

**Kershaw County Board of Zoning Appeals
Minutes – December 4, 2007 Meeting
Council Chambers, Government Center
Camden, SC**

Members Present: Stephen Staley, Sam Pruett, A. Jerome Cooke, and Bill Denton

Members Absent: Greg Newman

Staff Present: Carolyn Hammond and John Newman

CALL TO ORDER

Vice Chairman, Stephen Staley called the meeting to order at 5:30 p.m.

MINUTES

Minutes from the October 2, 2007 regular meeting were reviewed. A motion to approve was made by Sam Pruett, seconded by A.J. Cooke, and approved by all.

STATEMENT OF PUBLIC NOTICE

Vice Chairman, Stephen Staley read the following public notice: Linda D. Robinson is requesting a variance on the lot size required to construct an accessory apartment as required in Article 4 of the Kershaw County Zoning Ordinance. The property is located at 497 Knights Hill Road, Camden, South Carolina, TMS# 256-07-00-006.

CASE # 07-03

The applicant wishes to construct an accessory apartment (cottage) on her property. Accessory apartments are a conditional use. The applicant wishes a variance from condition #5 of Section 4-8 (5) of the Kershaw County Zoning Ordinance, as follows:

5. *Minimum lot size shall be at least 50 percent greater than the minimum lot requirement for the district in which the apartment is to be located.*

The minimum lot size in an MRD-1 zoning district is one acre. Ms. Robinson will be required to have a minimum lot size of 1.5 acres in order to comply. Ms. Robinson's lot is only one acre. She is, therefore, applying for a variance to Section 4-8 (5). Ms. Robinson also needs a variance from Section 4-8 (7) if she wishes to place the proposed accessory apartment in a location visible from the street.

PUBLIC HEARING

Stephen Staley opened the public hearing.

The applicant, Linda D. Robinson, said the idea of the cottage came about when her daughter began considering moving to Camden. Ms. Robinson's current home is not large enough to accommodate her daughter and granddaughter. When inquiring about the cottage, she learned that 1.5 acres would be required to build a cottage. Reading over the application, Ms. Robinson realized that what the application was asking regarding her property truly did not apply to her circumstances. For example, the application asks for any unusual conditions, hardships, extraordinary, or exceptional conditions of the property. She felt if she answered the questions

in a positive way, she could show that the land was conducive and perfect for a small cottage. She thought if she showed that the current home is located in the right hand corner of the lot, leaving three-fourths of the lot open and perfect for building a small cottage, it would be a good thing. She said she has since learned she was wrong. She was disappointed when she received the Staff Report recommending denial of the variance. In believing the land restriction was her only disqualifying condition, the report pointed out that there was an additional point of denial – the requirement that the apartment not be evident from the street. Because of the way her current home is situated and the location the septic system, construction of a cottage in the back yard would not be possible.

She next brought up the condition that the variance, if granted, must not be of substantial detriment to the surrounding area. To the right of her lot is a home that has been abandoned and boarded for over 20 years. Directly across the street is a wooded lot. This, she said, is what she meant in the application when she stated that the cottage would enhance, and not be a detriment to the surrounding area.

She ended by presenting the Board with several letters of support from neighbors and the Administrative Board of the St. Paul United Methodist Church.

Mr. Mike McClendon, a neighbor, spoke in support of Ms. Robinson's request. He told the Board that the land is clear, flat, and conducive to building a cottage. He feels a cottage would enhance the property and the neighborhood. He expressed his confusion with the variance requirements that seem "upside-down" to him. It seems to him if there were nothing wrong with the property, a variance would be granted. He did not understand how a variance can be granted only if there is a problem with the property. He closed by asking to board to consider allowing the cottage.

Stephen Staley closed the public hearing.

John Newman was asked to give the Staff Report. He said the conditions required by County and State law under which a variance could be granted are: There are extraordinary and exceptional conditions pertaining to the particular piece of property; and these conditions do not generally apply to other property in the vicinity; and because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. He explained that, before a variance can be granted, the property has to meet all four of the conditions. He next went over the conditions required for an accessory apartment, stating that Ms. Robinson cannot meet the lot size requirement of 1.5 acres. She could also not meet the requirement that evidence of the accessory apartment not be apparent from the street unless she screened the apartment with plantings or a fence.

When referring to Ms. Robinson's answers to the condition statements in the application, he said that she did not address the unusual conditions of the property, but instead, addressed the size of the lot and the proposed structure. He added that she can enlarge her home to accommodate her

daughter and granddaughter. He ended, saying that Staff does not recommend approval of the variance because the property does not meet the conditions for a variance.

Sam Pruett asked if Ms. Robinson would be permitted to have the accessory apartment if it were attached to her existing home. John Newman explained that if the addition could function as an independent unit, even if it was attached, it would still be considered an accessory apartment and would still require a lot 1.5 times larger than the minimum required for the zoning district. She could always add on to the existing home, but would not be permitted to add a kitchen with the addition.

Board members expressed their concern about what would happen to the cottage in the future. What would happen if Ms. Robinson's daughter chose not to stay there? Ms. Robinson said she had no intention of turning the cottage into rental property. What would happen after Ms. Robinson was no longer living? Ms. Robinson stated she did not see why it would matter, if after she dies, it became a rental to nice people.

Ms. Robinson reported that when receiving estimates to add on to her existing home, she found that existing utility lines would have to be moved thus making the addition cost as much as building an entire separate cottage. She said a cottage was preferable because her daughter is an adult, and both she and the daughter need separate homes.

Sam Pruett asked if there was a way she could deed part of her property to her daughter and then build the cottage. John Newman replied that that would not be possible because the minimum lot size in Ms. Robinson's district is one acre and that is the amount of land Ms. Robinson owns. He added that the legislative intent of the ordinance is to put cottages on large lots.

Mike McClendon asked if the dilapidated property next to Ms. Robinson had not received any complaints for twenty years, why would anybody complain about a cottage that could be hidden from view by landscaping or a fence?

Bill Denton motioned that the Board of Zoning Appeals deny Ms. Robinson's request for a variance. Sam Pruett seconded. Stephen Staley, Sam Pruett, A.J. Cooke, and Bill Denton voted in favor of denial.

OTHER ITEMS

There were no other items.

ADJOURNMENT

Stephen Staley adjourned the meeting at 5:57 p.m.

Respectfully submitted,

Carolyn B. Hammond