Town of Arlington
Board of Zoning Appeals Meeting

August 26, 2019
6:30 P.M.
AGENDA
Board of Zoning Appeals
Monday, August 26, 2019
6:30 p.m.

I. Invocation

II. Call to Order & Establishment of a Quorum

III. Approval of the June 25, 2019 Meeting Minutes

IV. Old Business
   A. Other as Properly Presented

V. New Business
   A. Eavenson Minor Subdivision – Variance Request – 12135 Forrest Street.

   PUBLIC HEARING - To consider a Variance request at 12135 Forrest Street in
   order to subdivide an existing lot.

   B. Other as Properly Presented.

VI. Adjourn
Board of Zoning Appeals  
June 25, 2019  
6:30 P.M.  
Meeting Minutes

I. Invocation – Russ Campbell delivered the invocation.

II. Call to Order and Establishment of a Quorum

Chairman Brooks called the meeting to order and noted that a quorum was present.

Present
Oscar Brooks, Chairman  
Samuel Murrell, Vice Chairman  
Russ Campbell  
Tim Carter  
Victor Ghosheh

Others Present
Angela Reeder, Town Planner  
Cathy Durant, Town Administrator  
Janet Lucci, Planning Administrative Assistant  
Lynette Kirk, Planning Administrative Assistant

III. Approval of Minutes from the December 20, 2018 Meeting

Motion: Tim Carter made a motion to approve the minutes of the December 20, 2018 meeting. Victor Ghosheh seconded the motion.

Vote on Motion: The motion carried unanimously.

IV. Old Business

A. Other as Properly Presented

There was no old business to come before the Board.

V. New Business

A. Hinders – Variance Request – To consider a reduced lot size variance request at 11971 Brown Street in order to subdivide an existing lot.

Chairman Brooks recognized Angela Reeder, Town Planner, who provided the staff report (on file) and stated the applicant is requesting Board of Zoning Appeals (BZA) approval of a Variance Request for a reduced lot size at 11971 Brown Street. She said the goal is to subdivide an existing lot.

Ms. Reeder stated the property is zoned RS-15. She noted the lot is L-shaped and roughly 0.65 acres in size. She said there is a single-family home on it which fronts Brown Street and explained the lot is located in Arlington’s Depot Square neighborhood. Ms. Reeder said this area has a variety of lot sizes and dimensions and noted adjacent uses include other single-family homes and the Arlington Methodist Church (across the street).
She said the applicant would like to keep the existing home and driveway on lot one, then subdivide the large southern portion of the lot to allow construction of a new home fronting Greenlee. She explained the RS-15 Zoning for this property requires minimum 15,000 square foot (sf) lots, with 100 feet of street frontage. Ms. Reeder noted this lot is only 28,278 sf, which dictated this request.

Ms. Reeder explained the existing home fronts Brown Street with a driveway from Greenlee Street that leads to the rear of the home. She said the house will maintain its existing setbacks on the front and both sides and will have a 48-foot-deep rear yard. She said the lot will be roughly 84 feet x 166 feet in size, for a total lot size of 13,637sf.

She mentioned the existing home does not meet the new RS-15 lot width requirement of 100 feet frontage on Brown Street and it would not be made worse by the proposal.

Ms. Reeder said Lot 2 will be 100-foot wide lot fronting Greenlee Street. It would meet all RS-15 setbacks and required 100 ft street frontage but be 359 sf shy of the size requirement. She said the proposed new lot line could be shifted north to make the lot 2 meet the minimum size; however, it would cut into the driveway of the existing home with minimal gain.

She reminded the BZA they may hear a Variance request when an exceptional situation exists where strict adherence to the Ordinance would cause hardship on the owner and when the provided relief would not cause substantial detriment to the public.

Ms. Reeder reviewed the list of Specific Standards for consideration of a Variance. She said if strictly applied, the applicant will not be able to subdivide his lot and will end up with a lot that is almost twice the current minimum size.

She noted the condition will only be applicable generally to other oversized property in the district, the variance will not authorize any use or activity not permitted in the RS-15 zone and financial returns alone are not a basis for granting this request. Ms. Reeder said this proposal will allow the infill of an area that appears to anyone on the street as a vacant lot due to its size and orientation.

Ms. Reeder emphasized standard number 5 which states the hardship was not created by the owner, explaining the property was obtained in 1983. Ms. Reeder said at that time the required lot size was 12,500 sf with an 85-foot lot frontage. She noted the Ordinance was since revised requiring larger minimum size lots and thus the hardship was caused by an Ordinance change, not the property owner.

She said the variance will not confer any special privilege denied to other lands in the district and is the minimum variance possible for the reasonable use of the land. She explained the granting of this variance will not be detrimental to the public welfare and will not impair adequate supply of light and air to adjacent properties as the existing home will not change and the new lot will meet Town setbacks. She concluded by saying the variance is not based on nonconforming use of neighboring lands.

Ms. Reeder noted an error in the Staff Report; Recommendation number 1. She said the date that the minor plat was processed through the Town was June 17, 2019 not August 7, 2018.

Chairman Brooks called for a motion.
Main Motion: Tim Carter made a motion to approve a Variance Request for a reduced lot size at 11971 Brown Street. Samuel Murrell seconded the motion.

Chairman Brooks called for a motion.

Motion: Russ Campbell made a motion to suspend the Board of Zoning Appeals Meeting and open the Public Hearing. Tim Carter seconded the motion.

Vote on Motion: The motion carried unanimously.

Chairman Brooks opened the public hearing which was published in the Commercial Appeal on June 14, 2019. He asked anyone wishing to speak for or against the request to stand and be recognized by stating his or her name and address.

Citizen Comments: Ruby Hannah 12015 Brown Street said she has no objections to the Variance and the Hinders are fine neighbors. Ms. Hannah asked if whoever purchases the lot would consider building a home to fit in with homes in the Depot Square area.

Steve Smith 6055 Parkview said he had no objections. He requested if a home is built on the lot the builder be required to build an era style home to tie in with the character of the existing homes. He asked that existing trees on the lot be preserved. Mr. Smith said other than that he had no objections.

Michelle Murphy 6121 Greenlee said she would like the trees on the property to be preserved. She said when a new home is built she would like it to mirror the homes in the area of the older part of Town. She stated she has no objections.

John Hinders 12053 Campbell Street said the lot should be subdivided and he would like to see a historic home built on the lot. He also said he would like to see as many trees as possible preserved, especially the Japanese Maple.

Motion: Oscar Brooks made a motion to close the Public Hearing. Russ Campbell seconded it.

Vote on Motion: The motion carried unanimously.

Discussion: Tim Carter said he would like to see the preservation of the trees on the property. He asked Ms. Reeder what could be done to keep as many trees as possible. Ms. Reeder, Town Planer, noted the Town has a tree ordnance. She said builders are required to make every effort to save trees over a certain size.

Ms. Reeder explained it can be difficult to save trees as it depends on the topography of the lot and the grading required. Ms. Durant asked if a builder could be required to identify the trees on the plot plan when submitting a building permit for the lot. Ms. Reeder said yes, the BZA can add a condition.

Mr. Carter asked if trees are in the way of the proposed home, is the builder allowed to remove as many as necessary. Ms. Reeder replied yes.

Mr. Ghoshel noted it may be difficult to bring in the necessary equipment to build a new home with the current location of the trees.

Mr. Brooks asked if Mr. Carter would like to add a condition. Mr. Carter said yes. Ms. Durant recommended the condition stipulate when submitting a building permit for Lot 2 the builder would be required to identify the trees to be removed and the trees to remain.

Mr. Campbell asked if the Town was able to impose design restrictions on home builders. Ms. Reeder said no, the Town is not allowed to impose design restrictions on single family homes. Ms. Durant agreed but noted the Hinders could ask potential buyers to take into consideration the historic character and architecture of the homes in the area.
Mr. Campbell asked if there is any recourse if a home is not built according to the proposed style on the building permit. Ms. Durant said the Town enforces setbacks and the footprint of a home only.

Ms. Reeder noted many people are building in the historic area of Arlington because they like the character and charm of the area.

Mr. Campbell noted the standard for variance item #5 saying it specifically states the hardship has not been created by the person with an interest in the property after the Ordinance went into effect. Mr. Campbell noted the Hinders purchased the property in 1983 and did not create this hardship. Mr. Campbell said he felt this was an acceptable use of the variance.

Mr. Brooks noted the request is consistent with the surrounding area and does not stray from what has been done in the past. He hopes any buyer will consider the style and charm of the area if they build and considers saving some of the trees.

Mr. Ghosheh noted the Hinders are selling their property. He asked why their home was for sale. Ms. Durant said it was for personal reasons.

Mr. Brooks called for a motion to amend.

**Motion:** Mr. Carter made a motion to add a condition that any new building permit submittal for a new home on Lot 2 must include the existing trees on the lot and identify those trees scheduled to be removed and scheduled to remain. Mr. Murrell seconded the motion.

**Vote on Motion:** The motion carried unanimously.

**Vote on Main Motion as amended:** The motion carried unanimously.

**CONDITIONS:**

1. A minor plat shall be processed through the Town for the subdivision of the proposed lot, consistent with plans submitted on June 17, 2019.
2. Any deviation from the approved request requires Board of Zoning Appeals approval.
3. Any new building permit submittal for a new home on Lot 2 must include the existing trees on the lot and identify those trees scheduled to be removed and scheduled to remain.

**B. Other as Properly Presented**

Ms. Reeder recognized the Town’s new employee Lynette Kirk in the Planning Department.

**VII. Adjourn**

Chairman Brooks called for a motion to adjourn.

**Motion:** Samuel Murrell made the motion. Victor Ghosheh seconded the motion.

The motion carried unanimously.

Meeting adjourned.
Oscar Brooks, Chairman

Submitted By: Lynette Kirk, Planning Administrative Assistant
Eavenson Minor Subdivision
VARIANCE REQUEST

DATE: August 26, 2019

STAFF: Angela Reeder, AICP, Town Planner

SUBJECT: Variance Request

APPLICANT: Shawn and Shannon Eavenson

DESIGN PROF./CONSULTANT: Mid-South Engineering Support, LLC.; Representative: Lance Lanier

SITE LOCATION: 12135 Forrest Street

SITE ACREAGE: 32,884 square feet (31,909 after ROW dedication)

ZONING: RS-18: Low Density Residential

EXHIBITS: Location map; Minor Subdivision Plat

The applicant is requesting Board of Zoning Appeals consideration of a Variance Request for reduced lot size, with the goal to subdivide one existing lot into two.

Project Site: The property in question is located at 12135 Forrest Street, across from Forrest Street Park. It is zoned RS-18 and roughly 0.75 acres in size. It is 228 feet wide and 144 feet deep.

The site currently has one single-family home on the far west edge of the lot. It is within Arlington’s older, Depot Square neighborhood, which has a variety of lot sizes and dimensions. Adjacent uses include
other single-family homes along Forrest, Forrest Grove subdivision to the south, and the Town’s property across the street.

**Proposal:** The applicant would like to mostly divide the lot in half, keeping the existing home and driveway on one lot, and creating a new lot out of the eastern half to allow construction of a new home. The RS-18 zoning for this property requires minimum 18,000 square foot (sf) lots, with 110 feet of street frontage. While it is wide enough, at 31,909 sf, the lot is shy of the acreage needed to create two 18,000 sf lots, which dictated this request.

The existing home fronts Forrest Street with a driveway that leads to a small carport. The proposal would create 1 lot with the existing home and its driveway. Lot 1 would meet lot frontage requirements and setbacks with one exception, which is an existing condition. The current house sits in the 17 ft side setback on the west side. The applicant stated their intent, if approved, is to remove the current carport and add covered parking behind the home instead. If revised, the home should then meet all RS-18 setbacks. The lot would be roughly 110 feet x 144 feet in size, for a total lot size of 15,426sf (14.3% below the RS-18 lot size requirement).

Lot 2 would be a new 118-foot-wide lot fronting Forrest St. It would have the required width and 110ft street frontage and meet all RS-18 setbacks, but would be roughly 16,483sf in total size (9% below the RS-18 lot size requirement).

**Surrounding lots:** Property in the Depot Square area has been developed and subdivided over the life of Arlington, so there is a wide variety of lot sizes and shapes. In this location at the fringe of Depot Square, there are five (5) larger lots to the west along Forrest St. that meet or exceed the RS-18 size requirement. Four of those lots are between 100-120 feet wide, which would be consistent with the proposal (the other lot is a 2+ acre lot that is not consistent with the area).

However, lots to the east on Forrest St. are all smaller than the RS-18 minimum, including four (4) Forrest Grove PD lots that range from 14,700-16,800sf in size and two (2) Ewing Place lots at 13,068 sf each. These lots are all in fenced neighborhoods and do not take access from Forrest St.

On the south side of this site is a fenced 44-foot wide Common Open Space and the remainder of Forrest Grove. The Open Space gives a buffer between the Forrest Grove homes and this lot, so any concern about homes on the proposed lot overshadowing those lots would be avoided. On the north side of the road is Forrest Street Campus and Park.

**Specific Standards for a Variance:**
The BZA may hear a Variance request when, by reason of exceptional situation, a situation exists where strict adherence to the Ordinance would cause an undue hardship on the owner, and when the provided relief would not cause substantial detriment to the public.

Specific standards for consideration of a Variance are summarized below in italics (Section 10.5.4.3), with staff analysis and comments following each.

1. *The particular physical conditions of the property would result in a hardship if strictly applied.* – The lot in question is atypical, as it is almost twice as wide as it is deep, and over
twice the standard width of a lot in this area (except the 2+ac neighbor). This results in the appearance of an undeveloped lot along the street. If strictly applied, the applicant would have to keep the 32,800sf lot and be unable to build another home. The site is surrounded by platted Common Open Space on two sides and could only obtain the additional land from the neighbor to the west to meet current guidelines.

2. **The condition would not be applicable generally to other property in the district.** – This condition would only apply to previously created, oversized or oddly shaped lots.

3. **The variance will not authorize activities not permitted in the district.** – The variance would not authorize any uses not permitted in the RS-18 zoning district.

4. **Financial returns alone are not a basis for granting.** – While they’ve stated it is not their intent, the applicant could sell the two new lots and arguably get more than they could for a single oversized single lot. This proposal would allow the infill of an area along Forrest Street that appears as a vacant lot due to its orientation (being twice as wide as necessary).

5. **The alleged difficulty or hardship has not been created by the person with an interest in the property after the Ordinance went into effect.** – The property in question has been this size and orientation for quite some time. A 1995 zoning map showed the same lot designated as R-1 (low density residential). At that time, R-1 lots were required to be 15,000 sf in size and have a 100-foot lot frontage. The Ordinance was later revised to require larger minimum size lots and thus the hardship was caused by an Ordinance change, not by an action by the owner.

6. **The Variance will not confer any special privilege denied to other lands in the district.** – The Variance would allow for use of a residential lot and would not confer any special privilege. Multiple similar size lots exist within a two-block radius of this site.

7. **The variance is the minimum variance that will make possible the reasonable use of the land.** – Due to the existing lot configuration, shifting the lot lines to result in only 1 lot under the minimum size would result in the other not meeting lot width requirements. As proposed, the new lot spacing would appear the same as others from the street, especially with the open space behind them that gives the appearance of a larger rear yard.

8. **The granting will not be detrimental to the public welfare.** – The granting of the variance would result in permitting another residential lot in this area of Town. The existing home will continue in its current configuration, or be brought more into conformance, and the new lot will meet minimum width and setbacks. There are several lots in the immediate vicinity of similar or smaller size, and thus no detriment to public welfare is anticipated.

9. **The variance will not impair adequate supply of light and air to adjacent properties.** - The proposed Plat shows how the site would be subdivided and could still meet setback requirements of the area, while allowing space for a home to be constructed. The lot for the existing home is narrower than the current standards, but that is an existing situation not affected by this proposal.

10. **The variance is not based on nonconforming use of neighboring lands.** – It is not related to adjacent lands.
11. *The variance will not permit a use that is not permissible under the Ordinance.* – It would only allow for a residential lot, which is permitted in the RS-18 district.

**RECOMMENDATION:**
Staff recommends that any approval of the requested Variance at 12135 Forrest Street to allow for the creation of two lots less than 18,000 square feet in size, be subject to the following conditions:

1. A minor plat application must be processed through the Town for the subdivision of the proposed lot, consistent with plans submitted on July 16, 2019.
2. Any deviation from the approved request requires Board of Zoning Appeals approval.
3. The new driveway proposed for Lot 2 should be aligned with the park entrance across the street, for safety purposes.
July 16, 2019

To: Board of Zoning Appeals

I, Shawn Eavenson am requesting the Board of Zoning Appeals consideration of a variance request for my property located at 12135 Forrest Street. We would like to subdivide this property but lots will not meet minimum Sq ft requirement under RS-18 Zoning. Thank you for your consideration.

Sincerely,

[Signature]

Shawn Eavenson
Application must be submitted 21 days prior to the scheduled meeting. The Board of Zoning Appeals meets on an as-needed basis. Please consult with Staff before submitting an application so that a meeting may be scheduled.

Street Address: 1215 Forrest Street
Owner of Record: Shawn and Shannon Eavenson
Owner Address: 11903 Walker Street, Arlington, TN 38002
Daytime Phone: 901-604-1573  Fax Number: N/A
E-mail Address: sdeavenson@comcast.net

Agent or representative authorized to prepare this application and to provide further information as requested by the staff:

Daytime Phone: ____________________________  E-mail Address: ____________________________

Engineer/Designer Contact (if applicable): Lance Larier
Company Name: MidSouth Engineering Support, LLC
Mailing Address: 4090 Airline Rd, Eads, TN 38088
Daytime Phone: 731-659-1087  Fax Number: ____________________________
E-mail Address: lance@midsouthers.com

INSTRUCTIONS FOR SUBMITTING APPLICATION

☐ Fee Schedule: $300
   (make check payable to the Town of Arlington)

☐ See Town of Arlington Zoning Ordinance, Chapter 10, Section 10.5, Arlington Board of Zoning Appeals.

☐ A consultation with Staff before completion of this application form and prior submittal deadline date is suggested. Staff meets the first and third Monday of each month. Call the Planning Department to schedule.

☐ Included is a checklist of required items. All items must be addressed or the application may be deemed incomplete and returned to the applicant.

5854 Airline Road • P.O. Box 507 • Arlington, TN 38002-0507
Telephone (901) 867-3449 • Fax (901) 867-2638

Revised: 2/7/2011
CITY OF ARLINGTON
P O BOX 507
ARLINGTON TN 38002-

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*ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

Text of Ad: 08/09/2019

PUBLIC NOTICE
The Board of Zoning Appeals will hold a public hearing on Monday, August 26, 2019 at Town Hall, 5854 Airline Rd, at 6:30 PM to consider a Variance request at 12135 Forrest Street, in order to divide an existing lot.