

**GUILFORD COUNTY
BOARD OF ADJUSTMENT
JUNE 5, 2018**

The Guilford County Board of Adjustment met in regular session on June 5, 2018 in the Blue Room, Old Guilford County Courthouse, 301 West Market Street, North Carolina, 27401, commencing at 6:08 p.m.

MEMBERS PRESENT: Robert Lawler, Chairman; Ditra Miller; Willie Johnson; Frank Havens; and Larry Standley.

MEMBERS ABSENT: Patrick Woods, Carey Campbell, and Randall Crum.

STAFF PRESENT: Matt Talbott, Deborah Sandlin, and Rhonitta Hayes - Planning Department.

Roll Call of attendees was taken.

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

AMENDMENTS TO AGENDA:

None.

APPROVAL OF MINUTES:

- **May 1, 2018 Minutes**

Mr. Johnson moved approval of the May 1, 2018 minutes as written, seconded by Mr. Standley. The Board voted unanimously 5-0 in favor of the motion. (Ayes: Lawler, Miller, Havens, Standley, Johnson. Nays: None.)

OLD BUSINESS:

None.

NEW BUSINESS:

Public Hearing Items

CASE #18-05-GCPL-02998:

John Austin is requesting a variance from the Guilford County Development Ordinance 6-4.3(D) 4-a, regulating accessory dwelling units. Mr. Austin is seeking to convert an existing garage into an accessory dwelling unit by making internal improvements as well as adding a 161 square foot addition. Based on the size of the existing house, the proposed accessory dwelling unit should be no more than 605 square feet. Mr. Austin is proposing to construct, including the addition, an 874 square foot accessory dwelling unit. The proposed structure would be 74 percent of the gross floor area of the principal building, over the 50 percent standard that is listed in 6-4.3(D) 4-a. Mr. Austin is seeking a variance of 269 square feet from 6-4.3(D) 4-a. There is a single-family home, garage, and, accessory structures on the property. The property is located at 5018 Mill Point Road, Greensboro, North Carolina 27406 being tax parcel, #0115619, in Jefferson Township.

(APPROVED)**Swearing-in of Staff:**

Matt Talbott, Planning Department, was sworn as to his testimony in the following matters.

Mr. Talbott read the case into the record. John Austin is requesting a variance from the Guilford County Development Ordinance 6-4.3(D) 4-a, regulating accessory dwelling units. Mr. Austin is seeking to convert an existing garage into an accessory dwelling unit by making internal improvements as well as adding a 161 square foot addition. Based on the size of the existing house, the proposed accessory dwelling unit should be no more than 605 square feet. Mr. Austin is proposing to construct, including the addition, an 874 square foot accessory dwelling unit. The proposed structure would be 74 percent of the gross floor area of the principal building which would be over the 50 percent standard that is listed in 6-4.3(D) 4-a. Mr. Austin is seeking a variance of 269 square feet from 6-4.3(D) 4-a. There is a single-family home, garage, and, accessory structures on the property. The property is located at 5018 Mill Point Road, Greensboro, North Carolina. The property is zoned Agricultural and is located approximately 870 feet from the intersection of Mill Point Road and Brookhaven Mill Road. The surrounding land uses are Vacant and Low-Density Residential. There are mainly single-family stick-built homes in the area. There is a mobile home located to the north in the rear of the property.

Members are in receipt of street views of the property from the west, east and from across the street. Mr. Talbott pointed out that the garage is located just behind the house and cannot be seen from the street view. Also included in the packets are pictures of the existing house, the garage located in the rear, the public road, and the driveway. A drawing of the proposed garage addition was also included in the packets. Mr. Talbott reiterated that the garage cannot be seen from the road and therefore, the proposed project would still be in harmony with the surrounding property. He reviewed maps and photographs of the area along with topography of the site.

Mr. Talbott confirmed for Chair Lawler that the size of the expansion will be 74 percent of the main structure. The ordinance requires the size of the expansion to be no more than 50 percent of the main structure. Any detached accessory dwelling cannot be over the 50 percent rule without asking for a variance.

Swearing-in of Speakers:

John Austin, 2145 Keesee Road, Whitsett, North Carolina, was sworn as to his testimony in this matter.

Mr. Austin explained that his daughter has been ill and it has been difficult for her to maintain the existing house. To help his daughter, he and his wife have decided to sell their current house and move into the proposed converted garage on the property. He was unaware of the ordinance standards relating to size of an accessory dwelling unit and the need for a variance. His neighbors have no opposition to this request. Mr. Talbott commented that staff has not received any calls from neighbors or property owners in the area relative to this request. Mr. Austin pointed out that the location of the septic field, well, and repair field requires the addition to be at the rear of the existing home.

Responding to questions, Mr. Austin said that the location for the septic area to serve the accessory dwelling has already been determined by an engineer.

Angela Austin, 5018 Mill Point Road, was supportive of this request. She expressed her desire for all of her family to be together as they get older. She does not want to see a trailer on the property and supports the expansion of the garage.

Mr. Standley moved that the Guilford County Board of Adjustment, having held a hearing on **June 5, 2018** to consider Case Number **18-05-GCPL-02998**, submitted by **John Austin**, a request for a variance to use the property located at **5018 Mill Point Road**, being Tax Parcel **#0115619**, 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 property owner wants to add onto an accessory building to exceed 50 percent of the square footage of the main house and it is only possible by doing it at the rear of the property. The granting of the variance is necessary to be able to make the accessory building, the garage, into a livable structure.

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 the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:

The only place to add a structure that is livable would be behind the house. The location of the septic area, the well and the repair area rule out adding the structure in front of the house. The only thing that would work would be to add onto the existing garage.

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 that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

The property owner has not taken any action to expand the dwelling already. They have not done anything to the property that would rule out other parts of the property being used such as adding on the well, septic tanks, etc. in the front of the property. None of this is caused by actions of the applicant. Prior to this experience, the applicant was not aware of the 50 percent rule and now he must seek a waiver to make the livable structure feasible.

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 property owner has a valid reason to add onto the existing garage. There is only one place to put the livable structure which is behind the house. To permit the owner to fully use his property for the purpose they want to use it for is with a variance. The house is far behind the main road and is barely visible. It will have very minimal impact on any other property. The surrounding property owners have been notified of this action and no one has objected to it.

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

1. Compliance with all local, state, and federal laws.

The motion was seconded by Mr. Johnson. The Board voted unanimously 5-0 in favor of the motion. (Ayes: Lawler, Miller, Havens, Standley, Johnson. Nays: None.)

ADDITIONAL BUSINESS:

Mr. Talbott asked members to email any procedural items or other topics of interest they would like Mr. Bell to review in the training session discussed at the last meeting.

ADJOURNMENT:

There being no further business, the meeting adjourned at 6:44 p.m.

Although the meeting adjourned, Board members remained to discuss scheduling for the upcoming training session.

Respectfully submitted,

Robert Lawler, Chairman

Matthew Talbott, Board Secretary

RL:jd/sm