

ATHENS-CLARKE COUNTY HEARINGS BOARD
MINUTES
March 9, 2016

The Athens-Clarke County Hearings Board met and considered the following items at a public meeting at 3:00 p.m. on Wednesday, March 9, 2016, at 120 W. Dougherty Street, Athens, Georgia:

MEMBERS PRESENT: Ricky Boggs, Nancy Burk, Mike Lord, Pat Shearer, and Ed Simpson (Chair)
MEMBERS ABSENT: Myung Cogan and Joey Tucker
STAFF PRESENT: Marc Beechuk, Rick Cowick, Jane Erwin, and Amber Eskew (ACCUG Planning);
Jim Davis (ACCUG Attorney)

CALL TO ORDER AND APPROVAL OF MINUTES:

1. **Introduction of staff reports and all other documents submitted to the Hearings Board at the meeting into the official record.** Ms. Burk made a motion to introduce all reports and documents into the official record. Mr. Simpson seconded the motion, which passed unanimously.
2. **Adoption of minutes from the February 10, 2016 Hearings Board meeting.** Mr. Boggs made a motion to approve. Mr. Lord seconded the motion, which passed unanimously.

NEW BUSINESS

1. **437 BLOOMFIELD STREET VAR-2016-02-341**
Petitioner: James W. McNay
Zoning: RS-5 (Single-Family Residential)
Tax ID: 171C3 F002
Request: A. Variance to increase lot coverage from 50% to 55%

Ms. Erwin gave the staff report with the recommendation for Denial

In Favor: Mr. McNay, applicant, said that the driveway was longer when the house was built than the 33 feet indicated on ACC records. He and his sister moved into the house in 1989. He received a sworn affidavit from his sister, which he read to the Board. Tax records indicate a rear-loaded basement garage, which was there when they moved to the property. In 1992 they enclosed the garage to keep the bees out and make the house warmer. Thus, parking was in the rear yard in 1992. The driveway is especially long, but that is the way the property is set up. The ten-foot-wide driveway extends 120 feet for a coverage area of 1,200 sf. The parking area is 1,312 sf. This results in 406 sf of coverage exceeding the maximum allowance. No part of the driveway can be removed, so any reduction has to come out of the parking area. Compliance with that standard would mean the loss of one-third of the parking area, which would not leave tenable parking and maneuvering area.

He provided the sworn affidavit from his sister for the record.

In Opposition: Susan Field, 150 Cloverhurst Terrace, referenced a letter that had been provided to the Hearings Board prior to the meeting. She said that a garage had recently been demolished across the street from the subject property without a demolition permit or Historic Preservation Commission approval. The owner of this property may have decided to follow the same philosophy of that it is easier to ask forgiveness than permission. The Board should not allow this case to contribute to this trend. Penalties and consequences need to be established to prevent this illegal activity. This variance should be denied and the owner be required to remove the excess pavement and replace it with a stormwater detention pond. Should the HPC have been involved with this request?

Board Discussion: Mr. Simpson asked why permission was not sought prior to construction. Mr. McNay replied that he had consulted with three contractors, none of which mentioned the need to obtain a permit.

There was no intent to circumvent rules and regulations or follow the path of alleged illegal activity across the street. When informed of the violation, he immediately visited the Planning Department to find out what needed to be done. He did not know a driveway resurfacing needed a permit.

Mr. Shearer said that standard #1 is not met since there is nothing extraordinary about the property. Neither is standard #2, regarding undue and unnecessary hardship. He cannot find where all five standards have been met.

Ms. Burk said that she cannot find that any of the five standards are met. This is a convenience for the tenants. There is no basis for granting a variance.

Mr. McNay said that two residents live there. It is nice to have parking for visitors, but there are normally only two cars parked on the property.

Mr. Simpson asked how the property would be brought into conformance. Mr. McNay replied that 406 sf of the parking area would need to be removed. He described in detail the specific areas that could be removed.

Mr. Simpson said that all of the standards have not been met. Standard #1 has been previously discussed. He also does not think that standard #4 is met.

Motion: Mr. Simpson made a motion for denial. Mr. Lord seconded the motion, which passed unanimously.

2. 153 STRICKLAND AVENUE VAR-2016-02-359

Petitioner: Baseline Surveying & Engineering, Inc. for Collegiate Property Management, LLC
Zoning: RM-1 (Mixed Density Residential)
Tax ID: 163D1 D009
Request: Variance to increase front yard coverage from 3,204 sq. ft. to 5,897 sq. ft.

Mr. Beechuk gave the staff report with the recommendation for Denial

In Favor: Mr. Underwood, applicant, distributed a site plan exhibit to the Hearings Board. He said that the ACC Code approach of "one size fits all" does anticipate existing lots of record. The three lots of record are not typical lots. They have extreme constraints. The proposal minimizes the environmental impact, maximizes public safety, and develops the potential of the multifamily zone properties. The Staff report accurately states that these lots could each have one dwelling, but that would minimize the property use and does not address the access needed for the two other lots. Disallowing the use of a single driveway would require three separate stream crossings. The Staff suggests that the other two adjoining lots have sufficient area between the street and the 25-foot State riparian buffer; however, this is not possible under the current Code. Staff is suggesting drive-under parking, which would not allow vehicles to leave the property in a forward manner. This would be dangerous due to a nearby blind curve in the street. The Planning Staff's proposed design would require other front yard coverage variances. Decreasing the lot coverage on 153 Strickland Avenue would require more lot coverage and impact on the environmental areas on 149 and 151 Strickland Avenue. His proposal best preserves the environmental areas. Houses cannot be built with the Staff's idea. The house has to be placed at the back of the lot at 153 Strickland Avenue because that is where the buildable area is on the lot. His opinion is that the second variance denoted in the Staff report is unnecessary.

In Opposition: None

Board Discussion: Mr. Simpson said that it is almost moot whether a second variance is needed. Mr. Davis advised the Board that the question of a second variance is moot because the only matter before the Hearings Board today is the front yard cover variance request.

Mr. Shearer asked if houses could be built on the two other lots in different locations. Mr. Beechuk described the other options of either (1) using understructure parking, or (2) to have the houses sited as proposed and have the parking up front by the street.

Mr. Davis advised the Board that there is no legal right to the "highest and best use" of the property; there just has to be a reasonable use allowed for the property.

Mr. Underwood said that he did not think anyone wanted vehicles backing out into the street due to high speed and a blind curve nearby. The driveway could not be shifted to the left to be partially on the adjoining lot since Staff is requiring the preservation of a tree in that area. Placing the parking up front will require some type of stream crossings to get to the houses and it would not be desirable to have a concrete front yard.

Mr. Lord asked about the purpose of the additional parking. Mr. Underwood replied that all of the shown parking is allowed. On-street parking is not allowed. Reducing the parking to two spaces would not affect the requested variance.

Mr. Lord asked if the recently demolished house had vehicles backing out onto the street. Mr. Underwood replied that it had, but the house had been built a long time ago, was in the 25-foot State buffer, and the street traffic has greatly increased.

Mr. Simpson said that standard #1 is met. Ms. Burk said that she disagreed.

Mr. Simpson asked the applicant about standard #2. Mr. Underwood replied that the Staff options are not viable for the adjoining lots. There can be three stream crossings, but he questioned whether that is a solution that everyone wants to see. It is better to have one stream crossing, one driveway, and to access the adjoining houses from the back.

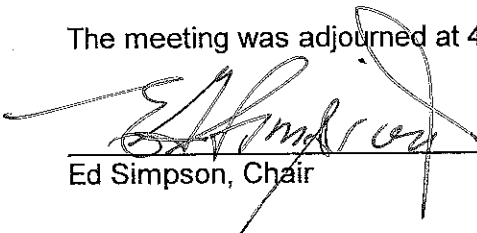
Mr. Shearer said that three stream crossings would not be an optimal solution, but this is not the minimum variance. Mr. Boggs said that the number of proposed parking spaces is an example of this not being the minimum possible variance.

Motion: Mr. Shearer made a motion for denial. Mr. Boggs seconded the motion, which passed unanimously.

OTHER BUSINESS:

Directors Report: Ms. Erwin said that the submittal deadline for the April meeting is this Friday and no applications have yet been received.

The meeting was adjourned at 4:20 p.m.



Ed Simpson, Chair



Brad Griffin, Director/Secretary