



GUILFORD COUNTY PLANNING AND DEVELOPMENT

BOARD OF ADJUSTMENT AGENDA

Blue Room, First Floor
Old Guilford County Courthouse
301 W. Market Street
Greensboro, NC 27401
January 5, 2021

Regular Meeting

6:00 PM

The Guilford County Board of Adjustment met in regular session on January 5, 2021 in the Blue Room, Old Guilford County Courthouse, 301 W. Market Street, North Carolina, 27401, commencing at 6:00 p.m.

MEMBERS PRESENT: Ditra Miller, Chair; Bob Lawler; Willie Johnson; and Frank Havens

MEMBERS ABSENT: Carey Campbell and Sebastian King

STAFF PRESENT: Matt Talbott -- Planning & Development Department

Chair Miller welcomed everyone to the meeting and stated they would start the meeting with approval of the December 1, 2020 minutes.

Mr. Talbott interjected that he had been in contact with Barbara Rhoades, of case #20-12-GCPL-08144, and asked the Board could he ask to move this case to the end. Mrs. Rhoades had been running late. Mr. Havens moved for case #20-12-GCPL-08144 to be presented last, seconded by Mr. Johnson. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Lawler, Havens, Miller. Nays: None.)

Approval of Minutes: December 1, 2020

Mr. Lawler moved for approval of the December 1, 2020 minutes, seconded by Mr. Havens. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Lawler, Havens, Miller. Nays: None.)

Rules and Procedures

Chair Miller explained the policies and procedures followed by the Guilford County Board of Adjustment

Old Business

None

New Business

None

Evidentiary Hearing Items

Swearing in of staff and those speaking on the case

Staff and case representatives were sworn in for their testimony in the following cases:

Case #20-12-GCPL-08139 Ivan & Melissa Handy are requesting a variance from the Guilford County Unified Development Ordinance Article 5.4-B (2), which regulates the location of all detached accessory dwellings to be located at least 10 feet from the principal structure located in the AG Zoning District. The applicants are seeking to convert an existing detached garage on the property into a detached accessory dwelling. There is a single-family home on the property and two accessory structures. The property is located at 7721 Whipple Trail, Greensboro, NC 27455 being tax parcel #139297, in Center Grove Township.
(GRANTED)

Matt Talbott stated that the property owner is requesting a variance from the Guilford County Ordinance 5.4-B (2), which regulates the location of all detached accessory dwellings to be located at least 10 feet from the principal structure located in the AG Zoning District. The applicants are seeking to convert an existing detached garage on the property into a detached accessory dwelling. There is a single-family home on the property and two accessory structures. The property is located at 7721 Whipple Trail, Greensboro, NC 27455 being tax parcel #139297, in Center Grove Township. The property is approximately 3.7 acres with the following setbacks for the AG Zoning District: front street 40 feet, side yard 15 feet and back yard 30 feet. The surrounding uses to the north, south, east and west are single family homes and single family residential. Surrounding uses are agricultural and single-family homes with varying setbacks. There are streams on the property. The date of the application is November 10th, 2020. The date the adjacent property owners were notified is December 23rd, 2020. The date the sign was posted on the subject property was September 23rd, 2020. The date that the notice of hearing was posted was December 23rd, 2020. The date of hearing is January 3rd, 2021.

Ivan Handy, of 7721 Whipple Dr, Greensboro, stated he is a caregiver that takes care of his elderly mother and disabled uncle. He wanted to create the space so that he could have his uncle on the property to continue care.

Chair Miller asked if the property meets the required setbacks. Mr. Talbott confirmed this but stated that the main reason this issue was flagged was for safety and aesthetics.

There being no one to speak in opposition to the request, the hearing was closed.

Mr. Lawler moved to grant the variance and moved that the Guilford County Board of Adjustment, having held a hearing on January 3, 2021 to consider **Case #20-08-GCPL-05714**, submitted by Ivan & Melissa Handy, a request for a variance to use the property located at 7721 Whipple Trail, Greensboro, NC 27455, in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following **FINDINGS OF FACTS** and draws the following **CONCLUSIONS**:

1. It is the Board's CONCLUSION that, unnecessary hardship **will** result from the strict application of the ordinance. It shall not be necessary to demonstrate that in the absence of the variance no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT: lessening the 10 ft requirement does not impose any hardship on the property owner or the community in general.
2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the property, such as location, size or topography, hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public may not be basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT: lessening the 10 ft requirement does not impose any hardship on the property owner or the community in general.
3. It is the Board's CONCLUSION that the hardship **does not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge of circumstances that exist that may justify granting a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT: the hardship does not result from actions of the applicant or property owner. The structure was purchased as it is, and the building was not constructed with an add-on in mind.
4. It is the Board's CONCLUSION that the requested variance **is** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT: the 10 ft setback will not diminish the value of the property or surrounding properties.

THEREFORE, based on all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** subject to the following:

Compliance with all local, state, and federal laws.

Mr. Havens seconded the motion. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Lawler, Havens, Miller. Nays: None.)

Case #20-12-GCPL-08140 Jacob Dunkelberger is requesting a variance from the Guilford County Unified Development Ordinance Article 4.2.2, side and front street setback, to reduce the minimum street setback to 15 feet instead of the required 40 feet in the RS-40 Zoning District. The property is currently vacant.

The applicant is proposing a new single-family home to be built. The property is located at 2224 Ledford Rd, Greensboro, NC 27406 being tax parcel #134176, in Fentress Township. **(GRANTED)**

Matt Talbott stated that the property owner is requesting a variance from the Guilford County Ordinance 4.2.2, which states they require a 15 ft setback variance instead of the required 40 ft setback in the RS-40 Zoning District. The property is currently vacant and the applicant wants to accommodate a single-family home, located at 2224 Ledford Rd, Greensboro, NC 27406 being tax parcel #134176. The property has the following setbacks for the AG Zoning District: front street 40 feet, side yard 15 feet and back yard 30 feet. The surrounding uses to the north, south and west are single family homes and single family residential. The east is vacant. There are streams on the property and a large portion of the property has a flood zone. The date of the application is December 1st, 2020. The date the adjacent property owners were notified is December 23rd, 2020. The date the sign was posted on the subject property was December 23rd, 2020. The date that the notice of hearing was posted was January 5th, 2021. The date of hearing is January 3rd, 2021.

Mr. Talbott pulled up the flood zone and showed that much of the property is unbuildable and that is why the applicants wants adjusted setbacks. Mr. Johnson asked when the area was last platted, and Mr. Talbott answered 1961. Mr. Johnson also asked which sides needed the 15 ft variance, which were the front and side since it is a corner lot.

Jacob Dunkelberger, of 4238 Harvard Ave, Greensboro, NC, stated he has family that live in the area and want to build a house on the property. They bought both lots and with the flood plain, one of the lots was unbuildable. They needed this variance to start construction.

There being no one to speak in opposition to the request, the hearing was closed.

Mr. Lawler moved to grant the variance and moved that the Guilford County Board of Adjustment, having held a hearing on January 3, 2021 to consider **Case #20-12-GCPL-08140**, submitted by Jacob Dunkelberger, a request for a variance to use the property located at 2224 Ledford Rd, Greensboro, NC 27406, in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following **FINDINGS OF FACTS** and draws the following **CONCLUSIONS**:

1. It is the Board's CONCLUSION that, unnecessary hardship **will** result from the strict application of the ordinance. It shall not be necessary to demonstrate that in the absence of the variance no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT: the lot has a flood plain and utility easements that prevent the home from being built anywhere else on the property.
2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the property, such as location, size or topography, hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public may not be basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT: the lot has a flood plain and utility easements that prevent the home from being built anywhere else on the

property. By reducing the setback by 15 it could combat the hardships from the natural landscape.

3. It is the Board's CONCLUSION that the hardship **does not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge of circumstances that exist that may justify granting a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT: the hardship does not result from actions of the applicant or property owner. The structure was purchased as it is and is on a flood plain that restricts buildable area. It does not hinder public safety since it will be a safe distance from the street.
4. It is the Board's CONCLUSION that the requested variance **is** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT: Easing the setback from 40 ft to 25 ft will not impact the safety of the applicant or community.

THEREFORE, based on all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** subject to the following:

Compliance with all local, state, and federal laws.

Mr. Johnson seconded the motion. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Lawler, Havens, Miller. Nays: None.)

Case #20-12-GCPL-08144 Barbara Rhoades is requesting a variance from the Guilford County Unified Development Ordinance Article 4.8, which regulates the location of all accessory structures and buildings to be located behind the front building line of the principal structure located in the RS-40 Zoning District. The applicant is seeking to build a new detached garage on the property which would be in front of the principal structure (house). There is a single-family home on the property. The property is located at 5303 Folgers Court, Julian, NC 27283 being tax parcel #123061, in Clay Township. **(GRANTED)**

Matt Talbott stated that the property owner is requesting a variance from the Guilford County Ordinance 4.8, which regulates the location of all accessory structures and buildings to be located behind the front building line of the principal structure located in the RS-40 Zoning District. The property is currently a single-family home, located at 5303 Folgers Court, Julian, NC 27283 being tax parcel #123061. The property has the following setbacks for the RS-40 Zoning District: front street 40 feet, side yard 15 feet and back yard 30 feet. The surrounding uses to the north, south, east and west are single family homes and single family residential. There are no streams on the property. The date of the application is November 3rd, 2020. The date the adjacent property owners were notified is December 23rd, 2020. The date the sign was posted on the subject property was December 23rd, 2020. The date that the notice of hearing was posted was January 23rd, 2020. The date of hearing is January 3rd, 2021.

Barbara Rhoades, of 5303 Folgers Ct, was sworn in and stated that she has tried to follow all the ordinances that she needs to build this garage. The way that the property is built has created flooding. Utility lines on the property

prevented the building from being built in another location. The variance would allow the garage to be built to the right of the current garage. Two years prior, there were sinkholes that took away even more land that could be built on. The suggested location is the best fit since most of the land is unbuildable.

There being no one to speak in opposition to the request, the hearing was closed.

Mr. Havens moved to grant the variance and moved that the Guilford County Board of Adjustment, having held a hearing on January 3, 2021 to consider **Case #20-12-GCPL-08144**, submitted by Barbara Rhoades, a request for a variance to use the property located at 5303 Folgers Court, Julian, NC 27283 being tax parcel #123061, in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following **FINDINGS OF FACTS** and draws the following **CONCLUSIONS**:

1. It is the Board's CONCLUSION that, unnecessary hardship **will** result from the strict application of the ordinance. It shall not be necessary to demonstrate that in the absence of the variance no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT: the lot has a flooding issue that has caused hardship to the property owner.
2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the property, such as location, size or topography, hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public may not be basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT: the owner did not know of the hardships when she purchased the property and her use of the property in this manner would not hinder the neighborhood.
3. It is the Board's CONCLUSION that the hardship **does not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge of circumstances that exist that may justify granting a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT: she was unaware of the current hardships when she applied for the building permit. She tried to pursue all avenues before she came to this point.
4. It is the Board's CONCLUSION that the requested variance **is** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT: she can make her wanted improvements to the property without hindering the neighbors and community.

THEREFORE, based on all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** subject to the following:

Compliance with all local, state, and federal laws.

Mr. Lawler seconded the motion. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Lawler, Havens, Miller. Nays: None.)

Revised Rules of Procedure Review

Matt Talbot stated the **Revised Rules of Procedure** ~~se~~ were still a work in progress and would touch base next meeting.

OTHER BUSINESS

None

ADJOURNMENT

There being no further business before the Guilford County Board of Adjustment, the meeting adjourned at 6:51 o'clock p.m.

DM/jd-lb

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