

## **Board of Appeals Meeting**

**700 Doug Davis Drive, Hapeville, GA 30354**

**January 23, 2020**

**6:00 PM**

### **MINUTES**

#### **1. Welcome and Introduction**

Chairman Michael Simpson called the meeting to order at 6:00 p.m. in the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. Members in attendance included Vice Chairman Jan Bolien, Gabriel Cojocarescu, Rod Mack, Larry Martin, Billy Slocumb and John Stalvey. City Planner Michael Smith and Secretary Adrienne Senter were also present.

#### **2. Election of Officers**

##### **2.I. Election of Officers**

Chairman:

**MOTION ITEM:** Jan Bolien made a motion, Gabriel Cojocarescu seconded to re-elect Michael Simpson as Chairman of the Board of Appeals. Motion Carried: 6-0.

Vice Chairman:

**MOTION ITEM:** John Stalvey made a motion, Larry Martin seconded to re-elect Jan Bolien as Vice Chairman of the Board of Appeals. Motion Carried: 6-0.

#### **3. Approval of Minutes**

##### **3.I. Minutes of November 14, 2019**

**MOTION ITEM:** Larry Martin made a motion, John Stalvey seconded to approve the minutes of November 14, 2019 as submitted. Motion Carried: 6-0.

#### **4. New Business**

##### **4.I. 3277-3275 Russell Street**

##### **Variance Request**

##### **Background**

Wilbur Steve Lamb and Dorthy Jane Mann are requesting to reduce the front yard setback from 15' to 0" to allow for the construction of an access ramp at 3277-3275 Russell Street, Parcel Identification Number 14-0095-0010-075-7. The property is zoned R-O, One-Family Detached, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

Staff Comment:

The ramp, while attached to the primary structure, is functionally the equivalent of the walkway connecting the dwelling to the street. The previously existing condition prevented reasonable use of the property for its current occupant; the ramp is providing a necessary service to a resident of the dwelling, who otherwise has difficulty accessing the property. Further, the Design Review Committee has approved the design of the ramp. Staff recommends approval of the conditional variance for the period that the house is owned by the current owner. Should the property be sold or rented, the ramp should be removed.

Applicant Comment:

The applicant stated the property is occupied by his sister and she cannot access the property by steps. The ramp was constructed over the existing steps up to the front porch for access.

Public Comment: None.

End of Public Comment.

Commissioner Bolien inquired regarding the conditional approval based upon the ownership/occupancy.

Commissioner Martin asked if the requested variance is 81" or 0" and if the existing concrete walkway is attached to the house. Mr. Smith stated that concrete walkways are not subject to the setbacks and the ramp extends to the existing sidewalk.

In addition, Commissioner Martin asked Mr. Lamb if he was aware of the staff recommendation that the ramp would be removed if the property was sold or rented.

The applicant agreed that if the property was sold or rented, the wooden ramp would be removed.

**MOTION ITEM: John Stalvey made a motion, Larry Martin seconded to approve the variance request at 3277/3275 Russell Street provided that if the property is sold, rented or no longer needed, the ramp should be removed. Motion Carried: 6-0.**

**515 Walnut Street  
Background**

**Variance Request**

Asha Pittman on behalf of Gregory Evans requested a variance to reduce the west

setback from 15' to 13' at 515 Walnut Street, Parcel Identification Number 14 0094-0003-064-1. The property is zoned R-SF, Residential Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

**Staff Comment:**

The applicant has not provided evidence of an unnecessary hardship based on the peculiar conditions of the lot. The lot is typical of corner lots in Hapeville and can reasonably accommodate a new single-family dwelling of at least 1,000 square feet of floor area within the minimum setbacks. Based upon these requirements for variance consideration, staff does not recommend approval of the variance.

Planning Commission met on January 14, 2020 and approved the site plan with a recommendation to the Board of Appeals to approve the variance.

**Applicant Comment:**

Ms. Pittman stated that portions of the home, specifically the chimney and the dining room area exceed the 15' setback. In addition, Ms. Pittman stated that the actual footprint of the home encroached into the setback by 1' and an additional 1' for the roofline.

**Public Comment:** None.

End of Public Comment.

**MOTION ITEM:** Jan Bolien made a motion, Rod Mack seconded to deny the application for 515 Lake Drive.

**Discussion:** Larry Martin asked the applicant if she had explored an alternative solution to the location of the chimney and overhang. The applicant stated the chimney and the dining area both encroach into the setback and when she met with the Design Review Committee about an alternative design and stated that any modification would limit the overall living space. John Stalvey stated that the Chairman of the Design Review Committee recommended eliminating the hallway and moving the stairwell which would allow for additional space and remove the need for a variance. Gabriel Cojocarescu asked why the setback requirement for a corner lot is different than for a regular interior lot? Mr. Smith stated that it creates uniformity for neighborhoods.

*After further discussion, the following action was taken:*

**Jan Bolien withdrew her motion to deny. Rod Mack withdrew his second.**

**MOTION ITEM: Larry Martin made a motion, Gabriel Cojocarescu seconded to grant the variance request for 515 Walnut Street as requested. Motion Carried: 6-0.**

*Gabriel Cojocarescu recused himself from the following item:*

#### **4.III . 3240 Lake Avenue**

#### **Variance Request**

##### **Background**

Beatriz Arroyo is requesting to reduce the front yard and side yard setback at 3240 Lake Avenue, Parcel Identification Number 14-0099-0003-073-7. The property is zoned R-SF, Residential-Single Family, and is subject to the zoning regulations under Section 93-22.1-1 of the City of Hapeville Zoning Ordinance.

##### **Staff Comment:**

This application is a subdivision application which would create two lots with one (accessory) structure non- conforming to a setback of less than 1 foot (.84'). The applicant has not demonstrated an unnecessary hardship imposed by the lot or the requirement to develop newly subdivided lots in accordance with the zoning code. Granting a variance would impair the intent of the R-SF zoning district to ensure new development is built to current standard. Removal of the structure would make constructing an accessory structure on an adjacent property at 643 North Avenue more feasible. Staff recommends against granting the variance.

Furthermore, the applicant has not provided enough information to determine if the dwelling can be used as an accessory structure for any new primary dwelling. The applicant must provide the size and height of the accessory building, the size of the proposed primary dwelling, the distance between the primary dwelling and the accessory structure, and, should the space continue to be used as a dwelling, all information required to determine compliance with Sec. 93-2-26 – Accessory dwelling units (ADU) – of the City's Zoning Code. Granting a variance for the setback will not guarantee the dwelling will be viable as an accessory structure.

##### **Applicant Comment:**

Jan Bolien asked the applicant if the structure is an apartment. Ms. Arroyo stated that the structure is an apartment and she intend to construct a new single-family home on the front portion of the property. Staff was unaware that the accessory structure was being utilized as an apartment. Further, staff stated that the Board of Appeals does not have authority to grant a use variance.

Public Comment: None.

End of Public Comment.

After further discussion, staff asked the Board of Appeals to table this item and allow staff to obtain additional information.

**MOTION ITEM: John Stalvey made a motion, Rod Mack seconded to table this item until February 27, 2020.**

**Discussion: Larry Martin asked if the only issue stemmed from the structure being used as an apartment? Chairman Simpson stated that the Board is unclear if the existing structure meets the zoning regulations.**

**Motion Carried: 5-0-1; Gabriel Cojocarescu abstained.**

#### **4.IV 3409 North Fulton Avenue**

#### **Variance Request**

##### **Background**

Aliksandr Holub requested a variance to reduce the required minimum rear yard setback for an accessory structure located on a corner lot from 25' to 9' at 3409 North Fulton Avenue, Parcel Identification Number 14-0095-0004-004-5. The property is zoned R-SF, Residential-Single Family, and is subject to the zoning regulations under Section 93-2-5 of the City of Hapeville Zoning Ordinance.

##### **Staff Comment:**

In 2014, Aliksandr Holub applied for the design review of a proposed garage and carport to be located at 3409 North Fulton Avenue. During his review in 2014, then city planner Bill Johnston raised numerous concerns regarding the application and proposed design. The Design Review Committee approved the plans on the condition that the deficiencies would be addressed prior to construction. However, the accessory structure as built does not reflect the conditions of the DRC and was therefore not constructed in compliance with the City of Hapeville's Zoning Code or Architectural Design Standards. Further, its current use as an accessory dwelling was never permitted. In order to comply with current regulations, Mr. Holub has been instructed to complete the following:

1. Bring the structure and site into compliance with the current Zoning Code and/or request and receive approvals for Variances from the Board of Appeals.
2. Bring the structure into compliance with the Architectural Design Standards based on updated plans approved by the Design Review Committee.
3. Apply for a certificate of occupancy to operate as an accessory dwelling unit.

The applicant met with the Design Review Committee on December 18, 2019 and has indicated his intent to bring the structure itself into compliance with the structural and

design requirements of the Zoning code and the Architectural Design Standards with the exception of one condition related to the placement of the structure. Mr. Holub submitted a variance application to the City to reduce the rear yard setback for accessory buildings on corner lots from 25' to 9'. If the variance is not granted, the structure is non-compliant and will need to be removed.

**Recommendation:**

The applicant has not demonstrated an inherent unnecessary hardship imposed by the conditions of the lot. However, the placement of the structure was done in accordance with the City's setback requirements at the time, which did not have any additional setback requirement for accessory buildings on corner lots. The structure was built along the same plane as a pre-existing structure, and had the applicant built the structure in accordance with the approved plans, would now be legal non-conforming. Relief would not cause substantial detriment to the public good or impair the purpose and intent of this chapter. Staff recommends approval of the Variance.

**Applicant Comment:**

Ms. Holub stated in 2014, he completed an addition on an existing garage and met the development standards at that time. In 2018, he began living in the structure and he was not aware the structure encroached into the setback. He stated the adjacent property is located far off the road and creates minimal impact to the adjacent property.

There was discussion regarding the 25' setback requirement. Mr. Gojocarescu stated he did not support limiting accessory structures located on a corner lot to 25'.

Public Comment: None.

End of Public Comment.

**MOTION ITEM: Larry Martin made a motion, Billy Slocumb seconded to approve the variance request at 3409 North Fulton Avenue as requested.**

**Discussion: Larry Martin commented regarding the issue related to the roof height. He does not support the 14' roof height requirement. Staff stated the applicant may request a design exception and if the Design Review Committee deny his request, the applicant may appeal that decision to the Board of Appeals.**

**Motion Carried: 6-0.**

#### **4.V. Administrative Variance**

#### **Text Amendment**

##### **Background**

Consideration of a text amendment to create Section 93-1-3.1 (Administrative Variances) for the purpose of allowing the City Planner to grant Administrative Variances.

Staff Comment

Staff stated the proposed ordinance amendment is pending final legal review and requested this item be postponed.

**MOTION ITEM: Jan Bolien made a motion, Rod Mack seconded to table this item pending legal review. Motion Carried: 6-0.**

**5. Next Meeting Date**

Thursday, February 27, 2020 at 6:00 p.m.

**6. Adjourn**

**MOTION ITEM: Jan Bolien made a motion, Rod Mack seconded to adjourn the meeting at 7:22 p.m. Motion Carried: 6-0.**

Respectfully submitted,

---

Chairman, Michael Simpson

---

Secretary, Adrienne Senter