

**MEETING OF THE  
GREENSBORO BOARD OF ADJUSTMENT**

**FEBRUARY 25, 2019**

The meeting of the Greensboro Board of Adjustment was held Monday, February 25, 2019 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Chuck Truby, James Waddell, Ted Oliver, Deborah Bowers, Leah Necas, Mary Skenes and Vaughn Ramsey. Representing the Planning Department were: Shayna Thiel, Mike Kirkman, and Andrew Kelly, City Attorney's Office.

Chair Truby called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the way the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

**APPROVAL OF MINUTES**

Ms. Skenes moved approval of the November and December 2018 minutes, with the correction noted, seconded by Mr. Waddell. The Board voted 6-0 in favor of the motion. (Ayes: Truby, Skenes, Oliver, Waddell, Bowers and Necas. Nays: None.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman, Planning Department, were sworn in for their testimony in the following cases.

**CONTINUANCES/WITHDRAWALS**

Shayna Thiel stated that Case BOA-19-09, Special Exception for 611 Joyner Street would be withdrawn from the agenda by the applicant.

**OLD BUSINESS**

None

**NEW BUSINESS**

**VARIANCE**

- a. BOA-19-04: **4809 PENN WYNE DRIVE** Sharon A. Canovali Revocable Living Trust requests three variances. (1) To allow an existing accessory structure smaller than 600 square feet of floor area to be separated by 4 feet from another structure on a lot, when at least 5 feet is required. Section 30-8-11.1(E)(1). (2) To allow a proposed accessory dwelling to encroach 6.3 feet into a required 10 foot side setback. The accessory dwelling will be 3.7 feet from the side property line. Section 30-8-11.2(D). (3) To allow a proposed accessory dwelling to be 246 square feet when at least 400 square feet is required. Section 30-8-11.2(E). Zoning R-3 (Residential Single-Family); Cross Street – Coronado Drive. **(GRANTED)**

Shayna Thiel stated that the applicant requests three variances. Variance #1: To allow an existing accessory structure smaller than 600 square feet of floor area to be separated by 4 feet from another structure on a lot, when at least 5 feet is required. Variance #2: To allow a proposed accessory dwelling to

encroach 6.3 feet into a required 10 foot side setback. The accessory dwelling will be 3.7 feet from the side property line. Variance #3: To allow a proposed accessory dwelling to be 246 square feet when at least 400 square feet is required. The subject lot is located on the south side of Penn Wyne Drive, east of Coronado Drive, and is zoned R-3. Tax records indicate the lot contains approximately 13,939 square feet and the house was constructed in 1972. Based on the submitted site plan, the applicant proposes to convert an existing 246 square foot detached garage into an accessory dwelling. The existing detached garage meets the minimum 3 foot side setback requirement, but not the minimum 5 foot separation requirement for accessory structures. If converted into an accessory dwelling, the structure will not meet the required 10 foot side setback (R-3) or the 5 foot separation requirement between structures. It will remain 3.7 feet from the side property line and 4 feet from the existing house. Because the applicant plans to utilize the existing footprint of the structure, the proposed accessory dwelling does not meet the minimum 400 square foot area requirement for accessory dwellings. The R-3 (Residential Single-Family) District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Truby asked if there was anyone wishing to speak in favor of this matter.

Sharon Canovali, the applicant, 4809 Penn Wyne Drive, was sworn in and stated that a few years ago she lost her mother and that her younger brother is mentally disabled and in her care. She has put the home in a Special Needs Trust for him, should she pass before him. She wants to convert the garage so that her brother will have his own living space, and yet, still be close to her. He also has a vascular condition in his legs which may, in the future limit his mobility and cause problems with him using the few steps from the garage area to the interior of the home. This would be a way that he could utilize the house and a place that he could comfortably live.

Ms. Skenes asked if the garage had been in the same location for several years. Ms. Canovali replied that she has lived there for over 17 years and the garage was in place when she purchased the house. She also responded that the neighbors are aware of this structure and the only change would be to the inside of the house creating accessibility from the garage to the house.

Chair Truby asked if there was anyone wishing to speak in opposition to this matter and no one came forward. There being no other speakers, the public hearing was closed.

#### **Board Discussion:**

The Board members felt that this was a very reasonable request.

Ms. Necas moved that, in regard to **BOA-19-04, 4809 Penn Wyne Drive**, the findings of fact be incorporated into the record and the Zoning Enforcement Officer be overruled and the variances granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because it will create a hardship for travel from the garage to the interior of the house. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing garage cannot be placed anywhere else due to the look and landscaping of the property. The hardship is not the result of the applicant's own actions because the garage already existed when the owner purchased the property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the age and location of the existing garage makes this conversion logical and it is in harmony with the character of the neighborhood and no harm will come to the public as the building already exists. Converting garage to a dwelling unit will not create additional impact to the neighborhood, Mr. Waddell seconded the motion. The Board voted 7-0 to grant the variance requested. (Ayes: Truby, Waddell, Oliver, Necas, Ramsey, Bowers and Skenes. Nays: None).

- b. BOA-19-05: 6811-A WEST MARKET STREET, 6330 BURNT POPLAR ROAD & 6340-R1 BURNT POPLAR ROAD** Kinder Morgan Plantation Pipeline Company requests a variance to allow industrial and manufacturing operations to be setback 0 feet from any property line, when a minimum 50 feet is required. Zoning HI (Heavy Industrial); Section 30-8-10.5(A)(1)(a); Cross Street – PPG Road. **(GRANTED)**

Shayna Thiel stated that the applicant requests a variance to allow industrial and manufacturing operations to be setback 0 feet from any property line, when a minimum 50 feet is required. The subject lot consists of three parcels located on the south side of West Market Street, at the intersection of PPG Road, and is zoned HI. Tax records indicate the three lots contain approximately 44.46 acres. The applicant indicates that current tank farm has been in existence for over 75 years and is utilized for the storage and transportation of petroleum products. The applicant has concurrently applied for a Special Use Permit for consideration by the City's Zoning Commission, which is now required under the Land Development Ordinance for facilities that manufacture and store chemicals, petroleum products, explosives and allied products. In order to approve the Special Use Permit all dimensional requirements, including additional use standards for industrial and manufacturing uses, must be met. The submitted site plan shows an existing storage warehouse and accessory structure located within the required 50 foot property line setback and abutting the eastern property line. The applicant requests a variance to allow the storage warehouse and accessory structure to remain in their existing locations. The HI (Heavy Industrial) District is primarily intended to accommodate a wide range of assembling, fabricating, and manufacturing activities. The district is established for the purpose of providing appropriate locations and development regulations for uses which may have significant environmental impacts or require special measures to ensure compatibility with adjoining properties.

Chair Truby asked if there was anyone wishing to speak in favor of this matter.

Gavin Parsons, an attorney with Coates and Bennett in Cary, NC, representing the applicant, stated that with him are Jody Como, Engineering Manager from Alpharetta, GA and John Colupa. Kinder Morgan Plantation Pipeline Company wishes to allow a couple of buildings located within a 50-foot setback to remain. This property has been in use for some 75+ years and this was identified as a TRC Review process. The buildings were all built prior to the current zoning ordinances. These buildings were constructed and used legally as were not in violation for many, many years. As part of another improvement they are making, it was discovered that a variance would be needed. The UDO has been updated, making the buildings out of compliance. In order to move forward with their Special Use Permit they are requesting this variance.

Jody Como, Suwanee, GA, Engineering Manager representing Kinder Morgan Plantation Pipeline Company stated that this is an interstate pipeline company that transports refined liquids throughout the southeast and Greensboro, NC is one of their facilities and has been in this location since 1999. The previous owners also used the property as a fuel holding facility. There is a building that is used for holding a lot of their critical safety equipment and it has been in existence for many, many years. They now feel that this is the time to update and upgrade. Their main goal is safety and they wish to continue in that effort.

Chair Truby asked if there was anyone wishing to speak in opposition to this matter and no one came forward. There being no other speakers, the public hearing was closed.

#### **Board Discussion:**

The Board members felt that this was a very reasonable request.

Ms. Skenes moved that, in regard to **BOA-19-05, 6811-A West Market Street, 6330 Burnt Poplar Road and 6340-R1 Burnt Poplar Road**, the findings of fact be incorporated into the record and the Zoning Enforcement Officer be overruled and the variances granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because their adherence to the ordinance would require removing buildings in order to proceed with their repairs and expansion. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the subject buildings have been on the site for more than 75 years and are pertinent to the daily operations. The property where the buildings are located was acquired in 1994. The hardship is not the result of the applicant's own actions because the buildings predated the current Land Development Ordinance. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because expansion of the business has triggered the need for a variance and the business has existed for 75 years and is located in

the existing Heavy Industrial area. Continued operation will not detract from the area. Mr. Waddell seconded the motion. The Board voted 7-0 to grant the variance requested. (Ayes: Truby, Waddell, Oliver, Necas, Ramsey, Bowers and Skenes. Nays: None).

- c. BOA-19-06: 1400 LEXINGTON AVENUE** Margaret Stouten requests two variances. (1) To allow a proposed accessory structure over 15 feet tall to encroach 8 feet into a required 10 foot rear setback. The accessory structure will be 2 feet from the rear property line. (2) To allow a proposed accessory structure over 15 feet tall to encroach 6 feet into a required 10 foot side setback. The accessory structure will be 4 feet from the side property line. Zoning R-5 (Residential Single-Family); Section 30-8-11.1(C)(2); Cross Street – Grove Street  
**(GRANTED)**

Shayna Thiel stated that the applicant request two variances. Variance #1: To allow a proposed accessory structure over 15 feet tall to encroach 8 feet into a required 10 foot rear setback. The accessory structure will be 2 feet from the rear property line. Variance #2: To allow a proposed accessory structure over 15 feet tall to encroach 6 feet into a required 10 foot side setback. The accessory structure will be 4 feet from the side property line. The subject lot is located on the west side of Lexington Avenue, south of Grove Street, and is zoned R-5. Tax records indicate the lot contains approximately 6,098 square feet and the house was constructed in 1928. Based on the submitted site plan, the applicant proposes to construct a new accessory structure in the same location as a recently demolished structure, using the existing pad. Because the original accessory structure was less than 15 feet tall, it met the required 3 foot side and rear setback requirements. The applicant proposes to include, as part of the new accessory structure, a second story and exterior stairs towards the rear property line. Because of the second story, the rear and side setbacks increase to 10 feet, so variance requests are needed. The R-5 (Residential Single-Family) District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Truby asked if there was anyone wishing to speak in favor of this matter.

Margaret Stouten, the applicant, 1400 Lexington Avenue, was sworn in and stated that she has a letter to add to the record from her neighbor who is in support of this request. A copy of this letter was shown to the Board members for their review. She and her husband moved to this address in 1999 and at that time there was a garage that was sandwiched into the southwest corner of the lot, taking up the entire corner and near the edges of the lot lines. That garage was in very poor condition and was leaking. They replaced that garage in 2005 with a 12' x 14' Dutch Barn, which was a one-story structure with a gabled roof. When Hurricane Michael came through in October 2018, a very large tree fell on the Dutch Barn structure and demolished it. She would now like to construct a new garage in the same foot print but have a two-story structure. She is an art teacher and would like to use the upper floor for a studio for her art and crafting projects. This upper floor would be big enough to allow her to use her drawing table, sewing machine and other art accessories and they plan to have a lot of windows to allow sunlight in that room.

In response to questions, Ms. Stouten stated that the roof of the proposed two-story garage would be lower than that of the main house and would not intrude into the neighborhood. She will also be planting a lot of flowers and shrubs to help make it look nicer.

Chair Truby asked if there was anyone wishing to speak in opposition to this matter and no one came forward. There being no other speakers, the public hearing was closed.

#### **Board Discussion:**

The Board members felt that this was a very reasonable request.

Ms. Bowers moved that, in regard to **BOA-19-06, 1400 Lexington Avenue**, the findings of fact be incorporated into the record and the Zoning Enforcement Officer be overruled and the variances granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant has no place to expand and wishes to use the existing concrete pad from the demolished storage shed to build another storage shed and add a second story art studio to be used by the owner. The hardship of which the

applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot is small and the only available space is in the southwest corner where a storage shed was located before it was destroyed by a falling tree. The hardship is not the result of the applicant's own actions because the winds from Hurricane Michael caused a tree to fall on the existing garage and destroyed it. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the new structure will be sized and built to harmonize with the surrounding architectural style and no area borders on open space in the back and it will not be congested. Ms Skenes seconded the motion. The Board voted 7-0 to grant the variance requested. (Ayes: Truby, Waddell, Oliver, Necas, Ramsey, Bowers and Skenes. Nays: None).

- d. BOA-19-07: **703 CARDIGAN COURT** Kevin and Elizabeth Curley request two variances. (1) To allow a proposed screen porch to encroach 10 feet into a required 30 foot rear setback. The addition will be 20 feet from the rear property line. Section 30-7-3.2 – Table 7-1. (2) To allow a proposed porch addition to encroach 13.8 feet into a required 52 foot front setback. The porch addition will be 38.2 feet from the front property line. Section 307-1.4. Zoning R-3 (Residential Single-Family); Cross Street – Westbourne Road (**GRANTED**)

Shayna Thiel stated that the applicants request two variances. Variance #1: To allow a proposed screen porch to encroach 10 feet into a required 30 foot rear setback. The addition will be 20 feet from the rear property line. Variance #2: To allow a proposed porch addition to encroach 13.8 feet into a required 52 foot front setback. The porch addition will be 38.2 feet from the front property line. The cul-de-sac lot is located on the west side of Cardigan Court, south of Westbourne Road, and is zoned R-3. Tax records indicate the lot contains approximately 11,761 square feet and the house was constructed in 1972. Based on the submitted site plan, the applicants propose to convert an existing deck into a screened porch using the same footprint. An uncovered deck (4 foot or less above grade) may encroach into the rear setback per the Land Development Ordinance, but an enclosed porch may not encroach without a variance. The proposed screened porch will encroach 10 feet into a required 30 foot rear setback. The applicants also propose to construct a porch addition at the front of the existing house that will encroach 13.8 feet into a required 52 foot front setback. The Land Development Ordinance allows an open air/covered porch addition to encroach up to 10 feet into a required setback. However, since the existing house already encroaches into this setback, the proposed porch addition will encroach more than the allowed 10 feet and a variance is required. The R-3 (Residential Single-Family) District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Truby asked if there was anyone wishing to speak in favor of this matter.

Kevin Curley, the applicant, 703 Cardigan Court, was sworn in and stated that he wishes to enclose an existing deck and make it into a screened porch at the rear of the house. It would remain the same dimensions of the existing deck. In the front of the house, the existing porch is very short and small and he only wants to increase the length of the porch and not the depth. He does not feel that either of these projects would have a negative impact on his neighbors. He has notified his neighbors of his plans and has not received any notification that anyone is in opposition.

Chair Truby asked if there was anyone wishing to speak in opposition to this matter and no one came forward. There being no other speakers, the public hearing was closed.

#### **Board Discussion:**

The Board members felt that this was a very reasonable request.

Mr. Ramsey moved that, in regard to **BOA-19-07, 703 Cardigan Court**, the findings of fact be incorporated into the record and the Zoning Enforcement Officer be overruled and the variances granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant would not be increasing the size of the deck for the proposed screened porch, and the front porch which would only be lengthened and not widened. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the location of the

existing property in a cul-de-sac limits the space available for building. The hardship is not the result of the applicant's own actions because the house was located on the property prior to being purchased by the applicant. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the addition of the front and back porch is consistent with the character of the existing neighborhood and would increase the value of the subject property. Mr. Waddell seconded the motion. The Board voted 7-0 to grant the variance requested. (Ayes: Truby, Waddell, Oliver, Necas, Ramsey, Bowers and Skenes. Nays: None).

- e. BOA-19-08: **3807 Brown Bark Drive** Hannah and Young Kim request two variances. (1) To allow a proposed addition to encroach 6 feet into a required 10 foot side setback. The addition will be 4 feet from the side property line. Section 30-7-3.2 – Table 7-1. (2) To allow a proposed addition to encroach 10 feet into a required 55 foot front setback. The addition will be 45 feet from the front property line. Section 30-7-1.4. Zoning R-3 (Residential Single-Family). Cross Street – Winview Drive **(GRANTED)**

Shayna Thiel stated that the applicants request two variances. Variance #1: To allow a proposed addition to encroach 6 feet into a required 10 foot side setback. The addition will be 4 feet from the side property line. Variance #2: To allow a proposed addition to encroach 10 feet into a required 55 foot front setback. The addition will be 45 feet from the front property line. The lot is located on the south side of Brown Bark Drive, east of Winview Drive, and is zoned R-3. Tax records indicate the lot contains approximately 13,939 square feet and the house was constructed in 1972. The applicants propose to construct an addition along the side of the house that will encroach 6 feet into a required 10 foot side setback and be 4 feet from the western side property line. The proposed addition will also encroach 10 feet into a required 55 foot front setback and be 45 feet from the front property line. The R-3 (Residential Single-Family) District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Truby asked if there was anyone wishing to speak in favor of this matter.

Young Kim, the applicant, 3807 Brown Bark Drive, was sworn in and stated that he wishes to add a two-car garage at the front half of the house. The rear of the garage would be used as a studio as he is an artist and this would allow him to work at home more and create more visual creative work. He also plans to include an above-ground storm shelter within that space. The proposed garage would be a single story and would have a flat roof because the existing house has a flat roof. He has contacted his neighbors but has not heard anything from them either in favor or in opposition.

Chair Truby asked if there was anyone wishing to speak in opposition to this matter and no one came forward. There being no other speakers, the public hearing was closed.

#### **Board Discussion:**

The Board members felt that this was a very reasonable request.

Mr. Oliver moved that, in regard to **BOA-19-08, 3807 Brown Bark Drive**, the findings of fact be incorporated into the record and the Zoning Enforcement Officer be overruled and the variances granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant wishes to construct a two-car garage on the existing driveway with an art studio. The way the house is centered on the lot, there is no room for the proposed project and to comply with the ordinance. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the house is centered in the lot in an unusual way and does not allow room for the project. The hardship is not the result of the applicant's own actions because placing the home on the lot was determined prior to the current owners purchasing the home. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it adds value to the property as many homes in the neighborhood have garages and the project is a small deviation and there is plenty of

room for access to the rear yard. Mr. Waddell seconded the motion. The Board voted 7-0 to grant the variance requested. (Ayes: Truby, Waddell, Oliver, Necas, Ramsey, Bowers and Skenes. Nays: None).

**SPECIAL EXCEPTION**

- a. BOA-19-09: **611 JOYNER STREET** Katie Kersey and Datus Rwechungura request a special exception to allow a proposed addition to encroach 1.6 feet into a required 5 foot side setback. The addition will be 3.4 from the side property line. Zoning R-7 (Residential Single-Family); Section 30-7-3.2 – Table 7-3; Cross Street – Spring Garden Street. **(WITHDRAWN)**

**OTHER BUSINESS**

None

**ACKNOWLEDGEMENT OF ABSENCES**

The absence of Ms. Blackstock was acknowledged as excused.

**ADJOURNMENT:**

There being no further business before the Board, the meeting ended at 6:31 p.m.

Respectfully submitted,

Chuck Truby, Chair

Greensboro Board of Adjustment

CT/jd