

**Smithfield Board of Adjustment
Minutes
Thursday, January 31, 2019
6:00 P.M., Town Hall, Council Chambers**

Members Present:

Stephen Upton, Vice Chairman
Sarah Edwards
Mark Lane
David Johnson
Doris Wallace

Members Absent:

Paul Worley, Chairman

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Administrative Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

CALL TO ORDER

SWEARING IN OF DORIS WALLACE

Vice Chairman Stephen Upton swore in new member, Doris Wallace.

APPROVAL OF MINUTES FROM July 26, 2018

David Johnson made a motion, seconded by Mark Lane to approve the minutes as written.
Unanimous

APPROVAL OF 2019 MEETING SCHEDULE

Doris Wallace made a motion, seconded by Mark Lane to approve the 2019 meeting schedule.
Unanimous

After all persons giving testimony were duly sworn, Vice Chairman Stephen Upton opened the public hearing.

OPEN PUBLIC HEARING

Sarah Edwards made a motion, seconded by Doris Wallace to open the public hearing.
Unanimous

Mr. Helmer pointed out in order for a decision to pass it would require four-fifths of the board and there is a missing member tonight. You would need a unanimous vote by this board tonight to approve the request in front of you. If there is an issue that can't be approved tonight, the board can request that it be tabled until the following month.

BA-19-01 First Missionary Baptist Church:

Mr. Helmer stated the applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance, Article 8, Section 8.3.1 to allow for a reduction to the minimum lot size and a reduction to minimum building setback on property located within an R-8 (Residential) zoning district. The property considered for a variance is located on the east side of North Fourth Street approximately 157 feet north of its intersection with Caswell Street and further identified as Johnston County Tax ID# 15013053.

First Missionary Baptist Church is requesting the following variances:

- 6' 9" variance from a 10' side yard setback.
- 5' 8" variance from a 10' side yard setback
- 1,888 square foot variance from the 8000 square foot minimum lot size

The variances are needed in order to subdivide the property and to transfer ownership from First Missionary Baptist Church to the Historic Smithfield Foundation.

The applicant is seeking a variance necessary to subdivide the historic Freedman Schoolhouse from its parent parcel which contains one additional single family dwelling. The Historic Smithfield Foundation is proposing to purchase the historic Freedman Schoolhouse property but will require the historic structure be on its own lot of record. The subject property currently contains two single family dwellings, and is currently nonconforming because it does not conform to Article 2, Section 2.13 which states that..."in no case shall there be more than one principle building and its customary accessory buildings on the lot except in the case of a designed complex". This proposed division of land will lessen the nonconformity but in doing so will create the need for a variance to the required side yard setbacks and minimum lot size. The following Unified Development Ordinance section highlights the dimensional requirements for lots located within the R-8 (Residential) zoning district.

As part of a complete variance application, the applicant has submitted a surveyed subdivision plat documenting the location of all existing structures on the property considered for a variance. According to this plat, the applicant is requesting a five (5) foot eight (8) inch variance from the required ten (10) foot side yard width for tract labeled #1. The applicant is also requesting a six (6) foot nine (9) inch variance from the required ten (10) foot side yard width and a 1,888 square foot variance from the required 8,000 square foot minimum lot size for tract labeled #2. Both proposed lots can meet the minimum of two (2) off-street parking spaces. Any future non-residential land use of the property will likely need to secure alternate off-street parking accommodations.

Mr. Lane asked if that was a factor tonight.

Mr. Helmer said no, the lot as it is proposed doesn't have adequate space for a required parking lot. They would need an arrangement for off-site parking.

Mr. Upton asked if that would be a requirement.

Mr. Helmer said for any future land use other than residential, yes it would.

Ms. Edwards asked if it would be acceptable for them to have an arrangement with the church and if so is the church willing to provide that.

Mr. Helmer stated there is a provision in the ordinance that does allow for annex type parking facilities.

4.10.2.2.1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. ***Unnecessary hardship will occur, because without the***

variance, subdividing the land cannot occur. Multiple single family dwellings on a single lot will remain, making purchasing, financing, insuring one single family dwelling much more difficult.

4.10.2.2.2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. ***The existing property contains two single family dwellings on a single lot which is uncommon and normally not permitted with modern zoning regulations. The two existing single family dwellings were constructed unusually close together rendering each structure unable to meet current building setback standards. Granting the variance will allow for a division of land that will serve to create a more conforming situation by ensuring that the standard of one principle structure per lot is maintained.***

4.10.2.2.3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. ***The hardship was not created by the applicant since both single family dwellings were constructed prior to modern zoning regulations and current construction standards.***

4.10.2.2.4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved. ***The variance is in keeping with the spirit, purpose, and intent of the Ordinance. The variance will serve to protect and preserve the fabric and history of the district in which the dwellings are located.***

Planning Staff recommend the Board of Adjustments approve variance BA-19-01 to allow for a 6' 9" variance from the 10' side yard setback, a 5' 8" variance to the side yard setback and a 1,888 square foot variance to the minimum lot size.

Todd Johnson from 415 E. Davis Street came forward to answer any questions.

Mr. Lane stated that he knew this was the old schoolhouse. Explain to us what is going to happen with this property.

Mr. Todd Johnson said the plan is for the Historic Smithfield Foundation to purchase this property and restore it to the 1869 appearance it once had and create a museum. It could also serve as a small meeting space.

Mr. Lane asked if the house beside this property in question currently occupied.

Mr. Johnson said yes it is. It would continue to be owned and operated by the church.

Mr. Lane stated that he was glad to see that the house would be occupied; otherwise it would become a fire hazard.

Ms. Edwards asked if the church would agree to allow their lot for parking.

Mr. Todd Johnson stated it was his understanding when the church didn't need to use the parking facilities it would be available to them should they have a tour group or meeting. He

feels most of the parking needs can take place street side and not require church parking facilities.

David Johnson made a motion to close BA-19-01, seconded by Sarah Edwards. Unanimous

Mr. Lane made a motion based upon satisfactory compliance with the above stated findings and fully contingent upon acceptance and compliance with all conditions as previously noted herein and with full incorporation of all statements and agreements entered into the record by the testimony of the applicant and applicant's representative, I move to recommend to approve variance BA-19-01, seconded by Doris Wallace. Unanimous

Mr. Upton stated BA-19-01 is approved.

Sarah Edwards made a motion to adjourn, seconded by David Johnson. Unanimous

Submitted this 1st day of February, 2019

A handwritten signature in black ink that reads "Julie Edmonds". The signature is written in a cursive, flowing style.

Julie Edmonds
Administrative Support Specialist
Town of Smithfield Planning Department