**DRAFT**

**Smithfield Board of Adjustment**

**Minutes**

**Thursday, March 26, 2015**

**6:30 P.M., Town Hall, Conference Room**

**Members Present: Members Absent:**

John Parrish, Chairman Mark Lane

Stephen Upton

Paul Worley

Eddie Foy

Sarah Edwards

Michael Exum Johnson

**Staff Present:**

Mark Helmer, Senior Planner

Veronica Hardaway, Administrative Support Specialist

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM OCTOBER 30, 2014.**

Eddie Foy made a motion, seconded by Stephen Upton to approve the minutes as written. Unanimous.

**Public Hearings:**

After all persons giving testimony were duly sworn, Paul Worley opened the public hearing.

**BA-15-01 Alec Sena:**

Mr. Helmer stated the applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance (UDO), Article 10, Note Five, Accessory Uses or Structures, to allow for a detached garage to be constructed closer than 8 feet to a side property line and 6 feet closer to a rear property line. The property considered for approval is located on the east side of North Second Street approximately 100 feet south of its intersection with Hancock Street and further identified as Johnston County Tax ID# 15012024.

Mr. Helmer stated the applicant is proposing to replace an existing 308 square foot detached garage with an all new structure that will be approximately 572 square feet in area. The proposed garage will be located on the northeastern corner of the property. The preliminary site plan shows the proposed structure located within 2.2 feet of a side property line and 2.1 feet of the rear property line. The proposed structure will be located closer than 10 feet from the adjacent accessory structures found on the Parrish property and Ragland property.

Mr. Helmer stated the Town of Smithfield UDO, Article 10, Note Five, Accessory Uses or Structures, requires a detached accessory structure be set back 8 feet from a side property line and 6 feet from a rear property line and shall be no closer than 10 feet from any other accessory structure on another property. Therefore, a variance must be approved by the Smithfield Board of Adjustment prior to planning staff issuing a zoning permit for the proposed structure.

Mr. Helmer stated the property is zoned R-10 (Residential) and is not lying within any local historic overlay district. It appears that no environmental issues, such as designated wetlands or flood prone soils exist on the site that would prohibit staff from approving the plan once a Board of Adjustment issued variance is secured by the applicant.

Mr. Helmer stated the Town of Smithfield Board of Adjustment is requested to review the petition and make a decision on the variance request to allow for a reduction in the side and rear yard setbacks for a detached accessory structure.

Paul Worley asked for questions or comments from the Board.

Eddie Foy asked if there was any opposition.

Mr. Helmer stated there was not.

Sarah Edwards asked if the eves of the structure will be within 5” of the property line.

Mr. Helmer stated that is correct.

Article 5, Section 5-2 of the Town of Smithfield Unified Development Ordinance requires applications for a variance to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of application.

Stephen Upton made a motion, seconded by Eddie Foy to move to the Findings of Fact for a Variance. Unanimous.

**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 would result from the strict application of the ordinance because placing the structure at any location other than the one requested will result in reduced access to the proposed structure from the existing driveway. ***All members stated true.***

**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 hardship results from conditions that are peculiar to the property, such as location, size, and topography. The property size is approximately .22 acres in size and is not uncommon but is small enough that building a modest sized garage on the property would be all but impossible without the requested variance. ***All members stated true.***

**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 did not result from actions taken by the applicant or the property owner. The applicant’s need of a variance to the accessory structure setbacks is being driven by the small lot size and not by an error in manufacturing or installation of the proposed structure. ***All members stated true.***

**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 requested variance is consistent with the spirit, purpose, and intent of the ordinance which attempts to be fair in its administration of the sign regulations. However, the Smithfield UDO limits the location of accessory structure to be no closer than 8 feet to a side property line and 6 feet to a rear property line. This may be considered excessively restrictive the smaller the property is. Granting this variance will achieve justice and allow for improvements to the property through the construction of a modest size detached garage. ***All members stated true.***

Based upon satisfactory compliance with the above four 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.

Stephen Upton made a motion, seconded by Eddie Foy to recommend approval of the request of a variance to allow for a detached garage to be constructed closer than 8 feet to a side property line and 6 feet closer to a rear property line with the conditions included in the finding of facts.

**Old Business:**

**New Business:**

**Adjournment:**

Being nothing further, Eddie Foy made a motion, seconded by Stephen Upton to adjourn.

Submitted this 26th day of March, 2015.

Veronica Hardaway

Administrative Support Specialist

Planning Department