MINUTES
TOWN OF FORT MILL
BOARD OF ZONING APPEALS
March 21, 2016
6:00 PM

Present: Jim Thomas, Scott Couchenour, Ryan Helms, Becky Campbell, Jody Stegall, Terri Murray, Assistant Planner Chris Pettit, Town Attorney Barry Mack

Absent: Charles Stec

Guests: Matthew Sigmon (1112 Honeybee Trail), Terry Neely (1112 Honeybee Trail), Jason Stoots (Torrence Sports Lighting), Mike Torrence (Torrence Sports Lighting), Michael Aasen (1114 Blossom Terrace), Scotty Aasen (1114 Blossom Terrace), Al Walters (Campco Engineering), Tommy Schmolze (Fort Mill School District)

Chairman Thomas called the meeting to order at 6:00 p.m. and welcomed everyone in attendance.

ELECTION OF CHAIR & VICE-CHAIR FOR 2016

Acting Chairman Thomas asked for nominations for Chair. Ms. Campbell nominated Mr. Thomas for Chair. Mr. Couchenour seconded the motion. Acting Chairman Thomas asked if there were any other nominations. Hearing none, the motion to elect Mr. Thomas as Chair was put to a vote. The Board voted 6-0 to approve Mr. Thomas as Chair.

Chairman Thomas asked for nominations for the position of Vice-Chair. Mr. Couchenour nominated Mr. Stegall for Vice-Chair. Ms. Murray seconded the motion. Chairman Thomas asked if there were any other nominations. Hearing none, the motion to elect Mr. Stegall as Vice-Chair was put to a vote. The Board voted 5-0 to approve Mr. Stegall as Vice-Chair, with Mr. Stegall abstaining.

APPROVAL OF MINUTES

Mr. Couchenour made a motion to approve the minutes of November 16, 2015 meeting as submitted by staff. Mr. Stegall seconded the motion. The motion was approved by a vote of 6-0.

PUBLIC HEARING ITEMS

Mr. Stegall and Mr. Couchenour noted a conflict of interest for Fort Mill School District case, and recused themselves at 6:03 p.m.

1. **Variance request from Fort Mill School District – York 4 (1300 Spratt Street) Case #2016-154:** Assistant Planner Pettit provided a brief overview of the variance request, the purpose of which was to allow an increase from 16' to 85' for the maximum lighting fixture height. Mr. Pettit gave a summary of the staff report, noting the requirements per Article IV, Section 6(4)(a) which limits lighting fixture heights to 16' in residential zoning districts. Mr. Pettit noted the applicant's request of 85' lighting fixture heights posed some

concern with the potential for light to spill in the adjacent neighborhood and onto the adjoining roadway. Finally, Mr. Pettit noted that the Town's attorney was present should there be any questions and also reminded the board that, pursuant to state law, they have the authority to grant variances in cases of unnecessary hardship as defined by state law and noted on the application and in the staff report.

Chairman Thomas questioned how the Corridor Overlay District and its requirements worked with the applicant's request. Mr. Pettit noted that the applicants do have a vested right to complete the project as submitted, as they obtained permits and began work on the project before the Corridor Overlay District requirements were approved by town council.

Chairman Thomas opened the public hearing and asked if the applicant was present and would like to speak to the application.

Mr. Tommy Schmolze, representing Fort Mill School District, briefly introduced the purpose of the request and introduced Al Walters with Campco Engineering and Mike Torrence with Torrence Sports Lighting, who provided a technical summary of the site plan and lighting plan (see attachments at the end of the minutes for documents provided at the meeting). Chairman Thomas asked about the timing of the lights turning off when being used. Mr. Schmolze noted that the approximate timing would be to turn off the majority of the lights at 9:30 p.m., leaving some lighting on for patrons to vacate by 10:00 p.m. Mr. Torrence noted that highest proposed foot-candle level for a residential property line would be 1.8 foot-candles, whereas the existing street lights along Plum Branch Lane put out 2.6 foot-candles. The board asked if the foot-candle readings on the property lines took into account the change in elevation, to which Mr. Torrence noted that the measurements do not take into account elevation change. Mr. Walters noted that no light will shine directly into the eyes of drivers along Spratt Street or the Fort Mill Parkway, as the lights are directed down 600' away from the intersection. Mr. Helms asked about the completion date for the athletic fields versus the realignment of the Fort Mill Parkway intersection. Mr. Walters noted that the fields would be available for play in late September, Early October and that the roadway project does not have an estimated timeline.

Chairman Thomas asked if there were any others who wished to speak for or against the application. Hearing none, Chairman Thomas closed the public hearing.

Mr. Helms made a motion to approve the variance request as submitted, to allow an increase in the maximum lighting height from 16' to 85'. Ms. Campbell seconded the motion. Hearing no further discussion, Chairman Thomas called for a vote. The motion passed with a vote of 4-0.

Mr. Stegall and Mr. Couchenour returned at 6:30 p.m.

2. **Variance request from Matthew Sigmon (1112 Honeybee Trail) Case #2016-155:** Assistant Planner Pettit provided a brief overview of the variance request, the purpose of which was to allow a reduction in the side yard setback requirement from 10' to 6.3' in

order to construct a residential building addition. Mr. Pettit gave a summary of the staff report, noting the requirements per Article II, Section 1(5)(E) of the Town's Zoning Ordinance, which requires a 10' side yard setback for principal structures in the R-15 zoning district. Mr. Pettit noted that driveway locations were not shown and would ultimately have to be approved by the town, that encroachment permits may be required given the location of a sewer line and easement on the property, and that land disturbance permits would potentially be required given the size of the land disturbance proposed with the building addition. Finally, Mr. Pettit noted that the Town's attorney was present should there be any questions and also reminded the board that, pursuant to state law, they have the authority to grant variances in cases of unnecessary hardship as defined by state law and noted on the application and in the staff report.

Mr. Pettit noted that staff had received a letter in opposition to the proposed variance (see attachments at the end of the minutes) and provided copies to members of the board and public.

Chairman Thomas opened the public hearing and asked if the applicant was present and would like to speak to the application.

Mr. Matthew Sigmon, the homeowner at 1112 Honeybee Trail, provided an overview of the request, the purpose of which was to allow a reduction in the side yard setback in order to build an addition to the existing residence that is suitable for disability related needs. Mr. Sigmon clarified that the purpose of the request is not to get a 3-car garage, but rather to get a garage that could encapsulate a handicap ramp. Mr. Sigmon asked the Board to consider the Americans with Disabilities Act (ADA).

Chairman Thomas asked how the ADA applied to this situation. Mr. Sigmon replied that ADA gives the homeowner the right to have a wheelchair ramp and that if the wheelchair ramp goes over the setback line that municipalities are supposed to help in approving a variance.

Chairman Thomas asked for clarification from the Town's attorney on whether or not Mr. Sigmon's response was correct. Mr. Mack noted that the reasonable accommodation that was being sought was found in the Fair Housing Amendments Act of 1988. Mr. Mack noted that municipalities cannot discriminate based on race, creed, color, religion, gender, sexual orientation, or disability, and that a reasonable accommodation has to be given to allow disabled and/or handicapped individuals equal treatment and/or opportunity to utilize their home. However, Mr. Mack noted that every request toward this end did not have to be considered reasonable. Mr. Mack noted that if the request was simply for the handicap ramp itself, it would likely need to be approved, however in the case before the board the applicant is asking for a ramp, three car garage, and a residential addition that doubles the footprint of the home. Mr. Mack stated that additionally all of the proposed addition could potentially be redesigned to fit within the setbacks.

Mr. Mack made clear that if the board is considering granting a reasonable accommodation, then it has to be clear that the person in this case is disabled, as the legislation is not applicable if no one is disabled.

Mr. Stegall asked Mr. Mack whether or not they were able to ask the applicant for documentation on who in the home was disabled, to which Mr. Mack stated that they were. Mr. Sigmon requested that the board go into executive session to discuss the medical aspects of the request, as they were not willing to make that information public.

Mr. Couchenour made a motion that the Board go into executive session to discuss the medical aspects of the request. Mr. Stegall seconded the motion. The motion carried with a vote of 6-0.

Mr. Couchenour made a motion to come out of executive session. Ms. Campbell seconded the motion. The motion was approved by a vote of 6-0.

Chairman Thomas announced that there were no votes taken in executive session.

Ms. Campbell asked about the detached garage at the rear of the home and when that was constructed, to which Mr. Sigmon replied that a permit was pulled and construction started today, 3-21-16. Ms. Campbell questioned Mr. Sigmon as he knew the need for handicap access was coming and that the garage took a viable access location off the table. Mr. Sigmon noted that there were no feasible options on that side of the home.

Mr. Thomas asked if the applicant's architect was aware of the setback requirements for the property when the construction drawings were created. Mr. Sigmon noted that he completed the drawings as he is a licensed residential builder and that he was aware of the setback requirements at the time. Mr. Sigmon noted that there was no way for the addition to be built to the other side of the home and still be accommodating for his family. Mr. Thomas asked for clarification on why it wasn't possible. Mr. Sigmon noted that the location and construction of the back porch, in addition to the setback on the right side, doesn't provide a lot of room for the addition.

Ms. Campbell asked how large the detached garage structure was that Mr. Sigmon started construction on today, to which Mr. Sigmon noted that it was a 30' by 40' garage.

Ms. Murray questioned why the building addition had to encroach into the setback when the handicap ramp fit inside the setback, to which Mr. Sigmon noted that the sloped portion of the ramp does fit within the setback but the flat turnaround/landing pushes it out into the setback, which are built to accommodate ADA requirements and disability related issues. Ms. Murray questioned whether a straight ramp would suffice rather than a ramp broken up by the landings, to which Mr. Sigmon noted that the height and slope would require a significantly longer straight ramp.

Mr. Stegall questioned if an electronic lift would be possible as opposed to the ramp. Mr. Sigmon noted that the ADA does not require him to install anything that is not

accommodating to his family. Mr. Thomas asked how it is not accommodating, to which Mr. Sigmon noted that the cost and the potential for power failure are not accommodating, in addition to the potential safety hazard the lifts pose with items, children, or animals getting crushed underneath.

Mr. Thomas questioned whether the applicant had ever done any drawings to show how the ramp would look if it was put elsewhere on the lot within the setbacks, noting all location and orientation options that are available within the lots buildable area. Mr. Sigmon noted that if the addition was put in the rear, it would go into the rear setback. Mr. Sigmon noted that the addition was not just for the wheelchair ramp, but also for the entire addition to be accommodating. Mr. Thomas questioned if the drawings were ever completed, to which Mr. Sigmon noted that he had completed the drawings and calculations and that it would not fit. Mr. Thomas noted that narrowing the structure would make it fit, to which Mr. Sigmon agreed but noted that the design as proposed is the most feasible.

Mr. Couchenour questioned how much shorter the ramp could be if the garage slab was raised two feet. Mr. Sigmon noted that 2' of backfill would cut out 24" of slope, noting that the project as designed already included an extra 5" of slab and 3" of backfill. Mr. Couchenour noted that the project could still be designed to include 18 more inches of backfill, noting that if the ramp was important that backfilling could work to make the ramp fit within the setbacks. Mr. Sigmon noted that backfilling isn't accommodating to the project, to which Mr. Thomas questioned for clarification on why. Mr. Sigmon noted that the topography at the front walkway would be steepened and would not be accommodating to his family. Mr. Thomas noted that the purpose of the ramp in the garage is to provide the accommodating access, and questioned how many feet of ramp would be lost with 2' of backfill. Mr. Sigmon noted that every foot would eliminate twelve inches. Mr. Couchenour noted that every one foot would eliminate twelve feet of ramp, not twelve inches. Mr. Thomas noted that if one foot of backfill was used, eliminating twelve feet of ramp, that the ramp would only need to be 25' in length which would fit. Mr. Sigmon noted that per the International Code Council, in R311.8.1 that the maximum slope is 1 unit vertical for every 12 units horizontal, with an exception where technically infeasible to do 1 unit vertical for every 8 units horizontal, but the HUD ADA Design Manual notes that slopes greater than 1:12 are not usable by most people with disabilities. Mr. Thomas clarified that the board was not questioning the slope, but rather the length because backfilling could significantly reduce the overall length of the ramp and thus not encroach on the setback.

Mr. Couchenour stated that buying property from the neighbor, pushing the addition back, backfilling the garage, and then shrinking the size would make it happen, noting that approving one would set a precedent for all other properties zoned the same way. Mr. Couchenour noted that even though a disability exists, he believes it would be doable within the setbacks or with purchasing property from the neighbor. Mr. Sigmon noted that the neighbor did offer to sell a portion of his property, but that the ADA never says that he has to do that.

Mr. Sigmon questioned the board on how he could make the rest of his property accessible with having to backfill the garage, driveway, etc., to which Mr. Couchenour noted that it may not be possible to have it all accessible and that picking one or the other may have to occur. Mr. Couchenour noted that the design could be changed to make the project work, to which Mr. Sigmon noted that the addition was designed as submitted to accommodate his family.

Mr. Couchenour noted that pushing the addition to the back property line would help in minimizing the encroachment, to which Mr. Sigmon noted that the gradient and stormwater flow of the property would make it difficult. Mr. Couchenour noted that slopes, swales, and French drains could be used to make it work. Mr. Sigmon referenced his application, which provided a sheet on the topography of the lot. Mr. Thomas noted that the topography did not seem that extreme, to which Mr. Sigmon noted that controlling the stormwater would require additional land disturbance and their intent was to minimize the disturbance as much as possible.

Ms. Murray questioned why the applicant did not purchase a piece of the neighboring property, to which Mr. Sigmon noted that he did speak to the neighbor and that the offer was $10,000 for 5' of the length of the property. Mr. Sigmon noted that it was not a price that they were willing to spend. Mr. Stegall questioned whether the neighbor was aware of the health issues, to which Mr. Sigmon noted that they were not.

Ms. Campbell asked if, in the applicant's opinion, there was any other way to build the addition, to which Mr. Sigmon noted that he did not, noting specifically the fact that the addition would also have to flow with the interior layout of the existing house.

Mr. Helms questioned where the steps go as shown on the proposed addition, to which Mr. Sigmon noted that the steps would go to a proposed basement. A discussion occurred on the configuration of the addition, to which Mr. Thomas noted that in his opinion it seems that no other configurations have been considered. Mr. Sigmon noted that the configuration as shown is the best configuration, and that attempts had been made to move the addition around but that it would not fit within the setbacks. Ms. Campbell noted that it could be redesigned, not just moved, to fit within the setbacks. Mr. Couchenour noted that a 21' wide bedroom would not be a need for a disability. A discussion occurred on the design of the interior of the home, questioning why the design has to be the way it is and why the sizes have to be the way they are, to which Mr. Sigmon noted that it was designed to accommodate the needs of his family.

Mr. Thomas questioned why the applicant would not consider alternate arrangements, to which Mr. Sigmon noted that it was not required to provide other arrangements and that regardless the addition would be designed to accommodate his family.

Ms. Murray asked how the access would be provided to the new garage, to which Mr. Sigmon noted that a new driveway would be provided to connect to the existing driveway.

As a final note, Mr. Sigmon reiterated that the needs and accommodations for his family are what are shown on the plans.

Mr. Thomas asked if there were any others that wanted to speak for or against the application.

Mr. Mack noted that he would have to leave the meeting, but wanted to provide one last opportunity for questions. Mr. Mack noted that just because a home is designed to accommodate, does not mean that the board has an obligation to grant the variance and that rather a reasonable accommodation is what must be granted. Mr. Mack addressed the Board to say that a variance can be granted if the request is reasonable, but does not have to be granted if the request is not reasonable and there are other ways to make the addition work.

Michael Aasen of 1114 Blossom Terrace spoke against the application, noting that he was the author of the letter submitted to town staff against the application. Mr. Aasen spoke to the state required criteria for granting a variance, going through the submitted letter explaining in further detail the points made in the letter. Mr. Aasen spoke to the fact that the applicant's property is not different than other properties in the neighborhood, that there are several other options for locating the addition, and that the authorization of the variance would be a substantial detriment to adjacent properties and specifically how their own property would show. Mr. Aasen noted that the design seems to be utilized to force the encroachment rather than needing the encroachment for necessity.

Scotty Aasen of 1114 Blossom Terrace stated that in previous discussions, Mr. Sigmon noted that the addition was for accommodating the number of children he planned to have and that it wasn't until after securing the loan that he found out that the home sat at an angle as compared to the property line, thus creating the problem that he has. Ms. Aasen mentioned that many of the trees already had to come down when repairs were made to the sewer in front of Mr. Sigmon's property. Ms. Aasen mentioned that she didn't think that the request was fair.

Having no others wishing to speak, Mr. Thomas closed the public hearing.

Mr. Stegall asked the applicant if he would be willing to try to redraw the addition and come back, or potentially not have to come back, to see about a variance, to which Mr. Sigmon noted that the plans were drawn to accommodate his needs for his family and that any redrawing would not be suitable for what he needs.

Ms. Murray spoke to the comments of the town's attorney, noting that the law speaks to having to provide a way to move forward but not necessarily the exact way the applicant has proposed.

Mr. Sigmon noted that he did not want to do this at all, that the original drawings were within the setback but that the accommodating features forced the encroachment, and that if the house sat parallel to the lot lines there probably wouldn't be an issue. Mr. Sigmon

noted that he did work through AutoCAD to redraw the addition, but that what was submitted was the best scenario. The drawing was done to provide access and interior mobility for disability related needs. Mr. Sigmon noted that if could purchase the neighbor's property he would, but he could not afford it and nor does the law say that he has to. Mr. Sigmon noted that he would be happy to go through the interior design and discuss the needs related to the design.

Mr. Couchenour noted that he would not vote in favor of granting the variance, as he thinks there are other options for moving forward. He understands the disability related needs, but does not want to set a precedent by approving this. Mr. Thomas noted that he thinks it could be redesigned to fit within the setbacks and accomplish everything desired.

Hearing no further discussion, Mr. Thomas called for voting on the four criteria required in granting a variance. Mr. Thomas called for a motion on whether or not there were extraordinary and exceptional conditions pertaining to the particular piece of property. Mr. Helms made a motion that there were no extraordinary and exceptional conditions pertaining to the particular piece of property. Mr. Couchenour seconded the motion. The motion passed by a vote of 6-0.

Mr. Thomas called for a motion on whether the conditions apply to other property in the vicinity. Ms. Murray made a motion that the property is not unique to the neighborhood. Mr. Stegall seconded the motion. The motion passed by a vote of 6-0.

Mr. Thomas called for a motion on whether the application of the ordinance effectively prohibits or unreasonably restricts the utilization of the property. Mr. Couchenour made a motion that the application of the ordinance does not prohibit or unreasonably restrict the use of the property. Ms. Murray seconded the motion. The motion passed by a vote of 6-0.

Mr. Thomas called for a motion on whether the authorization of a variance would be of substantial detriment to adjacent property or to the public good, and the character of the district would be harmed by the granting of the variance. Mr. Couchenour made a motion that the authorization of the variance would be detrimental to the adjacent property and the public good. Ms. Campbell seconded the motion. The motion passed by a vote of 6-0.

Mr. Thomas called for a motion for whether or not to grant the variance. Mr. Couchenour made a motion to deny the variance request. Mr. Stegall seconded the motion. The motion passed by a vote of 6-0.

Mr. Thomas called for a motion to adjourn. Mr. Couchenour made a motion to adjourn, seconded by Mr. Stegall. The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Chris Pettit, AICP
Planning Department
April 14, 2016

ATTACHMENTS/DOCUMENTS SUBMITTED AT THE MEETING FOR CASE #2016-154

RECUSAL STATEMENT

Member Name: Jody Stegall

Meeting Date: 3/21/16

Agenda Item: **Section** Public Hearings **Number:** 1 - Case 2016-154

Topic: FMSD - York 4 - Variance request for 1300 Spratt Street

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

____ **Professionally employed by or under contract with principal**

✓ **Owns or has vested interest in principal or property**

____ **Other:** _____

Date: 3/21/16 Jody Stegall

Member

Approved by Parliamentarian: _____

RECUSAL STATEMENT

Member Name: Scott Couchenour

Meeting Date: 3/21/16

Agenda Item: **Section** Public Hearing **Number:** 1 - Case 2016-154

Topic: FMSD - York 4 - Variance request for 1300 Spratt Street

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

____ **Professionally employed by or under contract with principal**

✓ **Owns or has vested interest in principal or property**

____ **Other:** _____

Date: 3/21/16 _____ **Member**

Approved by Parliamentarian: _____

March 18, 2016

Town of Fort Mill Planning Department
Mr. Chris Pettit, Assistant Planner/Zoning Administrator
112 Confederate Street
Fort Mill, South Carolina

Project: Riverview Elementary School Athletic Field Lighting

We have completed photometric lighting designs for the four soccer fields and property line foot-candle analysis per the overall site plan received from Campco Engineering, Inc. Torrence Sports Lighting, Inc. specializes in sports lighting applications here in the Carolinas.

The field lighting was designed for 50 average foot-candles (Class III Play for club, school, instructional, parks and residential). The definition of a foot-candle is a unit of illuminance. One foot-candle is one lumen per square foot. The maximum mounting height for the lighting design is 85 feet. The pole heights are linked to lighting criteria, type and size of field, pole setback locations, and off-site spill light and glare requirements. For this project 85 feet maximum height poles are required to meet the foot-candles on the fields and allows the sports lighting fixtures to be aimed angled down to the fields. All of the sports lighting fixtures will include visor louvers to help shield the source from unwanted light (Exhibit Three) for the residential property lines and the Fort Mill Bypass approaching the US 21 business intersection. Please see exhibit four that demonstrates the aiming angles of the sports lighting fixtures to the field in relation to Fort Mill Bypass intersection.

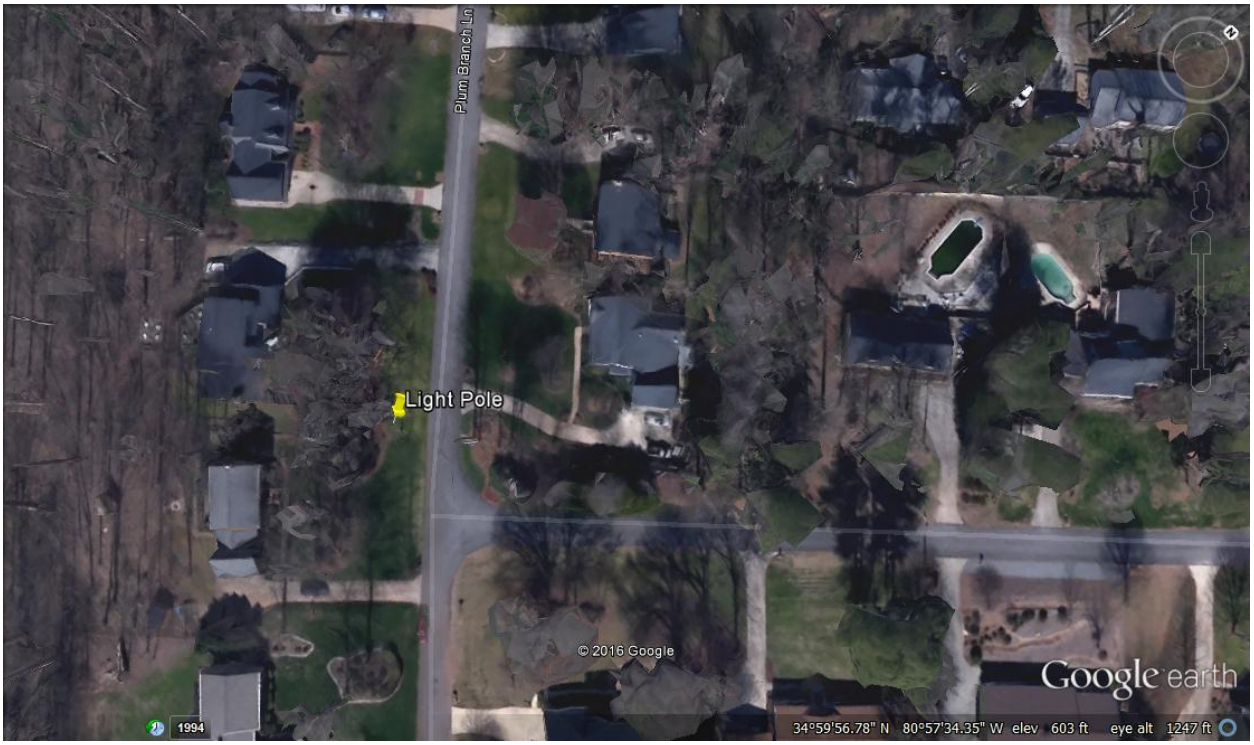
On March 10th, 2016 we made a site visit to Riverview Elementary School and the surrounding residential property lines. We have attached a Google Earth Map (Exhibit Two) and a photometric site plan (Exhibit One) of a neighborhood site lighting pole off Plum Branch Lane. We performed foot-candle readings and there are currently 2.6 foot-candles. The highest residential property line foot-candle we have for the proposed field lighting is 1.8 foot-candles.

Regards,

Mike Torrence
Owner

Attachments:
Overall Photometric Site Plan-Exhibit One
Google Earth Image-Exhibit Two
Sports Lighting Fixture-Exhibit Three
Light Profile on Athletic Field-Exhibit Four

TorrenceSportsLighting inc
14211 Grand Traverse Drive • Charlotte, NC 28278
mobile 704.953.0680 • ph 704.587.6692 • fax 704.587.3318


Plum Branch Ln
Light Pole
© 2016 Google
Google earth
1994
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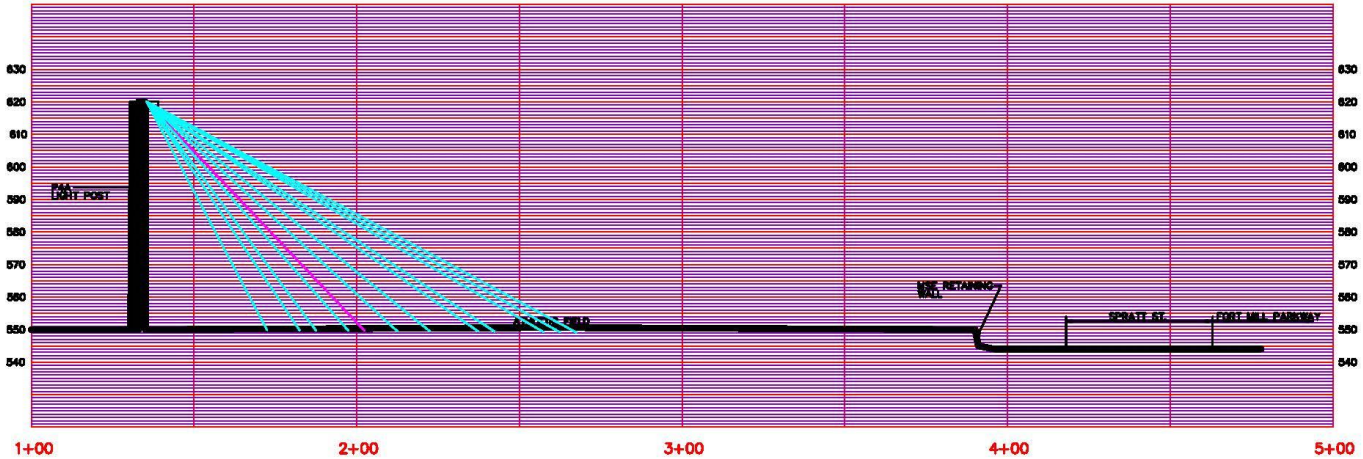
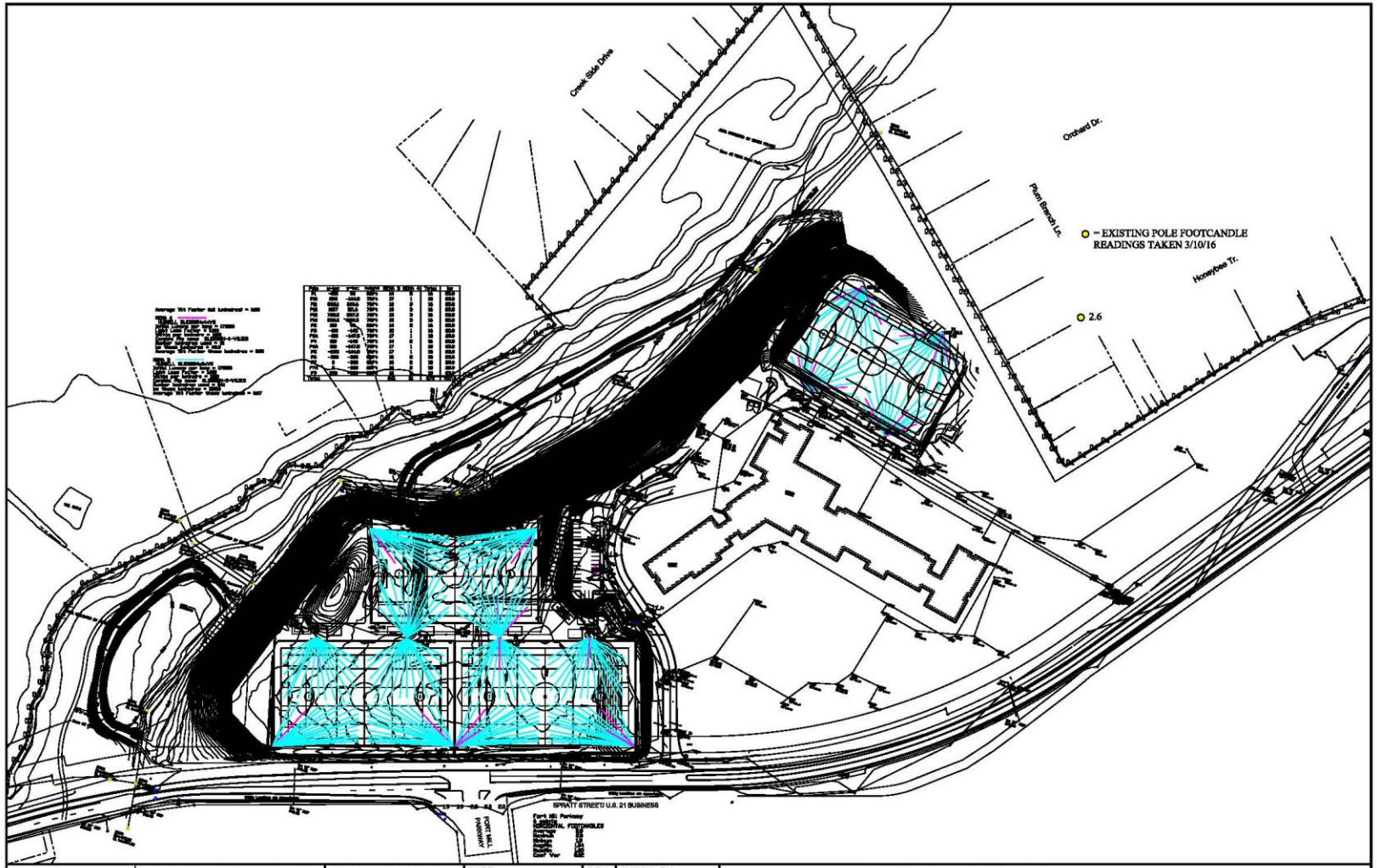


DATE: 03-17-16

SCALE: H: 1"=1' V: 1"=1'

PSGV



14211 GRAND TRAVERSE DRIVE
CHARLOTTE, NC 28278
OFFICE (704) 587-6692
FAX (704) 587-3318
www.tsport-tslight.com

Calculated light levels and visualizations are based on specific information that has been supplied to TSL. Any differences in luminaire installation, lighted area geometry and obstructions in the lighted area may produce different results from the predicted values. Normal tolerances of voltage, lamp output, and ballast and luminaire manufacture will affect results.

DATE:	REV.:	CHECK BY:
3/15/16	05	
DRAWING NUMBER: A020616TSL3		DRAWN BY: TSL

RIVERVIEW ATHLETIC
TORRENCE SPORTS LIGHTING

ATTACHMENTS/DOCUMENTS SUBMITTED AT THE MEETING FOR CASE #2016-155

March 16, 2016

From:

Michael Aasen
1114 Blossom Terrace
Fort Mill, SC 29715

To:

Town of Fort Mill
Board of Zoning Appeals
112 Confederate Street
Fort Mill, SC 29715

Reference:

Variance Appeal Application by Mr. Matthew Sigmon, 1112 Honeybee Trail, Fort Mill, SC
Case 2016-155

I am writing this letter in opposition to the request for variance submitted by Mr. Sigmon. I live next door to his residence and am the property owner who would be adversely affected by an award of the unwarranted variance to Mr. Sigmon.

Mr. Sigmon came to me several months ago and asked if I would support him in seeking a variance. At that time he stated that the individual who measured his property line offset for an addition he was putting on his house had made a mistake. He stated that the offset measurement was made from the rear of his house to the property line and the addition was originally drawn to stay outside the 10 foot offset. He told me that the problem was that it was later discovered that his house is not parallel to the property line and his plans turned out to place the front of the addition well within the 10 foot offset. He further stated that he had obtained some sort of construction financing which would expire soon and would not allow him to change the drawings to move the addition back where his separation was sufficient, and/or make the addition a bit narrower.

I pointed out that this variance from the required offset would diminish the value and salability of my property and he should instead seek recourse against the individual who made the original measuring mistake. He declined. I then offered to sell him a portion of my property sufficient to make this variance request unnecessary. He turned me down.

All the statements made in Mr. Sigmon's Variance Appeal Request are designed to persuade the Town of Fort Mill to fix a problem of his own making at my expense and without any cost to him.

The following are my responses to the Variance Appeal Application made by Mr. Sigmon:

Section 6-29-800(A)(2)

(a) ***there are extraordinary and exceptional conditions pertaining to the particular piece of property***:

Mr. Sigmon's lot (Lot 96) is the same width and depth as all other lots on this street, with the exception of my lot (Lot 97), which is somewhat wider.

The downward slope from the back to the front of Lot 96, referenced by Mr. Sigmon, is typical for this street and less slope than my lot.

(b) these conditions do not generally apply to other property in the vicinity:

The slope from the back to the front of Lot 96 is quite gradual. The "backup of storm water" referenced by Mr. Sigmon is no more or less an issue for him than for anyone else, regardless of any proposed new construction and needs to be dealt with by usual and customary drainage techniques.

Trees listed in Mr. Sigmon's application are no more a "safety related issue" to construction on Lot 96 than any other property in the neighborhood. In fact, there are far more numerous large trees on the west side of Lot 96 adjacent to the proposed addition than there are in the front and to the east of the existing structure.

The "sewer easement" listed in Mr. Sigmon's application is on the west side of Lot 96. It would only "severely restrict a safe area for cars to enter/exit the proposed garage" if the proposed garage were constructed on the west side of the existing house, where Mr. Sigmon is proposing to place it.

(c) 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:

Honeybee Trail, which fronts Mr. Sigmon's property slopes downhill from east to west. Mr. Sigmon discusses that on the side of Lot 96 with the manhole (the west side) "the elevation starts dropping significantly." On the east side of the existing house, where the driveway is currently located, the elevation to the street is significantly less. In other words, his proposed location increases the drop to the street. This is hardly a reason to decide that the present condition of the property "would effectively prohibit or unreasonably restrict the utilization of the property." In fact, locating the garage on the west side of the property and relocating the driveway on the west side for access to the garage, directly contradicts the assertion that other garage locations would "effectively prohibit or unreasonably restrict the utilization of the property.

Section 6-29-800(A)(2)

(c) 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:

(Continued)

Mr. Sigmon states that there are numerous reasons, including disabilities, which require that the addition can only be built as shown in his application. I am sensitive to the use which Mr. Sigmon wishes to gain from the addition, and I am not intending to make recommendations on how to build such an addition; however I will point out that the present proposed addition is far from the only way that construction could proceed.

1. The garage could be placed on the east side of the existing house and/or forward toward the street.
2. The ramp could be placed on the east and north side of the house and enclosed.
3. The proposed additional living space could be placed on either the east or west side of the existing house and wrap partly around the back, without violating the required offset.

(d) 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:

Mr. Sigmon's statements concerning sewer easements and potential use of our property are both false and irrelevant. There is more than ample room north of the sewer easement on our property to "build a structure" should we choose. This is our property and what use to which we may wish to put it in the future is not his concern.

Our house is built wider than many of the houses on our street and makes use of the additional width of our property to enhance its curb appeal. Mr. Sigmon's proposed construction infringes on the esthetics of our home and the neighborhood in general.

The property survey included with Mr. Sigmon's application was performed subsequent to the conversation, noted at the beginning of this letter, between Mr. Sigmon and myself. This survey clearly indicates that the entire proposed addition will infringe on the required 10 foot offset, contrary to the statements made to me during our conversation. This survey should have been conducted prior to any other construction planning. Failure to do so is the root cause of the encroachment of this proposed addition on the required offset and the real reason that Mr. Sigmon is attempting to circumvent the zoning laws in our neighborhood by making this variance appeal application.

Summary:

We request that Variance Appeal Application, Case 2016-155, be denied.

We absolutely do not want this addition placed so as to infringe on the offsets granted by the Fort Mill statutes. We feel strongly that were this application be granted, it will result in a decrease in the value and salability of our property and to a diminishing of the integral character of our Old Orchard neighborhood. Mr. Sigmon's refusal of our offer to sell him a portion of our property to resolve the issue makes it clear that he is simply interested in having the Town of Fort Mill assist him in obtaining an improper taking of our property rights.

Thank you,

Michael Aasen

Michael Aasen
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March 16, 2016