**DRAFT**

**Smithfield Board of Adjustment**

**Minutes**

**Thursday, June 25, 2015**

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

**Members Present: Members Absent:**

John Parrish, Chairman Paul Worley

Stephen Upton

Eddie Foy

Sarah Edwards

Michael Exum Johnson

Mark Lane

**Staff Present:**

Mark Helmer, Senior Planner

Veronica Hardaway, Administrative Support Specialist

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM MARCH 26, 2015.**

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

**Public Hearings:**

After all persons giving testimony were duly sworn, John Parrish opened the public hearing.

**BA-15-02 K Rental Properties LLC:**

Mr. Helmer stated the applicant is requesting a variance to the Town of Smithfield Unified Development Ordinance (UDO), Article 12, Table of Area, Yard and Height Requirements to allow for a reduction to the required minimum building setbacks for additions to existing single family dwellings located within an R-8 (Residential) zoning district. The properties considered for approval are located on the southeast side of the intersection of South Vermont Street and West Davis Street and further identified as Johnston County Tax ID# 15033012 and 15033013.

Mr. Helmer stated the applicant is proposing to build covered stoops on the front of 5 single family dwellings that are located within an R-8 zoning district. The properties are identified as 111 West Davis Street, 113 West Davis Street, 115 West Davis Street, 505 South Vermont Street and 507 South Vermont Street. All the proposed stoops are within 14 feet to 19 feet from the front property line. In addition, the applicant is proposing a 10 foot by 17 foot attached addition on the rear of 507 South Vermont Street. This addition will be 4 feet from a side property line.

Mr. Helmer stated the existing structures are considered legal nonconforming because they predate zoning and they do not meet modern building setbacks. The Town of Smithfield Unified Development Ordinance (UDO), Article 12, requires principle structures located within an R-8 zoning district to be setback a minimum of 30 feet from a front property line and 10 feet from a side property line. 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-8 (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. Staff opinion is that the proposed improvements will add value to the structures and neighborhood at large.

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 front and side yard building setbacks for the proposed additions.

John Parrish asked for questions or comments from the Board.

John Parrish asked if there was any opposition.

Mr. Helmer stated there was none.

Mark Lane asked if 30 feet is the minimum setback.

Mr. Helmer stated that 30 feet is the standard setback from a front property line.

Eddie Foy stated these structures are an improvement to the community.

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 and will not allow for the rehabilitation of the front of the dwellings. ***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, or topography. The properties and the dwellings they contain are very small. Although there size is not all that uncommon, they are small enough that building any modest sized addition 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 principle building 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 site development regulations. However, the Smithfield UDO limits the location of principle structures to no closer than 30 feet to a front property line and 10 feet to a side 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 modestly sized additions. ***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.

Eddie Foy made a motion, seconded by Stephen Upton to recommend approval of the request of a variance to allow for a reduction to the required minimum building setbacks for additions to existing single family dwellings located within an R-8 (Residential) zoning district.

**Old Business:**

**New Business:**

**Adjournment:**

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

Submitted this 25th day of June, 2015.

Veronica Hardaway

Administrative Support Specialist

Planning Department