundays and Wednesday. The proposed school will be in the existing children's wing section of the church that is closer to the front of the parking lot, noises generated will not impact the neighborhoods on the west and east side of the Church. Staff does not anticipate fumes or obstruction of air flow on adjacent properties.

4. ***Adverse impact of proposed use on the surrounding area including the aesthetic character of the area; and –***

Staff does not anticipate any adverse impact of the proposed school on surrounding area in terms of the aesthetic character of the area. The proposed school will be open inside the existing structure. No additional portion(s) will be added onto the existing structure. The nature and character of the area will still remain the same.

5. ***Orientation and spacing of improvements or structures –***

The proposed school is located inside the existing church building, therefore, the orientation and spacing of the church structure will not be impacted by the proposed use.

6. ***Compliance with the Comprehensive Plan –***

2024 City of Spartanburg Comprehensive Plan lists the area as G-2 Neighborhood Controlled Growth Sector. In the Land Use and Community Character Element, it says that ".....Neighborhood Controlled Growth Sectors are areas that are developed with low- to medium-density neighborhoods that should remain 'as is'. These neighborhoods are defined by conventional suburban development patterns of primarily detached single-family houses, with a limited number of multi-family, commercial, and civic uses. There may be some limited opportunities for infill in this Sector, which should be at a scale and character compatible with surrounding development. The proposed use of a school for kids with special needs is a civic use, and based on the number of students proposed on a daily basis, the activity is less intense.

## **Applicant:**

Eastside Baptist Church  
Daniel Wood, 224 Thorncrest Dr.

**Public Comment:**

Susan Holland, 293 Lake Forest Dr.

**Discussion:**

The proposed project is well presented. A school is well needed for special needs. As long it meets all requirements pf SCDOT and criteria's presented it should do well.

**A motion was made by Mr. Bramblett, seconded Mr. Cohen to approve the Special Exception with conditions the school meets SCDOT school zone requirements with traffic study with a vote by 5-0.**

**The City of Spartanburg's Board of Zoning Appeals has received a variance request to the lot size requirements to develop the Theodosia triplex (three-unit multifamily apartment) located at 108 Theodosia Drive (TMS: 7-15-04-058.00); with a zoning designation of R-12 (General Residential District). Owner/Applicant: Levi Kennedy.**

**Project Description and History**

The project site is an approximately 21,000 Square foot lot located at 108 Theodosia Drive (TMS: 7-15-04-058.00); with a zoning designation of R-12 (General Residential District). The site is located in a traditional single-family neighborhood with one existing non-conforming lot with two duplexes. 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 10,000 square feet of area for each unit developed. The current size of the property is approximately 21,000 and would only support the development of a duplex.

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 \$150 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 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. 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. 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 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. 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 is an approximately 21,000 Square foot lot located at 108 Theodosia Drive (TMS: 7-15-04-058.00); with a zoning designation of R-12 (General Residential District). The site is located in a traditional single-family neighborhood with one existing non-conforming lot with two duplexes. 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 10,000 square feet of area for each unit developed. The current size of the property is approximately 21,000 square feet and would only support the development of a duplex.

Based on Section 603.4(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 603.3(A)(2) 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 this particular piece of property that would allow it to be developed as a tri-plex. The current size of the property would allow it to be developed as a duplex. The site is located in a traditional single-family neighborhood with one existing non-conforming lot with two duplexes. 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 10,000 square feet of area for each unit developed. The current size of the property is approximately 21,000 square feet and would only support the development of a duplex. A significant amount of the property is in a flood plain and cannot be developed – like other properties in the vicinity.

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

No. The conditions at this property are similar to the conditions of other properties in the vicinity. The current size of the property is approximately 21,000 square feet and would only support the development of a duplex. A significant amount of the property is in a flood plain and cannot be developed – like other properties in the vicinity.

**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 does not restrict the use of the property. The property can be used as single-family or duplex housing. The property size is not large enough to be converted to a tri-plex apartment. The development of a tri-plex apartment would not be consistent with the character of the surrounding 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 create an existing non-conforming use in a traditionally single-family neighborhood. There is already an existing non-conforming use with two duplexes on one lot in the neighborhood. The property size is not large enough to be converted to a tri-plex apartment. The development of a tri-plex apartment would not be consistent with the character of the surrounding 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–***

No. Approval of this variance would create a non-conforming use. The current size of the property would allow it to be developed as a duplex. The site is located in a traditional single-family neighborhood with one existing non-conforming lot with two duplexes. 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 10,000 square feet of lot area for each unit developed. The current size of the property is approximately 21,000 square feet and would only support the development at maximum a duplex. A significant amount of the property is in a flood plain and cannot be developed – like other properties in the vicinity.

**Summary and Recommendation**

The proposed request does not meet all the required Findings for approval of the Variance. Staff recommends denial 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:**

Levi Kennedy.

**Public Comment:**

McDonald Pearson, 141 Chester St.

**Discussion:**

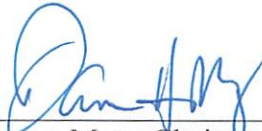
The proposed project does not meet all requirements for approval.

**A motion was made by Ms. Moore, seconded Mr. Bramblett the Variance was denied with a vote of 2-3.**

**Staff announcements.**

A new Planning Director will be joining Planning Department team Fredalyn M. Frasier April 22, 2024. Board members need to do renewals to be able to serve another term on the board

**The meeting was adjourned at 6:39 PM.**



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Darren Matz, Chairman