

Town of Lexington

**Board of Zoning Appeals
Minutes**

September 2, 2021

The Board of Zoning Appeals held their regular scheduled meeting on September 2, 2021 at 5:30 p.m. in the Council Chambers located in Town Hall, 111 Maiden Lane, Lexington, S.C. Those present for the meeting were Chair Mary Watts, Vice-Chair Troy Fite, Board Members Reve´ Richardson, Ronald Fisher and Justin Brown.

Staff Members present were: Director of Planning, Building and Technology John Hanson, Assistant Zoning Administrator Jessica Lybrand, Town Attorney Brad Cunningham, Digital Media Coordinator Darrell Pritchard and Assistant Municipal Clerk Karen Hanner.

One citizen was present and no one from the news media was present.

Chair Watts called the meeting to order at 5:33 p.m. and read an opening statement to explain the rules of procedure for a Board of Zoning Appeals meeting as follows:

All four points must be met and should be read as part of the official record. The Board of Zoning Appeals is a legal board operating under the Comprehensive Planning Act of the State of South Carolina; they make decisions within the parameters of State law and may hear and decide appeals for a variance from the requirements of the ordinance when strict application of the provision of the ordinance would result in unnecessary hardship and a variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing all their findings: (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. (2) These conditions do not generally apply to other property in the vicinity. (3) 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. (4) 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. State law further prohibits the board from granting a variance simply because the property could be used more profitably if the variance were granted. The board is not concerned with the use of the property because that is determined by others. If the applicant believes the board made an incorrect decision, they may appeal the decision through Circuit Court within certain time limits provided by State law. Those testifying at the meeting are asked to sign-in.

ACTION ITEMS

- 1. Appeal of an Administrative Decision for an Accessory Permit at 104 Rama Lane**
Director of Planning, Building and Technology John Hanson presented the request from Mr. Michael Smith who is appealing an administrative decision denying an accessory building permit for his residence at 104 Rama Lane. Mr. Smith submitted an accessory permit application to install a five bay garage in his rear yard. The garage is proposed to be 1440 square feet and placed six feet from the rear property line. The primary structure on the property is 1544 square feet and the parcel is approximately .3 acres.

The Town's Zoning Ordinance defines an accessory as an activity that is customarily associated with and **appropriately incidental and subordinate** to a principal activity on a parcel and is located on the same parcel with the principal activity.

The property is zoned Protected Residential and Rama Lane is classified as an RL-4 Road. Protected Residential zoning is the Town's most restrictive residential classification. It has the largest setback requirements and is the only zoning classification that has a minimum lot size. It is intended to support residential uses only. The accessory permit for this building was denied because it was determined that the size and proposed location of the building did not meet the definition of an accessory structure.

Chair Watts called for comments from the applicant.

Mr. Michael Smith introduced himself and stated he just learned why it was denied. He stated he just wants to build a garage in his backyard. He added he is an avid car collector and has several antique automobiles and he needs a place to store them. Mr. Smith stated there are several other homes in the neighborhood with detached garages. He said he has spoken to his neighbors and no one has a problem with it.

Board Member Fite noted the plan to store antique cars and asked if there was an intention to work on cars. Mr. Smith said no, this is just for his cars which are restored and might need maintenance. He added he doesn't plan to do restoration or a business.

Chair Watts called for anyone who wished to speak against the appeal. There was none. Chair Watts asked if anyone in the neighborhood submitted anything written against this. Director Hanson stated no.

Chair Watts stated it was a very large garage on a small piece of property. She noted the back yard is fenced and asked about the building on the adjoining property. Director Hanson responded it was a maintenance shed for the Lexington County SCDOT. Chair Watts asked if that was most of the back yard. Director Hanson stated he believed so.

Chair Watts asked about the distance from the neighbors noting the plan showed 20 feet. Director Hanson stated an accessory building is allowed up to five feet from

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adjoining property lines. He added the primary structure cannot be any closer than 10 feet from the property line.

Board Member Richardson asked about the space between the house and the garage. Director Hanson stated the Zoning Ordinance does not have a requirement on that. He added that on review there may be a Fire Code requirement but that is not for this body to determine.

Board Member Fite referred to the plan and asked how the area would be accessed. Mr. Smith stated between his yard and the neighbor's yard you could easily drive through the fence on the driveway side of the house, between 104 and 102.

Chair Watts asked if the house has a garage. Mr. Smith stated yes.

Board Member Brown confirmed that the Zoning Ordinance defines the accessory building as an activity that is customarily associated and subordinate. Director Hanson stated yes. Chair Watts confirmed that the appeal was for the decision that it did not meet the requirements. Board Member Brown asked if the size should be addressed. Director Hanson commented that is why the Board is meeting. He added accessory permits have been issued for structures that were larger than this one such as an 1800 square foot garage on a four acre property and a 4000 square foot house. The judgement of staff was that it was appropriately subordinate. He continued that the concern here is the size of the structure in this type of residential area.

Chair Watts asked how many cars he has. Mr. Smith responded five. Chair Watts asked how many he could put in his current garage. Mr. Smith responded it is a two car garage. Chair Watts confirmed he has two in the garage and plans to store five more. Mr. Smith said yes.

Chair Watts noted she could see a problem with the size. Board Member Richardson commented that there would be a problem with cars in the yard and he is not opening a business. Board Member Fite commented that if Mr. Smith planned to do a garage business the Town would deal with that. Board Member Fite noted that if the appeal was supported the garage building would still have to meet Town Codes. Director Hanson confirmed it would require a building permit.

Chair Watts made a motion to overturn the administrative decision to deny the permit. Board Member Fite seconded the motion. There was no further discussion.

Chair Watts called for a roll call vote. Roll call vote results: Board Member Brown, yes to the motion to overturn the administrative decision. Vice-Chair Fite, yes to the motion to overturn the administrative decision; Chair Watts, yes to the motion to overturn the administrative decision. Board Member Richardson, yes to the motion to overturn the administrative decision. Board Member Fisher, yes to the motion to overturn the administrative decision.

The motion to overturn the administrative decision was unanimously carried.

APPROVAL OF MINUTES

A motion was made by Board Member Richardson and seconded by Vice Chair Fite to approve the Board of Zoning Appeals minutes from the August 5, 2021 meeting as submitted. The motion was unanimously.

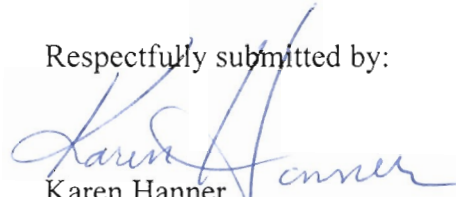
OTHER BUSINESS

Mr. Hanson advised the Board it does not appear that an October meeting will be required.


Assistant Zoning Administrator Jessica Lybrand noted one member needed to complete their Board Training before the end of December. Another session will be offered in November and she will send out a reminder.

ADJOURNMENT: There being no further business Chair Watts made a motion to adjourn. The motion was seconded by Vice-Chair Fite. The motion was unanimously carried by all those present. The Board of Zoning Appeals meeting adjourned at 5:48 PM.

Respectfully submitted by:


Karen Hanner
Assistant Municipal Clerk

APPROVED:


Mary Watts
Chair