

**GUILFORD COUNTY  
BOARD OF ADJUSTMENT  
FEBRUARY 4, 2014**

The Guilford County Board of Adjustment met in regular session on February 4, 2014 in the Blue Room of the Old Guilford County Courthouse, Greensboro, North Carolina.

**MEMBERS PRESENT:** Ditra Miller, Chair; Frank Havens; Randall Crum; Robert Lawler, Jr.; Willie Johnson; and Larry Standley.

**STAFF PRESENT:** Tiffany Burch and Carrie Spencer, Planning Department. Also present was J. Leslie Bell, Guilford County Planning Director.

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 CASE:**

Staff was sworn as to their testimony during the proceedings.

**Case No. 14-10-GCPL-00148:** Robert and Michelle Mitchell are requesting a variance to allow for an existing 18 x 21 carport to remain at its current location at 5 feet, 10 inches from the property line and sitting 18 feet, 10 inches from the existing residence. Reference the Guilford County Development Ordinance Table 4-5.2. The property is located at 4910 Edinborough Road, Greensboro, North Carolina 27406. Tax parcel #0133965 in the Morehead Township. The property is zoned RS-40. **(DENIED)**

Ms. Burch presented the case history.

Chair Miller noted that four full Board members were present and she assigned Mr. Crum to vote as an alternate.

Speakers in support or opposition were sworn as to their testimony during the proceedings.

Chair Miller asked if there was anyone wishing to speak in support of this case.

Robert and Michelle Mitchell, 4910 Edinborough Road, are owners of the property. Ms. Mitchell stated that the strict application of the location ordinance would cause unnecessary hardship. The hardship is no fault of the owners due to the conditions peculiar to their property. She stated her opinion that the request for a variance is consistent with the spirit, purpose, and intent of the law.

Ms. Mitchell indicated that they have concluded there is no conceivable way to have a carport of any size on the property without being in violation, at least in part, of the location ordinance. The owners asked the Board to consider approval of their variance request.

Responding to questions, Ms. Mitchell stated that the carport was installed on October 5, 2014. They have owned the property for 18 years. They were unaware that a permit was required for the

carport. They bought the carport and had it installed; however, the installing company did not mention setbacks or the necessity of a permit. Similarly, permits were not discussed when the carport was purchased. They learned a permit was required upon receiving a Notice of Violation through the mail.

The carport is sitting at the end of the original driveway as far back as it can go before it reaches two very old Red Oak trees. Ms. Mitchell stated that even if the trees were removed, the carport could not be easily or safely accessed due to its proximity to the side porch entrance and gate. It was noted the fence has been in place for most of the 18 years they have lived in the house although the gate is more recent. Ms. Mitchell commented that the property narrows as it goes back and if pushed back further on the property, the carport could violate the side set back ordinance as well. Ms. Mitchell said that they considered changing out the double carport for a single carport with the trees in tact but it poses the same problem. She stated that the only way to push back the double carport they now have would involve taking down the trees. If they had installed a single carport and not taken down the trees, it would have had to be flush against the side entrance to their home. There is currently a walkway in front and to the side of the carport along with appropriate lighting.

Mr. Mitchell confirmed that the driveway was there originally and was poured with the house. The double carport was installed over the concrete driveway and gravel was used to extend the driveway.

Responding to questions, Mr. Mitchell stated that he was unaware of any restrictions when the carport was installed. Ms. Mitchell indicated that it took only two hours to install the carport.

In response to a question, Ms. Burch clarified that the violation was for location of the structure and for not pulling a building permit. The carport is not located in line with the house and protrudes 18 feet, 10 inches from the front of the residence.

Ms. Burch clarified for Mr. Crum that if a structure is greater than 12 feet in any dimension, a permit is required.

Mr. Lawler asked staff what could be done to satisfy the ordinance. Ms. Burch indicated that one option would be to obtain a permit and attach the carport to the residence with a breezeway which would allow it to become part of the principal structure.

The violation was discovered when a call came in from a neighbor.

Members reviewed photographs and other information about the site.

Chair Miller asked if any one was present to speak in opposition to the request.

Vicki Burris, 4912 Edinborough Road, lives next door to the subject property. She stated her opinion that the carport is an eyesore and detracts from the neighborhood. She moved into her house on September 3, 2013 before the carport was installed. She indicated that she would not have purchased her home if the carport had been present at the time.

Ms. Burris stated that when the carport went up, Mr. Mitchell came over to introduced himself and ask if she thought the structure was an eyesore. Ms. Burris did not want to be rude after the carport had already been installed and told him that she thought the carport was not too bad. She began to receive comments from visitors, friends, and family members that the structure was an eyesore. She felt similarly but wanted to be polite. She stated that the location of the carport is not in keeping with

the rest of the neighborhood. She felt that keeping the carport in its current location would set a precedent for neighbors who do not want to cut down their trees. She has spent a lot of money on her home and she expressed concern that selling her home would be challenging with the placement of the carport next door. She felt it should be moved behind the setback line.

Ms. Burris offered the Board an opportunity to view pictures relative to the case on her cell phone. Chair Miller asked staff if they were permitted to view relevant pictures on the cell phone and she was informed that copies of pictures were a requirement for the record. Therefore, Chair Miller informed Ms. Burris that the Board could not look at the pictures.

Ms. Burris reiterated that her main complaint is that the structure extends beyond the front of the house.

Mr. Lawler asked Ms. Burris if she acknowledged that even if the request was denied, the carport could still remain if it was attached to the house. She replied in the affirmative.

If the request is denied it is not in the authority of the Board to demolish the carport.

Ms. Burch said that although the County is flexible in regard to the time period, the carport should be attached to the house as soon as possible if the owners choose to do so. She felt that 30 to 45 days was a reasonable time frame.

There was no one else to speak on this case.

In the matter of **Case #14-01-GCPL-00148**, Mr. Standley moved approval of a variance for 4910 Edinborough Road in Greensboro, North Carolina based on the following findings: (1) the hardship that would result without the variance would be the clearing of trees that have been on the site a long period of time and there is no other way to put the carport on the property without clearing trees; (2) the hardship results from conditions that are peculiar to the property; (3) the hardship did not result from action taken by the applicant or property owner; and (4) the request is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved; seconded by Mr. Crum. The Board voted 2-3 against the motion and the request was denied. (Ayes: Standley, Crum. Nays: Miller, Lawler, Havens.)

Mr. Johnson joined the meeting at 6:15 p.m. but did not sit with the board as a voting member.

Staff was sworn as to their testimony in the following case.

**Case No. 13-12-GCPL-05797:** Cathy Rayle and Diane Lamb are requesting a variance of 23 feet, 6 inches to allow the interior width to be 126 feet, 4 inches from the required 150 foot lot width to subdivide the property. Reference the Guilford County Development Ordinance Table 4-4-1(A) Dimensional Requirements. The property is located at 8134 and 8134A Benaja Road in Reidsville, North Carolina 27320. Tax parcel #0114404 in the Madison Township. The property is zoned AG. **(GRANTED)**

Ms. Burch presented the case history.

Speakers were sworn as to their testimony during the proceedings.

Chair Miller asked if there was anyone wishing to speak in support of this case.

Jamie Rayle, 8138 Benaja Road, Reidsville, North Carolina, stated that the subject property belongs to his brother-in-law who owns a mobile home on the site but does not own the lot. There are two homes on the property. He wants to subdivide the property to be able to deed the lot to his brother-in-law. Ms. Spencer explained that subdividing the lot would bring the property into compliance with today's ordinance.

Members reviewed photographs and site drawings. There was a discussion about future consequences of the shared driveway and well.

In the matter of **Case #13-12-GCPL-05797**, Mr. Crum moved approval of a variance for property located at 8134 and 8134A Benaja Road, Reidsville, North Carolina, to vary the lot width from 150 feet to 126 feet, 4 inches based on the following findings: (1) the hardship that would result from the strict application of the ordinance would be the inability of the land owner to subdivide this lot as there is a structure there that would prevent him from obtaining the 150 foot width; (2) the hardship results from conditions that are peculiar to the property; (3) the hardship did not result from actions taken by the applicant or property owner; and (4) the request is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved; seconded by Mr. Lawler. The Board voted unanimously 5-0 in favor of the motion. (Ayes: Havens, Crum, Standley, Lawler, Miller. Nays: None.)

Staff was sworn as to their testimony during the following case.

**Case No. 14-01-GCPL-00192:** Walter and Jerrel Clark are requesting 2.5 foot variance from the required 15 foot setback to allow for the construction of a 24 foot by 10.7 foot addition to the existing residence. Reference the Guilford County Development Ordinance Table 4-4-1(A) Dimensional Requirements. The property is located at 4601 McConnell Road, McLeansville, North Carolina 27301. Tax parcel #0116690 in the Jefferson Township. The property is zoned RS-40. **(GRANTED)**

Ms. Burch presented the case history.

Speakers were sworn as to their testimony during the proceedings.

Chair Miller asked if there was anyone wishing to speak in support of this case.

Walter Clark, 4601 McConnell Road, McLeansville, North Carolina, gave a brief history regarding the zoning of the property and stated that the subject house is located on a very narrow lot and is 100 feet at its widest point. Mr. Clark is a solar advocate and instructor. He indicated that a passive and active solar addition was made to the house in 1984. The property was subsequently rezoned from RS-20 to RS-40 in 1988 and the setbacks were increased at that time. He would like to make an addition to the house and needs 5 feet, the length of the solar collector, to be able to have one string of collectors at the edge of the existing house. He is trying to put in a roof system that will allow him to use sustainable solar resources for his home and car. He noted the lack of solar ordinances or guidelines. He stated that he purchased the vacant lot next to his house.

Members reviewed photographs and drawings relevant to the case.

Responding to questions, Mr. Clark clarified that the structure he would like to build is located on the side facing the lot that he purchased. The structure will be located at the front of the house. It will not require pier footings or structural engineering.

Mr. Clark stated the original property was purchased in 1979. There was no problem with setbacks until the property was rezoned in 1988. The rezoning created a nonconforming situation with the house itself and the house was grandfathered into compliance. The owner is asking for a variance so that the addition can also be grandfathered into compliance.

Mr. Clark indicated that he did not realize the setbacks were affected by the rezoning until he applied for a permit to build the addition.

In the matter of **Case #13-12-GCPL-00192**, Mr. Lawler moved approval to grant a variance of 2.5 feet from the required 15 foot setback to allow construction of a 24 feet by 10.7 feet addition to the existing residence for property located at 4601 McConnell Road, McLeansville, North Carolina, based on the following findings: (1) the hardship that would result from the particular condition of this property is that the setback requirements were changed after the property was purchased creating this hardship; (2) the hardship does not result from actions taken by the applicant or property owner; and (3) the request is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved; seconded by Mr. Standley. The Board voted unanimously 5-0 in favor of the motion. (Ayes: Havens, Crum, Standley, Lawler, Miller. Nays: None.)

#### **NEW BUSINESS:**

Chair Miller stated that Mr. Bell is working with an attorney to arrange for a training session with the Board. The Board decided the training session would take place during the regular scheduled meeting.

#### **APPROVAL OF MINUTES FROM JANUARY 7, 2014 MEETING:**

Mr. Standley moved approval of the January 7, 2014 meeting minutes as written, seconded by Mr. Crum. The Board voted unanimously 5-0 in favor of the motion. (Ayes: Havens, Crum, Standley, Lawler, Miller. Nays: None.)

#### **ADJOURNMENT:**

There being no further business before the Board, the meeting adjourned at 7:15 p.m.

Respectfully submitted,

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Ditra Miller, Chairman

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Tiffany Burch, Board Secretary