



**APPROVED MINUTES
BOARD OF ZONING APPEALS
CAYCE CITY HALL
1800 12TH STREET, CAYCE SC
Monday, December 19, 2016
6:00 PM**

I. CALL TO ORDER

The meeting was called to order by Robert McLeod. Members present were Jason Simpson, Robin DiPietro, and Russ Vickery. Bob McArver was absent excused. Staff present were Shaun Greenwood and Monique Ocean.

II. APPROVAL OF MINUTES

A motion was made by Jason Simpson to approve the minutes of the October 17, 2016, minutes as written. Russ Vickery seconded the motion. All were in favor.

III. STATEMENT OF NOTIFICATION

Mr. McLeod asked if the media and public had been informed of the hearing. Ms. Ocean confirmed that everyone had been notified.

IV. VARIANCE NO. 003-16

The property owner is requesting a variance of 15 feet to reduce the required 25 feet front yard setback in an RS-3 zoning district to 10 feet. The properties are located at 362 Tufton Court and 382 Tufton Court (TMS #005716-01-216 and 005716-01-217).

a. Opening Statement

David Hilburn came before the Board as the applicant to discuss the request for the variance. Mr. Hilburn stated the lots in question were to be sold to Fortress Builders. He stated it was discovered that, to build the required houses, the backyards would be very small or practically nonexistent. He explained that he looked into different ways to work with the lot and his options were to request a variance to reduce the front setback or build a much smaller house. Mr. Hilburn stated he felt that having the last two houses being the smallest in the neighborhood would not be the best option. Mr. Hilburn also stated that after meeting with the builder it was discovered that a variance of 10 feet would work to build houses comparable to the others in the subdivision. Mr. Hilburn stated that he would like to modify his application and request that the front yard setback be changed to 15 feet instead of the previously requested 10 feet. The Board asked Staff to comment on the applicant's authority to make changes at this stage in the request, for the record. Mr. Greenwood explained that the change in the request was acceptable because the applicant was asking for less of a variance than the previous request. Mr. Hilburn also explained the variance request was for the front setback of the two subject properties and the remaining setbacks would remain as required for the RS-3 zoning district. The Board asked the applicant to talk about information in the application that mentioned a drainage easement through the properties. Mr. Hilburn stated a drainage ditch is located across the properties and it was not discovered until the lots were cleared. Mr. Hilburn explained that the drainage ditch was part of an easement that belonged to the railroad company and it could not be touched.

b. Public Testimony

Taylor Gilliam, of 199 Eldon Drive, came before the Board to speak against the variance request. He presented a list of persons against the variance request and a letter addressed to each member of the Board. Mr. Gilliam discussed the reasons why he believed the applicant did not meet the standards of proof to justify a variance. Spencer Griffin (of 358 Tufton Court), Corey Stevens (of 386 Tufton Court), Daniel Yakel (of 185 Rossmore Drive), and Heather Brandt (of 117 Eldon Drive) also came before the Board to speak against the variance request. They had the following concerns:

1. Houses with smaller setbacks will cause safety and privacy issues.
2. Houses with smaller setbacks will be detrimental to the aesthetics of the neighborhood.
3. Residents have trust issues with the developer because areas intended for common spaces are being taken away.
4. The home owners association would like to be in control of what happens in the neighborhood.
5. Parking may be a problem if the smaller setback was granted and cars had no area to park in the yard.

No one else came before the Board to speak in favor of or against the variance request. Mr. McLeod asked the applicant to come before the Board to address the statements of the public. In reference to the comments from the public, Mr. Hilburn stated the following:

1. The residents may have a misconception of how the houses will appear with the smaller front yard setback.
2. The houses are located on a curve so the reduced front yard setback will not be noticeable.
3. All houses are required to have a 2 car garage to have less street side parking.
4. The common area has not been diminished in size but shifted to other parts of the subdivision.

Mr. Hilburn clarified to the Board that he is asking for a reduction in the front setback only and he is not aware of any ways to alter the drainage ditch. Mr. Greenwood affirmed to the Board that the parcels in question were added after the preliminary approval of the entire subdivision. Members of the audience came before the Commission to state Mr. Hilburn was incorrect in his statement that all houses have 2 car garages.

c. Adjourn Hearing

With no one else to speak in favor of or against the request, Mr. McLeod closed the public hearing.

V. MOTION- VARIANCE NO. 003-16

Robin DiPietro made a motion to deny the variance request. Jason Simpson seconded the motion. All were in favor. The vote to deny the variance request was unanimous. The Board agreed that it is the job of the developer to perform due diligence to assess the site and a variance cannot be issued due to the fact that there is a drainage easement through the properties.

VI. APPEAL NO. 001-16

The property owner is appealing the decision of the Zoning Official, relative to the interpretation of Zoning Ordinance Section 5.6 Accessory Buildings and Uses, to define a carport as an accessory building/use and deny a permit for placement of a carport anywhere other than the rear yard setback. The property is located at 2300 Charleston Hwy and Congaree Drive (TMS #005757-02-007 and 005761-01-002).

a. Opening Statement

David Leichtman came before the Board, as the applicant, to discuss the administrative appeal. Mr. Leichtman stated the Planning Director has misinterpreted the zoning ordinance as it applies to a manufactured home community (MHC) in the decision to deny a permit for a carport. He

stated zoning regulations for a carport apply to single family subdivisions and not an MHC. Mr. Leichtman stated the MHC does not have individual lots so it would be impossible to place a carport in the rear yard. Mr. Leichtman submitted a photo of a carport to the Board. He explained that a condition of the MHC requires off street parking for 2 cars in front of the manufactured home so it only makes sense to be able to place a carport there. Mr. Leichtman stated that he does not feel as though the ordinance specifically regulated carport in Section 5.6-3 Location of Accessory Buildings and Uses.

Mr. Greenwood explained that the permit was denied for the carport because the ordinance prohibits accessory buildings in the front yard. Mr. Greenwood stated that he understands the ordinance to define a carport as an accessory building. He stated his interpretation of the ordinance is that a MHC should be regulated the same as any other residential subdivision. Mr. Greenwood stated even though it is not divided into individual lots, the conditions for the MHC create a front yard with a 25 ft. setback. Mr. Greenwood stated that he suggested to the applicant to appeal to the Zoning Board if he did not agree with the interpretation. After inquiry from the Board, Mr. Greenwood explained once a front yard is established, rear and side yards can be assigned.

Mr. Leichtman stated the configuration of the homes does not allow rear yards and a carport should be allowed to cover the required parking pad. He stated the parking pad is located in the front yard setback. Mr. Leichtman stated any problems with carports in the MHC should be resolved by the property owner and not the City.

b. Public Testimony

There was no one present to speak in favor of or against the administrative appeal.

c. Adjourn Hearing

With no further discussion. Mr. McLeod closed the public hearing.

VII. MOTION- APPEAL NO. 001-16

Mr. Vickery made a motion to accept the administrative appeal. Ms. DiPietro seconded the motion. All were in favor. The Board agreed: 1. Manufactured home communities should not be regulated the same as individual lot subdivisions because of the absence of distinct property lines and 2. Carports should be allowed to cover the required parking pads.

VIII. OTHER BUSINESS

The Board requested that staff come back to them with clarification about the permitted location of carports in residential areas because of multiple appeals on the matter.

IX. ADJOURNMENT

Ms. DiPietro made a motion to adjourn. Mr. Vickery seconded the motion. All were in favor.

**A quorum of Council may be present.
No discussion or action on the part of Council will be taken.**