

**GUILFORD COUNTY
BOARD OF ADJUSTMENT
APRIL 7, 2015**

The Guilford County Board of Adjustment met in regular session on April 7, 2015 in the Blue Room of the Old Guilford County Courthouse, Greensboro, North Carolina.

MEMBERS PRESENT: Ditra Miller, Chair; Willie Johnson; Larry Standley; Frank Havens, Randall Crum; and Patrick Woods, Alternate.

MEMBERS ABSENT: James Burroughs

STAFF PRESENT: Dervin Spell and Paul Lowe, Planning Department

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 15-03-GCPL-01148: Cornelis and Constance Jacobs request a variance of 75 feet for a 22'x24' carport to be located in front of the principal structure per the Guilford County Development Ordinance 4-5.2(A) Accessory Building and Structures Location. Section 4-5.2(A) states that all accessory structures and buildings in a single-family development must be located behind the front building line of the principal structure. The property is zoned RS-40. The property is located at 1804 Townsend Forest Lane, Browns Summit, NC 27214. Tax parcel #0125426, in Monroe Township.
(DENIED)

Swearing in of staff:

Devin Spell and Paul Lowe were sworn as to their testimony during the proceedings.

Swearing in of anyone speaking in favor of the request:

Cornelis Jacobs, 1804 Townsend Forest Lane, was sworn as to his testimony during the proceedings.

Swearing in of anyone speaking in opposition to the request:

There was no one speaking in opposition to the request.

Mr. Jacobs stated that he is in possession of a letter from a neighbor that he would like to submit to the Board. Mr. Spell informed Mr. Jacobs that letters are considered hearsay and cannot be submitted as evidence.

Mr. Jacobs stated that he is applying for a variance in a location that he feels is most appropriate. It is not possible to build the carport behind or next to the house due to the location of a septic system and a drainage easement. The carport is placed where it will drain toward the road. Responding to questions, he stated there is one lot between his property and the lake easement. The size of his property is approximately five (5) acres.

Mr. Spell explained that under the County ordinance, an accessory building cannot pass the front corner of the primary dwelling. An exception to the rule may occur when there is a lot greater than two (2) acres and staff determines that it will not be intrusive to the neighborhood and there is sufficient natural screening to

hide the accessory structure. County staff did visit the area several times to determine if a staff approval would be appropriate. It was determined that an administrative in-house approval could not be made in this instance based on being able to see the structure from an adjacent side.

Mr. Havens asked the applicant if a building contractor had been hired for this project. Mr. Jacobs stated that this was his personal project and there was no building contractor. In addition, a building permit was not obtained.

Responding to questions, Mr. Jacobs stated that he has been using the proposed carport area for parking for the last seven (7) years. He does not plan to have electricity in the carport.

Staff was made aware that Mr. Jacobs was building a carport and it was discovered that a building permit was not obtained. A building permit is required for building any kind of structure in the County.

Mr. Havens noted that there are a variety of issues associated with this case. The complaint originated with a neighbor and not only is there a violation of building without a permit; there is possibly a violation of the ordinance. He asked the applicant to address the four (4) criteria necessary for granting a variance.

Mr. Jacobs stated that it would be impossible to place the structure behind the main dwelling. There is an erosion issue relating to the watershed area. The carport will be placed as far back from the road as possible compared to other structures in the neighborhood.

Mr. Woods, present as an alternate, left the meeting at 6:32 p.m.

Mr. Havens asked if the inability to build elsewhere on the property was driven by topography and cost of dealing with the topography. Mr. Jacobs replied in the affirmative. He commented that evergreens have been added where required to address this issue. He noted the location of the drainage easement through the property.

Mr. Crum asked Mr. Jacobs if his neighbors were affected by the same drainage problems. Mr. Jacobs said that the neighbors on the north side definitely have drainage issues. Mr. Havens pointed out that the drainage issue being widespread may not be a basis for granting a variance. He referred to criteria stating that conditions that are common to the neighborhood or general public may not be the basis for granting a variance.

Mr. Jacobs said that the house was in existence when he bought the property. The carport will be open and will not cause erosion problems. He did not think he needed a permit to build the carport. When he learned of the need for a permit from staff, he immediately stopped all activity. There will be no electricity in the carport and it will not be enclosed. The structure will be located in an area where he normally parks his cars. Mr. Jacobs stated that he is committed to all the concerns expressed as reflected in the documentation he provided. He will work with staff in whatever way will be appropriate for the neighborhood. He was amendable to planting additional evergreens and he plans to comply with the code.

There was no one present to speak in opposition to the application.

Mr. Johnson commented that he did not have a problem with the application; however, the applicant should have secured a building permit.

Mr. Standley questioned if it would be appropriate to postpone the hearing for 30 days to allow staff to revisit the matter. Mr. Johnson commented that the Board is unable at this meeting to question the staff member who initially visited the property.

Mr. Havens pointed out that the only question before the Board relates to granting the variance, not whether or not a permit was secured. All four (4) findings of fact must be met to grant the variance request. The applicant has the right to appeal the Board's decision to Superior Court.

In the matter of **Case #15-03-GCPL-01148**, Mr. Crum moved approval of the variance request for property located at 1804 Townsend Forest Lane in Browns Summit, 27214, tax parcel #0125426 in Monroe Township, based on the following findings: (1) Unnecessary hardship will result from the strict application of the ordinance. With the slope and lay of land where this couple lives, the applicant has determined this is the only place he can build anything like this on his property without affecting the lay of the land and the watershed and the way his property seems to drain. It looks like the sides and back of his property are just not in an area that would possibly work. (2) The hardship results from conditions peculiar to the property such as location, size, or topography. Again, these conditions are peculiar to the property in the way it lays and drains and in consideration of the nearby watershed. (3) The hardship does not result from actions taken by the applicant or the property owner. The applicant has stated that he bought this property and he did not build on the lot. It was already there and he did not know these circumstances existed. Perhaps he did not know that more parking and availability to his residence would be needed in the future. (4) The variance is consistent with the spirit, purpose, and intent of the ordinance in that it is placed in the front yard. It is on a rather large lot with adequate road frontage and set back distance. The applicant has a very nice buffer that goes in front of his property and he has said he would take every precaution he can to try to hide the carport coming from the other direction and at least make it aesthetically pleasing. In addition, this request also meets all State and Federal laws. The motion was seconded by Mr. Johnson. The Board voted 3-2 in favor of the motion. (Ayes: Miller, Crum, Johnson. Nays: Havens, Standley.)

Mr. Spell stated that in order for the variance to pass, there must at least four (4) votes in favor of the motion. Therefore, the variance motion failed.

NEW BUSINESS:

(a) Approval of the 2015 Guilford County Board of Adjustment Calendar

Mr. Standley moved approval of the 2015 Guilford County Board of Adjustment Calendar, seconded by Mr. Johnson. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Crum, Standley, Johnson. Nays: None.)

(b) Approval of August 5, 2014 Meeting Minutes

Mr. Havens moved approval of the August 5, 2014 meeting minutes as written, seconded by Mr. Standley. The Board voted 5-0 in favor of the motion. (Ayes: Miller, Havens, Crum, Standley, Johnson. Nays: None.)

ADJOURNMENT:

There being no further business before the Board, the meeting adjourned at 7:18 p.m.

Respectfully submitted,

Ditra Miller, Chairman

Dervin Spell, Board Secretary