

**GUILFORD COUNTY
BOARD OF ADJUSTMENT
JANUARY 5, 2016**

The Guilford County Board of Adjustment met in regular session on January 5, 2016 in the Blue Room of the Old Guilford County Courthouse, 301 West Market Street, Greensboro, North Carolina.

MEMBERS PRESENT: Ditra Miller, Chair; Willie Johnson; Cary Campbell, Alternate; Robert Lawler; Frank Havens; and Randall Crum.

MEMBERS ABSENT: Larry Standley and Patrick Woods.

STAFF PRESENT: Dervin Spell, Planning Department, and Cole Renigar, Zoning Investigator

Roll Call of attendees was taken.

Chair Miller welcomed everyone to the meeting and explained the policies and procedures of the Guilford County Board of Adjustment.

HEARING OF THE CASE:

Case Number 15-11-GCPL-05992 Larry and Venice Turrentine are requesting a variance of 3.2' from the side yard setback requirement of 15 feet established by the Guilford County Development Ordinance 4-4.1(A), Dimensional Requirements, to allow for a proposed 20'x26' attached garage addition onto the dwelling on the lot. The property is zoned RS-40, Residential. The property is located at 4029 Sedgewood Lane, Greensboro, North Carolina. Tax parcel #0141156, in the Sumner Township. **(APPROVED)**

Swearing in of staff:

Devin Spell and Cole Renigar were sworn as to their testimony during the proceeding.

Swearing in of anyone speaking in favor of the request:

Venice Turrentine and Felicia Daniel were sworn as to their testimony during the proceeding.

Swearing in of anyone speaking in opposition to the request:

There was no one speaking in opposition to the request.

Mr. Johnson informed the Commission that he is a friend of the applicant and requested that he be recused from this matter.

Mr. Havens moved to recuse Mr. Johnson from this case, seconded by Mr. Lawler. The Commission voted unanimously in favor of the motion.

A unanimous motion was made to approve Mr. Campbell as an alternate for this case.

Venice Turrentine, 1100 Pepperhill Road, is the owner of the subject property located at 4029 Sedgewood Lane. The property will be the home of her daughter, Felicia Daniel, and son-in-law. The Daniels currently live in the home and Ms. Turrentine plans to deed the property over to them. Ms. Turrentine asked for a hardship variance due to the peculiar layout of the property. The septic system is located in the rear of the property and extends in such a way that building there is not possible. The only way to build a two-car garage would require a variance of 3.2 feet.

Ms. Turrentine and Felicia Turrentine Daniel, 4029 Sedgewood Lane, answered questions from the Board and clarified the location of the property lines and the proposed garage. Mr. Lawler asked if the house was built before the Ordinance was adopted. Ms. Turrentine said that the structure was built around 2006. The Ordinance was adopted in 1992. The Turrentines knew that they eventually wanted to build a garage but they did not realize all that would be involved in the process. Ms. Daniel indicated that the adjacent neighbor is in agreement with the request. Ms. Turrentine pointed out that a skylight will provide lighting. There will not be a window that could cause obtrusive lighting. Mr. Lawler pointed out that a one-car garage would not require a variance. Ms. Daniel stated that the proposed structure must be a two-car garage. The homes immediately to the left and right of the property have two-car garages and therefore, it would be in keeping with adjacent properties.

Mr. Spell stated that the Turrentines are requesting a variance of 3.2 feet from the side yard setback requirement of 15 feet as established by the Guilford County Development Ordinance 4-4.2(A), Dimensional Requirements, on a property that is zoned RS-40, Residential. The property is located at 4029 Sedgewood Lane, Greensboro, North Carolina, 27407. The existing use on the property is single-family dwelling and low-density single-family residential properties border it on all sides. The date of the application was November 23, 2015. The notice was posted at the County Court House on December 20, 2015 and a notice was posted on the property on December 10, 2015.

Mr. Lawler referred to one of the findings of fact that no reasonable use of the property can be made without the variance and asked staff if that was actually the case. Mr. Spell stated that staff can only present evidence and cannot give their opinions. A detached garage option was discussed but an attached garage was how the applicant wished to proceed. Responding to questions, he said that if a detached garage less than 600 square feet was chosen, the applicant could build at the maximum 5' from the neighbor's property line which is the minimum setback for a detached garage.

Ms. Turrentine was concerned about the safety of a detached garage because it would be very dark between the detached garage and house. In addition, a detached garage would not blend in as well with surrounding properties. Neighboring properties having two-car attached garages and she reiterated that the adjacent neighbor is very supportive of the request. The neighbor could not be present at this meeting. Ms. Turrentine felt it made more sense to have an attached garage.

Mr. Havens commented that several years ago the State Legislature provided additional latitude looking at these issues. He stated that he would object to seeing a detached garage built within 5' of the property line compared to an attached garage built adjacent to the house.

Mr. Havens moved that the Board of Adjustment for Guilford County, having held a public hearing on January 5, 2016 to consider **Case Number 15-11-GCPL-05992**, submitted by Larry and Venice Turrentine, a request for a variance to use the property located at 4029 Sedgewood Lane, Greensboro, North Carolina 27407 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. This conclusion is based on the following FINDINGS OF FACT: The particular location of the septic system on the property precludes the usage of any other portion of the property for the desired construction of the garage structure; (2) It is the Board's CONCLUSION that the hardship does result from conditions that are peculiar to the property. This conclusion is based on the following FINDINGS OF FACT: The conclusion is due to the septic system and the specific location of the primary structure from the property line; (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 the property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. The conclusion is based on the following FINDINGS OF FACT: It appears that upon purchase of the property the owner was not aware of the plan for construction of a garage and therefore, had no ability to make a decision at that time related to the specifics of those

facts in their judgement of the purchase; and (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: It is the belief that the attached structure is far more consistent with the appearance of the neighborhood and provides greater safety. THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED subject to the variance meeting all local, state and federal laws. The motion was seconded by Mr. Crum. The Board voted 5-0-1 in favor of the motion. (Ayes: Miller, Havens, Campbell, Crum, Lawler. Nays: None. Abstain: Johnson.)

Members voted unanimously by acclamation to have Mr. Campbell, serving as an alternate, step down and to return Mr. Johnson to his seat on the Board.

Case Number 15-12-GCPL-06115 Steven P. Gray is requesting a variance of 27' from the street setback requirement of 45' (for a minor thoroughfare) established by the Guilford County Development Ordinance 4-4.1(A), Dimensional Requirements, to allow for an existing 826 square feet dwelling on the lot to be relocated on the lot due to the acquisition right-of-way by NCDOT (North Carolina Department of Transportation). The property is zoned RS-40, Residential. The property is located at 103 South Bunkerhill Road, Colfax, North Carolina, 27235. Tax parcel #0168684, in the Deep River Township. **(APPROVED)**

Swearing in of staff:

Devin Spell and Cole Renigar were sworn as to their testimony during the proceeding.

Swearing in of anyone speaking in favor of the request:

Steven Gray was sworn as to his testimony during the proceeding.

Swearing in of anyone speaking in opposition to the request:

There was no one speaking in opposition to the request.

Steven Gray, 1902 Beeson Road, Colfax, North Carolina, was present to request a variance of the front setbacks for 103 South Bunker Hill Road. The purpose of the request is to be able to utilize the property in a just manner. The subject property has been a single-family home for 58 years and is currently inside the right-of-way of permanent utility easements that were created in a NCDOT project to widen the West Market Street and Bunkerhill Road intersections. In order to relocate the existing house or to place a future similar structure on the property, the front setback on South Bunkerhill Road would need to be reduced to approximately 18' due to two factors. He cited the location of the septic drain field and the existing topography and drainage easement located at the rear of the property as factors. These conditions were created as a result of the road widening project. If the variance is granted, the applicant intends to move the existing structure, if feasible, or to be able to place another single-family two-bedroom dwelling on the property. This would allow the property to be used as it was prior to the widening of the intersection. The property would retain its existing rural character and the use would be consistent with surrounding properties. There should be no negative impact to neighboring properties or to the safety of the public by granting the variance due to the location of the structure on the property. The subject property is bordered by West Market Street, South Bunkerhill Road, Norfolk Southern Railroad, and property owned by the applicant.

Responding to questions, Mr. Gray stated that he is the only adjacent property owner. As part of the settlement with NCDOT for taking his property, he was given the opportunity to purchase the property at the close of the project. Referring to a letter from an agent of NCDOT, as distributed to members in their packets of information, Mr. Gray said that permission has been granted to pursue this case and he will be purchasing the property. His purpose for the request is to be able to locate the structure on the lot where it makes sense. The Health Department has tested the soil and confirmed there is room to get a septic system on the south side of the property parallel to the railroad. He would like to move the existing

structure closer to Bunkerhill Road to be 18' off the property line of the right-of-way. This would keep the property out of the utility easements. There will be no impact to surrounding properties. The only contact he had from surrounding neighbors was supportive.

During discussion it was noted that the acreage of the lot before road improvements and utilities was over 40,000 square feet. The applicant stated that this request is an attempt to turn this lot back into a usable property. If the house cannot be moved and it is subsequently demolished by NCDOT, Mr. Gray would like to put a house back on the property that could be functional and usable as a single-family home.

Mr. Spell confirmed for Mr. Havens that if a variance is approved and the applicant decides not to purchase the property, then the variance will stay with the property. The applicant currently has an offer to purchase with NCDOT and is in the due-diligence process. The property is zoned RS-40 and a two-bedroom dwelling is the approved area for the septic system.

There was no one speaking in opposition to the request.

Mr. Spell stated that Steven Gray is requesting a variance of 27' from the street setback requirement of 45' established by Guilford County Development Ordinance 4-4.1(A) to allow for an existing 826 square foot dwelling on the lot to be relocated on the lot due the acquisition right-of-way by NCDOT. The property is zoned RS-40, Residential and is located at 103 South Bunkerhill Road in Colfax, North Carolina. The Tax parcel is #0168684, in the Deep River Township. The surrounding use on the north side is vacant and on the south and west side the use is low-density. The date of this application is December 2, 2015. The property owners were notified December 17, 2015 and the bulletin was posted at the Court House on December 20, 2015. The sign was posted on the subject property on December 17, 2015 and the notice was posted in the newspaper on December 25, 2015.

Mr. Lawler moved that the Board of Adjustment for Guilford County, having held a public hearing on January 5, 2016 to consider **Case Number 15-12-GCPL-06115**, submitted by Steven Gray, a request for a variance for property located at 103 South Bunkerhill Road in Colfax, North Carolina 27407 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 acquisition of the property by NCDOT for highway improvements, the existing topography of the property, and utility easements will restrict the use of the property; (2) It is the Board's CONCLUSION that the hardship does not result from conditions particular to the property such as location, size, topography, hardships resulting from personal circumstances as well as hardships resulting from actions that are common in the neighborhood cannot be used. The conclusion is based on the following FINDINGS OF FACT: The acquisition right-of-way by NCDOT, location of drainage easements, and the road widening; (3) It is the Board's CONCLUSION that the hardship does not result from actions taken by the applicant or the property owner. The conclusion is based on the following FINDINGS OF FACT: Actions taken by the Department of Transportation, location of utility easements; and (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 variance will allow the structure to remain and be improved at the same general location, maintain the character of the neighborhood. THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED subject to the variance meeting all local, state and federal laws. The motion was seconded by Mr. Johnson. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Johnson, Crum, Lawler. Nays: None.)

Case #15-12-GCPL-06154 William F. Sherrill is requesting a variance for the placement of a billboard approximately 150' west of the intersection of the 35' street setback line from Interstate 85/40 and the 25' street setback line from Konica Drive established by the Guilford County Development Ordinance 4-4.3, Dimensional Requirements. The property is zoned LI, Light Industrial. The property is located at 6901 Konica Drive, Tax parcel #0106254, in the Rock Creek Township. **(APPROVED)**

Swearing in of staff:

Devin Spell and Cole Renigar were sworn as to their testimony during the proceeding.

Swearing in of anyone speaking in favor of the request:

Rick Pinto, Attorney, and Jim Pridgen were sworn as to their testimony during the proceeding.

Swearing in of anyone speaking in opposition to the request:

There was no one speaking in opposition to the request.

Rick Pinto, 3203 Brassfield Road, was representing Red Oak Holding, LLC in this matter.

Mr. Spell stated that this property is zoned Light Industrial and is located at 5901 Konica Drive, Tax parcel #0106254, in the Rock Creek Township. The land use on the north side is vacant, the south side is light industrial and vacant, and the west side is light industrial. The date of the application is December 3, 2015. The property owners were notified on December 17, 2015. The bulletin was posted at the Court House on December 20, 2015 and the sign was posted on the subject property on December 17, 2015. The ad was posted in the newspaper on December 25, 2015.

A plan for the billboard location and a letter from the Department of Transportation were submitted into the record by Mr. Pinto.

Mr. Pinto stated the applicant's intent to put a billboard on the corner of an oddly configured lot located off of Interstate 85. The applicant determined that variances were not needed because the 15' sign setback running along the two rights-of-way on the property line intersected at a point where the lot narrowed. By placing the sign right beyond the intersection, a variance would not be needed. The State was initially alright with this and a permit was issued for the building of the billboard. Upon further review, the State determined that they had started their 500' setback from where an exit ramp goes off of I-85. There is a requirement that no billboard can be within 500' of that and it was determined that DOT measured from the wrong point. It was measured from a point where there was land on both sides where the exit actually started. They should have measured from the point where the dotted line starts narrowing where there is egress off of the highway. As a result, Red Oak could no longer put the sign where it did not violate the 15' sign setback. Mr. Pinto referred to the site plan and pointed out the only place on the entire property where the sign can be located, which is in violation of the 15' sign setback on either side of the property line. On I-85 a sign would have to be 80' from the center of the road or 35' from the edge of the road and it meets all of those requirements. On the Konica Drive side, the setbacks would be 25' from the side of the road or 50' from the middle of the road and the measurements there are 26.7' from the side of the road and 39.7' from the middle of the road.

Mr. Pinto indicated that a variance is needed from the 15' sign setback requirement from the easement. The State has said they have no problem relocating the sign for any reason as long as the sign itself does not encroach into their right-of-way. Therefore, as long as the sign is on Red Oak property and does not cross the right-of-way, the State is satisfied as long as there is a variance from the County waiving its 15' sign setback requirement. The applicant is requesting the County to waive the 15' sign setback requirement back from the State right-of-way for each road. There is no opposition to this request from any neighbors.

Following clarification by Mr. Renigar regarding the two requirements, Mr. Pinto asked for a variance of 10', 5" from the center line 50' requirement because that is the greater of the current two.

Mr. Pinto referred to the criteria for granting a variance and said that nothing can be built on the entire western side of the property but for the granting of a variance. There is a retention pond in that area and in the eastern portion as well, and no structure can be built there. The only reasonable use would be for a billboard sign. The configuration of the property line and the topography necessitate a variance in order to make reasonable use of the property. The property was in its present condition when purchased by Mr. Sherrill. The ordinance that allows variances is there to allow a use of property when no other use can be made but for the variance. The Department of Transportation has already determined that the sign will have no visual effect at all and will not block anyone's view on I-85 or on Konica Drive and they have no problem with it being permitted.

Jim Pridgen, designer of the sign, was present to answer any questions from the Board. The surveyor was also present to answer any questions.

During discussion, Jim Pridgen, 2702 Red Gate Court, Jamestown, North Carolina, confirmed that the billboard will be a single-pole sign. It has not yet been determined if the sign will be digital. They plan to build it to accommodate a digital sign that could change every 8 seconds. It will be fabricated for the specific piece of property and a construction company will build it to NCDOT specifications.

Mr. Spell noted that when this application was brought to staff, it was understood that the applicant was requesting a variance on both of the 35' street setbacks of the I-85/40 Interchange as well as the 25' setback of Konica Drive. During a conversation just prior to the meeting, the applicant indicated they did not think they needed the 35' setback.

Mr. Crum moved that the Board of Adjustment for Guilford County, having held a public hearing on January 5, 2016 to consider **Case Number 15-12-GCPL-06154**, submitted by William F. Sherrill, a request for a variance to use the property located at 6901 Konica Drive, Greensboro, North Carolina 27407 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. This conclusion is based on the following FINDINGS OF FACT: This conclusion is due to the layout of the lot and the different restrictions as far as setback along with restrictions of DOT; (2) It is the Board's CONCLUSION that the hardship does result from conditions that are peculiar to the property. This conclusion is based on the following FINDINGS OF FACT: The conclusion is due to the location, size, and topography of the particular parcel; (3) It is the Board's CONCLUSION that the hardship does not result from actions taken by the applicant or the property owner. The conclusion is based on the following FINDINGS OF FACT: This conclusion is due to the findings of DOT and the required setback; and (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: It is based on the above mentioned ordinance. THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED subject to the variance meeting all local, state and federal laws. The variance request is based on the drawing submitted by the applicant. The motion was seconded by Mr. Lawler. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Johnson, Crum, Lawler. Nays: None.)

A recess was taken at 7:30 p.m. The meeting resumed at 7:36 p.m.

NEW BUSINESS:**(a) Approval of October 6, 2015 Meeting Minutes**

Mr. Havens moved approval of the October 6, 2015 meeting minutes as written, seconded by Mr. Johnson. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Campbell, Crum, Lawler. Nays: None.)

(b) Approval of 2016 Guilford County Board of Adjustment Calendar

During review of the proposed calendar, members noted that the July 5, 2016 meeting date might not be convenient for members or applicants to attend. Staff will look at the July calendar and email possible dates for the July, 2016 meeting to members for their feedback. Members had no objections to any of the other meeting dates reflected in the calendar.

Mr. Crum moved to accept the 2016 Guilford County Board of Adjustment meeting schedule, seconded by Mr. Johnson. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Johnson, Crum, Lawler. Nays: None.)

(c) Election of Chair, Vice-Chair, and Secretary

Chair Miller nominated Mr. Lawler as the new Chairman of the Guilford County Board of Adjustment, seconded by Mr. Crum. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Johnson, Crum, Lawler. Nays: None.)

Mr. Crum nominated Mr. Havens as Vice-Chair of the Guilford County Board of Adjustment, seconded by Mr. Johnson. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Johnson, Crum, Lawler. Nays: None.)

Mr. Johnson nominated Mr. Spell as Secretary of the Guilford County Board of Adjustment, seconded by Mr. Havens. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Johnson, Crum, Lawler. Nays: None.)

ADJOURNMENT:

There being no further business before the Board, the meeting adjourned at 7:52 p.m.

Respectfully submitted,

Ditra Miller, Chairman

Dervin Spell, Board Secretary