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A meeting of the Zoning Board of Appeals was held on **June 22, 2015 at 5:30 p.m.** in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were and board members Eric Powell, Tim Wood, and Joe Noll, and Libby Anderson, planning director.

Mr. Powell volunteered to be the interim chairman because both Chairman Hill and Vice Chairman Starkey were absent.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Mr. Powell called the meeting to order at 5:30 p.m. and led the Pledge of Allegiance. He read the notice of compliance with the Freedom of Information Act requirements.

MINUTES

Mr. Wood made a motion, second by Mr. Noll, to approve the minutes of the April 27, 2015 meeting as submitted. The motion passed unanimously.

Mr. Noll made a motion, second by Mr. Wood, to approve the minutes of the May 20, 2015 meeting as submitted. The motion passed unanimously.

REVIEW OF PROJECTS

2501 Hermitage Road, Identified as District R120, Map 5, Parcel 438

Side and rear yard setback variance

Applicant: Johan Niemand, JHN Residential Building Design (ZB15-15)

The applicant is requesting variances in order to extend the existing screen porch on the rear of the dwelling.

Ms. Anderson said this property is at the intersection of Hermitage Road and the Spanish Moss Trail. It has an unusual lot configuration, possibly due to its location near the former railroad right-of-way. It has a “bite” out of it and is “a sort of reverse flag lot,” Ms. Anderson said. The side and rear yard setbacks are both 15’.

It’s located within 5’ of the rear setback line. A garage with an accessory dwelling unit is on the west side; a shed roof was constructed on it without a permit. Current zoning is R-1, Ms. Anderson said, and it butts up to a private property that has Limited Industrial zoning.

They would like to double the deck size of the screened porch on the side, but to do the addition they will encroach on the rear yard setback. It’s 5–5.5’ and will be 9.5’ from the rear property line, so they are asking for a 5.5’ rear yard setback variance to allow the porch encroachment.

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Ms. Anderson showed the accessory dwelling unit and the “shed roof or carport” which was added in the last few years without a permit. It’s 7.3’ from the west side property line. Because the garage has an accessory dwelling unit, it must meet the full setbacks of the zoning district it’s in. If it did not contain an accessory dwelling unit, it would only need a 5’ setback, not 15’. The applicant has also asked for a variance to allow the shed roof to remain.

Public notice was made. Two public comments were received, and they were sent to the Board.

Ms. Anderson enumerated the variance findings:

1. **Extraordinary and exceptional conditions:** In staff’s opinion, this finding could be made for the following reasons: a) the lot configuration isn’t a rectangle; it has a bite out of it; b) it’s adjacent to the Spanish Moss Trail, so there’s not a neighbor there who might have a problem with it; c) There are industrial uses to the rear of the property.
2. **Conditions as applied to other properties in the vicinity:** Staff feels it does not apply to other properties, Ms. Anderson said.
3. **Conditions are not the result of the applicant’s own actions:** This finding could be made.
4. **Granting the variance would not conflict with Comprehensive Plan:** It is not in conflict, Ms. Anderson said.
5. **Unreasonable restriction on utilization of the property:** The screen porch extension would be unreasonable to prohibit, Ms. Anderson said. This is “a modest cottage type of unit,” and the adjoining property to the rear is an industrial property. There’s nothing near the encroachment. In regard to the shed roof extension, there’s encroachment because the garage has an accessory dwelling unit, which brings the side yard setback to full. It’s an open carport, though, which she said helps.
6. **Not a detriment to adjacent property and the public good:** A screen porch is no detriment to any adjoining users or uses; the shed roof would not be a detriment if the applicants could get something from the adjacent property owner that indicates that they don’t object. According to Ms. Anderson, the building official has said the applicants will need a structural engineer to look at the roof to be sure that it has been done properly and permitted.

Staff feels all conditions have been made for a rear yard setback variance and for a variance on the shed roof and the side yard setback if 1) the 2503 owner makes a support statement and doesn’t object to having the shed roof there and 2) the owner applies for an after-the-fact permit within 60 days of this meeting.

Mr. Powell asked if the applicant had constructed the shed roof; Ms. Anderson said she didn't think so.

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Johan Niemand, the architect for the applicants, the Duncans, said the initial idea was to ask for the porch addition. The existing screened porch is limited in size, and the applicants would like to put a dining table in and use the space better. The shed roof “jumped on” him, and he wanted to add it to the project application to get it approved.

There was no public comment. Mr. Wood said he passes this property pretty much every day, and the applicants “keep their yard nice.” He saw the shed roof going up but had assumed they had a permit. If the city doesn’t have a problem with a retro-permit, he’s fine with it, too. “It’s a dead zone behind that property,” Mr. Wood said. Inside the “L” is “almost a green space.” This really will have no effect on anyone else, and “getting the letter of approval from the neighbor and . . . going through the process . . . seems like a good idea for the retrofit.”

Mr. Noll said it’s one of the few new houses in the neighborhood, and if the next-door neighbor doesn’t object, Mr. Noll has no problems, either.

Mr. Powell said the proximity to the Spanish Moss Trail makes this an easy decision, as well as the city not having a problem giving proper structural authorization for the shed.

Mr. Wood made a motion to approve both the side and rear variances, based on recommendations from staff that the owners of 2503 submit in writing a letter of support for the variance request, and the owner applies for an after-the-fact variance for the shed roof. Mr. Noll seconded. The motion passed unanimously.

REVISION OF RULES OF PROCEDURE

Ms. Anderson said at a recent meeting, an applicant was a no-show, and they had looked up the rules of procedure and found conflicting information about this in different sections. They all agreed that every applicant should be at their meeting, so she thought they should revise their rules.

While looking into changing this, she found some other elements that needed “cleaning up.”

1. While an annual schedule doesn’t need to be adopted, one should be developed and posted.
2. The agenda should be posted within 5 calendar days.
3. The applicant or their designated representative must be present at the meeting for their case to be heard. The conflicting section would be deleted.

Mr. Starkey had asked what happens if the applicant doesn’t show up for the meeting, and Ms. Anderson said the board wouldn’t approve or deny. If the applicant is not present, no action would be taken, and they will table the application until the next meeting.

There was unanimous agreement in favor of the changes to the rules.

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Ms. Anderson said she was unsure yet whether there would be a July ZBOA meeting.

There being no further business to come before the Board, the meeting was adjourned at 5:54 p.m.

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