

**GUILFORD COUNTY  
BOARD OF ADJUSTMENT  
MAY 7, 2019**

The Guilford County Board of Adjustment met in regular session on May 7, 2019 in the Blue Room, Old Guilford County Courthouse, 301 West Market Street, North Carolina, 27401, commencing at 6:00 p.m.

**MEMBERS PRESENT:** Willie Johnson, Acting Chair; Carey Campbell, Alternate; Larry Standley, Alternate; and Sebastian King.

**MEMBERS ABSENT:** Robert Lawler, Franklin Havens, and Ditra Miller.

**STAFF PRESENT:** Matt Talbott, Deborah Sandlin, and Rhonitta Hayes

Roll Call of attendees was taken.

**AMENDMENTS TO AGENDA:**

None.

**APPROVAL OF MINUTES:**

Mr. King moved approval of the December 4, 2018 minutes as written, seconded by Mr. Standley. The Board voted unanimously (4-0) in favor of the motion. (Ayes: Johnson, Standley, Campbell. King. Nays: None.)

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

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

Acting Chair Johnson explained that a variance requires four-fifths (4/5) vote. Because there were only four (4) members of the five- (5) member panel present, the vote would have to be unanimous to be approved; if not, the variance request would be denied. Applicants were given a choice to have their cases heard tonight or tabled to an upcoming meeting. Both applicants stated their desire to be heard tonight.

**Evidentiary Hearing Item:**

**Case # 19-04-GCPL-02931**

Applicant/Owner Jason Aufderhar is requesting a variance from the Guilford County Development Ordinance 4-5.2 (A), which regulates the location of all accessory structures and buildings to be located behind the front building line of the principal structure, the house. The applicant is seeking to build a new detached garage on the property which would be in front of the principal structure. There is a single-family home and a pool on the property located at 4918 Cade Rd, Climax, NC 27233 being tax parcel #122300, in Clay Township.

**(APPROVED)**

**Swearing-In-of Staff and Speakers:**

Matt Talbott, Planning and Development Department, and Jason Aufderhar were sworn as to their testimony in the following matters:

Mr. Talbott read the case into the record. Jason Aufderhar is requesting a variance from the Guilford County Development Ordinance 4-5.2 (A), which regulates the location of all accessory structures and buildings to be located behind the front building line of the principal structure, the house. The applicant is seeking to build a new detached garage on the property which would be in front of the principal structure. There is a single-family house and a pool on the property. The property is located at 4918 Cade Rd, Climax, NC 27233 being tax parcel #122300, in Clay Township. The zoning district is RS-40, Residential Single-Family. It is located approximately 700 feet from the intersection of Cade Road & Liberty Road. The surrounding uses are: single-family residential to the north, east, and west and vacant to the south. Surrounding uses are single-family stick-built homes with varied setbacks, agricultural and residential uses. There are no streams and no flood zones on the property.

The date of the application was March 28, 2019; adjacent property owners were notified April 26, 2019; sign was posted on April 25, 2019; posted on the county website April 16, 2019; and, the public hearing is being held today, May 7, 2019. Mr. Talbott presented photos and aerial views of the property and noted that Cade Rd. is a dead end. Mr. Talbott confirmed to Mr. Johnson's inquiry that the septic is located in the rear. Mr. Johnson also inquired if the small lots behind the applicant's property are repair field; Mr. Talbott explained they are separate parcels. Included in the case packet are design renderings of the proposed garage.

**In Support:**

Speaking in support of the request was the owner/applicant, Jason Aufderhar, who lives at 4918 Cade Rd., Climax, North Carolina. He built his house and has resided there for 12 years. He explained that he wants to get a variance to build an additional detached garage which would be located in front of the principal structure, his house. According to Ordinance 4-5 of the County Zoning Ordinance, he is not allowed to build an accessory structure in front of the primary structure, which he learned when he went to get permits, and when he applied for the variance. The proposed location of the garage is basically 57 feet from the primary structure, the house. There is no way to get a garage in the back of the property because of lack of access from either side of the property. Even if he could get behind the property, there is no feasible location to build a garage. So, the only location is going to be at the front of the property. His house is sitting back quite a bit from the front lines of either of the adjacent neighbors; the reason for that is because of a big hill and a creek. There is a lot of natural drainage that comes through alongside his house and back; there is about 8 feet of room from the house to where this natural drainage comes through. All of that is rock in so it doesn't erode from the side of his property. On the other side of the property, this neighbor's yard flows down into his, so he built a retaining wall just on the other side of his concrete pad, which doesn't give access. The only place to put the garage is in front of the property. Due to the property conditions, there is no other option to build the accessory structure at any other location on the property to stay within the guidelines of the

ordinance. There is not enough access on either side of the property to access the back of the house.

Mr. Aufderhar did not purposely buy this property knowing they would be in violation. He was the general contractor when he built the property almost 13 years ago and had no intentions of trying to violate any kind of ordinance. The main reason for adding this accessory structure is for additional vehicle storage. If it was feasible, they would do anything to stay within the conditions of the ordinance. The proposed 3-car garage will not affect safety. Access to the principal structure will not be blocked in any way to affect life safety. The garage will be architecturally similar to the home. It's actually going to be exactly the same. He will be going back to the same suppliers for the same façade to put on the garage; it's going to look just like the house – same colors, same materials.

Mr. Aufderhar noted that the front elevation renderings are included in the packet; on the top is the house and below is the proposed garage that will look the same. In response to Mr. Johnson's comment about living space in the garage, Mr. Aufderhar stated that it will be a garage only with a lift in it so that he can work on his cars. Mr. Johnson asked for clarification regarding a connecting attachment. Mr. Talbott verified that an attachment with an overhead walkway would be permitted. Mr. Aufderhar stated that he considered that option, but architecturally it simply would look ridiculous.

**In Opposition:**

None.

**Discussion:**

Mr. Standley inquired how long the sign had been on the property; Mr. Talbott responded stating it was posted April 25, 2019.

Responding to Mr. Johnson's inquiries about setbacks, Mr. Talbott stated that the front yard setback should be 40 feet. Mr. Aufderhar responded to Mr. Standley's question about the garage setback stating that the garage will be roughly 20 feet off the gravel driveway, 70 feet from the property line to the front of the garage; and from the back of the property about 46 feet.

**Motion:**

Mr. Standley moved that the Guilford County Board of Adjustment, having held a hearing on **May 7, 2019** to consider **Case # 19-04-GCPL-02931**, submitted by Jason Aufderhar, a request for a variance to use the property located at 4918 Cade Rd., Climax, NC, being **Tax Parcel #122300**, 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:

- This accessory structure can only be placed where it is proposed because of the drainage, the retaining wall, and so forth. There is no other place to put it.
- The property [house] itself has a 70-foot setback from the street to the proposed garage.

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:

- On the side of the house, there is drainage and retaining wall. There is a pool and a septic field, and to one side there is a hill causing significant problems with the topography. This is the only place where the accessory structure can be located.

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 owner has taken no actions which have caused the hardship. The hardship is caused by the property itself [conditions]; the pool, septic tank, drainage, etc. do necessitate the placement of the project [garage].

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 project is substantial due to the property's topography. There is no impact on public safety; there is no impact on the neighbors. The design of the structure is compatible with the neighborhood. The variance will allow the property owners to enjoy the use of the property.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** to allow a detached garage be built in front of the principal structure (the house) subject to compliance with all local, state, and federal laws.

The motion was seconded by Mr. King. The Board voted unanimously 4-0 in favor of the motion. (Ayes: King, Standley, Campbell, Johnson. Nays: None).

**Evidentiary Hearing Item:  
CASE #19-04-GCPL-02933**

Applicant/Owner Jason Coble is requesting a variance from the Guilford County Development Ordinance 4-4.1, rear yard setback, to reduce the minimum rear yard setback to 5 feet instead of 30 feet. There is a single-family house on the property. The applicant is requesting a new accessory building to be located at the rear of the house. The property is located at 4114 Old Julian Rd, Julian, NC 27283 being tax parcel #125137, in Clay Township. **(APPROVED)**

**Swearing-In-of Staff and Speakers:**

Matt Talbott, Planning and Development Department, and Jason Coble were sworn as to their testimony in the following matters.

Mr. Talbott read the case into record. Jason Coble is requesting a variance from the Guilford County Development Ordinance 4-4.1, rear yard setback, to reduce the minimum rear yard setback to 5 feet instead of 30 feet. There is a single-family house on the property. The applicant is requesting a new accessory building to be located at rear of the house. The property is located at 4114 Old Julian Rd, Julian, NC 27283 being tax parcel #125137, in Clay Township. It is located in Agricultural District (AG) approximately 700 feet from the intersection of Old Julian Road and Cadiz Road. Surrounding land uses are vacant to the north, single-family residential to the south, east, and west. Surrounding uses are single-family stick-built houses with varied setbacks and agricultural and residential uses.

The date of the application was April 4, 2019; adjacent property owners were notified April 26, 2019; sign posted on subject property April 25, 2019; posted on County website April 16, 2019, and the public hearing is today, May 7, 2019. Mr. Talbott presented photos and aerial views of the property. He explained that the applicant's house, because of the septic area, sits far back as required by Environmental Health.

**In Support:**

Speaking in support of the request was the owner/applicant, Jason Coble, who resides at 4114 Old Julian Rd., Julian, NC 27283. He stated that he is requesting a 5-foot rear yard variance from the 30-foot requirement because of the layout of the property. Because of the slope in the land and the location of the well, this is the best location for the accessory building. The other place it could be built would require driving over the well line each time entering or exiting the building. If he had to build 30 feet from the rear property line, he would lose parking and it would interfere with being able to get in and out of the house. Environmental Health required 740 square feet of septic field out front that took up much of his front yard. The building will not be a public nuisance to anyone.

**In Opposition:**

None.

**Discussion:**

Mr. Johnson asked if the building will be seen from the street. Mr. Coble stated that it would be. Responding to another question from Mr. Johnson, he stated that the building

will blend in with the house. Mr. Talbott inquired about the surrounding farmland. Mr. Coble noted that the surrounding 17-acre field owned by his aunt is currently being leased for farming. The other surrounding houses are all family-owned. Answering Mr. Standley's and Mr. Johnson's questions about the building, he stated that it will be 24x36 including a one-foot overhang and will have a concrete floor and footing. Mr. Standley inquired if the driveway crosses the well line. Mr. Coble stated that it does not.

Walter W. Coble was sworn as to his testimony in this matter. He resides at 4118 Old Julian Rd., Climax, NC. He commented that this land is family-owned heir property given to Jason by his grandfather and is in support of Jason's request for a variance for a garage.

**Motion:**

Mr. King moved that the Guilford County Board of Adjustment, having held a hearing on **May 7, 2019** to consider **Case # 19-04-GCPL-02933**, submitted by Jason Coble, a request for a variance to use the property located at 4114 Old Julian Rd., Julian, NC, being **Tax Parcel #125137**, 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:
  - It would not be feasible to place the storage building 30 feet from the rear property line as it would encroach the driveway and parking lot [area] as well as restrict access to the back door of the residence.
  - It would also be too close to the existing well.
  - The property is surrounded by a 17-acre field that has been farmed for the last 40+ years. The storage building would not encumber access to that field if the 30-foot requirement was not enforced.
  
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 septic field in the front of the property, the driveway, minimum land in the back of the property, and the well in the rear of the residence would restrict the placement of the project [storage building].
  
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 septic tank field is in front of the property. The residence was pushed back because of the requirements of the Guilford County Environmental Department which would not allow the property [house] to be any further to the front, although the applicant wanted it closer.
  - The septic tank [field] is too large.
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:
- Public safety is not being harmed by this change in ordinance.
  - There is no overwhelming case against the variance change.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** to reduce the minimum rear yard setback to 5 feet instead of 30 feet subject to compliance with all local, state, and federal laws.

The motion was seconded by Mr. Standley. The Board voted unanimously 4-0 in favor of the motion. (Ayes: King, Standley, Johnson, Campbell. Nays: None).

**ADJOURNMENT:**

There being no further business, the meeting adjourned at 6:48 pm.

Respectfully submitted,

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Robert Lawler, Chairman

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Matthew Talbott, Secretary

RL:ds