**DRAFT**

**Smithfield Board of Adjustment**

**Minutes**

**Thursday, August 25, 2016**

**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:**

Paul Embler, Planning Director

Veronica Hardaway, Administrative Support Specialist

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM MAY 26, 2016.**

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, John Parrish opened the public hearing.

**BA-16-03 Jason and Dawn Marlow:**

Mr. Embler 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 structure to be built closer than 8 feet to side yard property line and 25 feet closer to the front right-of-way. The property considered for approval is located on the south side of the intersection on North Seventh Street and Caswell Street and further identified as Johnston County Tax ID# 15021027.

Mr. Embler stated the applicant is proposing to construct a 10 foot by 20 foot covered porch addition on the rear of an existing 821 square foot single family dwelling and an 8 foot by 20 foot covered porch addition to the front. The proposed addition at its closest point will be approximately 5.4 feet from the western side property line. There is an existing property line dissecting the property into two lots. The applicant has submitted a recombination plat at staff’s request showing the property line dissecting the lot as being deleted. The action of the applicant through submission of a recombination plat has in affect reduced the needed variance by approximately eighty-eight percent.

Mr. Embler stated the existing structure is considered legal nonconforming because it predates zoning and does not meet modern building setbacks. The Town of Smithfield Unified Development Ordinance, Article 12, requires principle structures located within a B-2 zoning district to be setback a minimum of 25 feet from a front property line, 8 feet from a side yard property line and 15 feet from a rear property line. Therefore, a 2.6 foot variance to the 8 foot side yard building setback and a 6.1 foot variance will be required for the front porch must be approved by the Smithfield Board of Adjustment prior to planning staff issuing site plan approval and zoning permit for the proposed structure.

Mr. Embler stated the property is not within a local designated historic overlay district and 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. Embler 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 2.6 foot reduction to the required 8 foot side yard setback for the construction of a 10 foot x 20 foot addition to an existing single family dwelling and to review the request for a 6.1 foot reduction in the front yard setback to allow for an 8 foot by 20 foot front porch.

John Parrish asked for questions or comments from the Board.

John Parrish asked if there was any opposition to the proposed variance.

Mr. Embler stated there was none he was aware of.

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 without the requested variance, the proposed addition to the existing nonconforming structure could not occur without costly modifications to the existing structure and design of the proposed addition. ***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 structure was constructed in 1901 and predates modern zoning by approximately five decades. Very few single family dwellings built during this time have survived and the ones that have, tend to be larger lots with principle building locations coming closer to meeting current building setback requirements. ***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 side yard setbacks is being driven by the narrow lot width and construction practices at the time of construction. ***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. Granting this variance will achieve justice and allow for improvements to the property while complimenting and enhancing the current design of the existing structure. ***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 structure to be built closer than 8 feet to side yard property line.

**Old Business:**

**New Business:**

**Adjournment:**

Being nothing further, Stephen Upton made a motion, seconded by Sarah Edwards to adjourn.

Submitted this 25th day of August, 2016.

Veronica Hardaway

Administrative Support Specialist

Planning Department