

**ATHENS-CLARKE COUNTY HEARINGS BOARD**  
**Minutes**  
**October 10, 2018**

The Athens-Clarke County Hearings Board met and considered the following items at a public hearing at 3:00 p.m. on Wednesday, October 10, 2018, at 120 W. Dougherty Street, Athens, Georgia.

**MEMBERS PRESENT:** Jon Biron, Sharon Bradley, Nancy Burk (Chair), Chris Gazlay, Tamaine Jordan and Mike Lord

**MEMBERS ABSENT:** Joey Tucker

**STAFF PRESENT:** Rick Cowick, Bruce Lonnee and Amy Riddering (ACCUG Planning); Michael Petty (ACCUG Attorney's Office)

**CALL TO ORDER AND APPROVAL OF MINUTES:**

- 1. Introduction of staff reports and all other documents submitted to the Hearings Board at the meeting into the official record.** Ms. Bradley made a motion to introduce all reports and documents into the official record. Mr. Gazlay seconded the motion, which passed unanimously.
- 2. Adoption of minutes from the September 12, 2018 Hearings Board meeting.** Mr. Lord made a motion to approve. Mr. Jordan seconded the motion, which passed unanimously.

**NEW BUSINESS**

- 1. 145 McDONALD WAY VAR-2018-09-2570**  
Petitioner: Hannah Davenport for Priscilla Anglin  
Zoning: RS-25 (PD) (Single-Family Residential, Planned Development)  
Tax ID: 243C1 I014  
Request: Reduce minimum lot size from 5,000 sf to 4,926 sf

**Ms. Riddering gave the staff report with the recommendation of denial.**

**In Favor:** Hannah Davenport, applicant, distributed information to the Board members. She said that the house was built in 2004 and the property ownership has since been transferred several times. The request is to cure an existing encroachment. Both residences were inspected at time of construction by Athens-Clarke County and approved. Granting the variance would not change the appearance, use or function of either lot. The lots are similar to those in the rest of the subdivision. Curing the encroachment would benefit both property owners by eliminating possible land disputes, allowing full use of the property, and allow for future sale. The alternative would be tearing down the house or veering the side lot line into the rear yard of Lot 15. Every lot in the subdivision contains straight lines and is rectangular in shape. Cutting into the backyard of Lot 15 is not a reasonable approach to cure the encroachment. It would affect the usability and practicability of the backyards, and the future marketability of the two lots. Ms. Anglin would be gaining a triangular shape in the backyard that would be almost unusable, and

Ms. Gault would be losing a portion of her backyard. Future potential buyers would not expect such an irregular lot line. None of the other neighborhood properties has such lot lines. The buyers would expect a straight line with a straight fence. Lot 14 would drop about 75 sf below the minimum lot size, but it would maintain the shape and appearance it has always had, and look similar to those in the neighborhood. Cutting the line in would cause Ms. Gault to lose a quarter of her backyard. They are trying to resolve this without involving courts or large expenses. The variance would protect the expectations by the current owners and future owners of the characteristics of the property.

**In Opposition:** None

**Discussion:** Mr. Gazlay asked if the applicant is representing the property requiring the variance. Ms. Burk replied that she is.

Mr. Lord asked if a smaller portion of the rear yard of 155 McDonald Way (Lot 15) could be added to the property of 145 McDonald Way (Lot 14) than the 203.7 sf shown on one of the distributed plat examples. Ms. Davenport replied that a smaller portion of the rear yard could be swapped than shown on that plat. Mr. Lord noted that the veering of the property line into the rear yard of 155 McDonald Way could be drawn with less impact to that property.

He asked if compensation was being provided to the property owner of 145 McDonald Way. Ms. Davenport replied that she would be compensated.

Ms. Burk said that she agreed with Mr. Lord that the lot line could be drawn with less impact on the rear yard of 155 McDonald Way.

Mr. Lord asked about the fence encroachment noted on the proposed plat. Ms. Riddering replied that the fence for the adjacent drainage basin lot has been relocated to the western property line of Lot 15 (155 McDonald Way). Mr. Lord noted that the practical effect of the fence relocation was to allow more available room for Lot 15.

Ms. Bradley said that she agreed with Staff that standards #2 through #5 are met. She also finds standard #1 is met since the encroachment is an extraordinary condition that does not apply to other lots in the area. The difference between the proposed lot size and the required minimum lot size is 1.5% of the total, so it is a diminutive difference. A denial based on that small amount would not be in the spirit of the purpose of the Hearings Board.

Ms. Burk said that she finds standard #1 is not met since the lot itself is not unusual. She also finds that standard #5 is not met.

Mr. Lord said that standard #1 is met, but has an issue with standard #5.

Mr. Gazlay said that 75 sf is hardly noticeable.

Mr. Biron said that he agrees with Mr. Gazlay, but the portion of the rear yard of Lot 15 being given to Lot 14 does not have to be a severe reduction. It can be rectangular in shape instead of triangular.

Mr. Lord said that a variance does not seem to be the only solution.

A discussion followed about the role of the Planning Commission should a denial of this variance request be appealed.

Discussion then ensued about applying the submitted survey as a condition of approval.

Ms. Burk said that there is no need for a variance if the property line can be drawn with a veer in the rear yard of Lot 15, so the Board may either approve the proposed plat or deny the request.

Mr. Biron said that the applicant wants an ideal situation, but there is another way to resolve it without a variance.

**Motion:** Mr. Biron made a motion for denial.

Ms. Burk asked if the motion for denial is based on the request not meeting all five standards. Mr. Biron agreed.

Mr. Lord seconded the motion, which passed 4 to 2 (Bradley and Jordan in opposition).

### **OTHER BUSINESS**

**Planning Director's Report:** Mr. Lonnee reported that an application has been received for placement on the November meeting agenda.

The meeting adjourned at 3:35 pm.