

**MEETING OF THE  
GREENSBORO BOARD OF ADJUSTMENT**

**April 22, 2019**

The meeting of the Greensboro Board of Adjustment was held on Monday, April 22, 2019 at 5:37 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present: Chair Chuck Truby, Mary Skenes, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas, and Deborah Bowers. City staff present: Shayna Thiel, Mike Kirkman and Terri Jones, Deputy City Attorney.

Chair Truby welcomed everyone to the meeting and advised of the policies and procedures in place for the Board of Adjustment. Chair Truby further explained the manner in which 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 THE MINUTES**

Mr. Waddell made a motion to approve the minutes, seconded by Ms. Necas. The board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

**SWEARING IN OF STAFF**

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

**CONTINUANCES/WITHDRAWALS**

Ms. Thiel advised that BOA-19-14, 410 Sunset Drive, was withdrawn per a request from the applicant.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCES**

**a. BOA-19-12: 2501 HILL-N-DALE DRIVE.** Melissa Morford requests two variances. (1) To allow a proposed accessory dwelling to encroach 2 feet into a required 5-foot side setback. (2) To allow a proposed accessory dwelling to encroach 10 feet into a required 20 foot rear setback. **(GRANTED)**

The applicant was sworn in to present testimony regarding BOA-19-12.

Ms. Thiel stated in BOA-19-12, at 2501 Hill-N-Dale Drive, the applicant, Melissa Morford request two variances.

1. To allow a proposed accessory dwelling to encroach 2 feet into a required 5 foot side setback. The accessory dwelling will be 3 feet from the side property line.
2. To allow a proposed accessory dwelling to encroach 10 feet into a required 20 foot rear setback. The accessory dwelling will be 10 feet from the rear property line.

Evidence provided by the applicant includes Exhibits A and B. Supporting documentation from staff includes Exhibits 1 through 7. The Land Development Ordinance references are Section 30-8-11.2(D) and Section 30-7-3.2 -Table 7-2: R-5 minimum side setback is 5 feet and R-5 minimum rear setback is 20 feet.

**Background and Site Information:** The subject property is located on the west side of Hill-N-Dale Drive at the intersection of Westmoreland Drive and is zoned R-5. Tax records indicate the lot contains approximately 12,197 square feet and the house was constructed in 1959.

The applicant proposes to enlarge an existing 240 square foot storage building to 432 square feet and convert it into an accessory dwelling. The existing storage building meets the minimum 3 foot side and 3 foot rear accessory structure setback requirements. If converted into an accessory dwelling, the structure will not meet the R-5 minimum 5 foot side setback or the 20 foot rear setback requirement. It will remain 3 feet from the side property line and 10feet from the rear property line.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to come forward to provide her name and address for the record.

**Melissa Morford, 2501 Hill-N-Dale Drive, Greensboro, NC.** Ms. Morford stated she is requesting a variance to expand a previous structure that was on the property when purchased in 2012. She would like to make it an additional dwelling unit to allow an aging parent to have both independence and privacy. She produced a notarized letter of support from her neighbor indicating it had never been a nuisance and had always been there.

The Board asked questions of the applicant. In response, the applicant stated that she is trying to stay where the structure is currently by using the same footprint but expanding inward on her property. In response to another question, Ms. Morford stated that the structure meets all current requirements. Chair Truby stated that setback differences are because it is going from an accessory structure to an accessory dwelling. Chair Truby asked if there was anyone else to speak in favor or in opposition. No one came forward. Chair Truby requested a motion to close the public hearing.

Mr. Waddell so moved, seconded by Mr. Ramsey to close the public hearing. The board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

#### **BOARD DISCUSSION**

The Board members indicated their support of the request as it seemed to be reasonable.

Mr. Waddell moved that, in case BOA-19-12, 2501 Hill-N-Dale Drive, based on the findings of fact, the zoning enforcement officer be overruled and that variances 1 and 2 be granted based on the following:

1. 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 this structure existed at the time the applicant purchased the 2501 Hill-N-Dale property.
2. 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 ordinance requires specific setbacks but is to be built using the existing structure.
3. The hardship is not the result of the applicant's own actions because the hardship is due to proximity of the existing structure and property lines.
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the style will be similar to the existing structure and will not detract from the neighborhood.

Seconded by Ms. Skenes. The Board voted 7-0 in favor of granting the variance. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

**b. BOA-19-13: 7 MANOR RIDGE COURT.** Karthy and Amelia Cates requesting a variance to allow a proposed addition to encroach 11 feet into a required 34 foot front setback. **(GRANTED)**

The applicants were sworn in to present testimony regarding BOA-19-13.

Ms. Thiel stated in BOA-19-13, at 7 Manor Ridge Court, the applicants, Karthy and Amelia Cates, request a variance to allow a proposed addition to encroach 11 feet into a required 34 foot front setback. The house will be 23 feet from the front property line.

Evidence provided by the applicants includes Exhibits A and B. Supporting documentation from staff includes Exhibits 1 through 7. The Land Development Ordinance reference is Section 30-7-1.4: street setback computations.

**Background and Site Information:** The subject property is located on the east side of Manor Ridge Court, south of Manor Ridge Trail and is zoned R-3. Tax records indicate the lot contains approximately 11,761 square feet and the house was constructed in 1996. The existing house is considered a non-conforming structure as it encroaches into the required 34 foot front setback. Any enlargement of a nonconforming structure must conform to the dimensional requirements of the zoning district unless the Board of Adjustment grants a variance. The applicants propose to construct an addition at the front of the existing house that will encroach 11 feet into the required 34 foot front setback and be 23 feet from the front property line, so a variance is required.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Truby asked the applicants to come forward to provide their names and address for the record.

**Amelia Cates, 7 Manor Ridge Court, Greensboro, NC.** Ms. Cates stated they need a master suite on the ground floor as her husband has bad knees and joint issues making it very difficult to go up and down the stairs currently and only sees that becoming worse as they age. They want to stay in their house but be able to fully live on the ground floor.

The Board asked questions of the applicants. Ms. Necas asked them to clarify that their house is non-conforming and is 8 feet within the front setback. Ms. Cates responded they were not aware of that until this process but, yes. Ms. Necas stated they are only asking for 3 feet more than the house already encroaches. Ms. Cates responded the porch is 6 feet out from the house itself and they want to add a full bathroom and a walk-in closet on one side which is about 9 feet, so it is 3 feet more from where the porch ends. Chair Truby stated they were caught in an ordinance change where they're using a prevailing street setback now to determine front yard setbacks that didn't exist when their house was built. If this is approved, it will take care of their non-conforming issue.

Chair Truby asked is there were any further questions. None. Chair Truby asked if there was anybody to speak in favor. Ms. Cates provided a notarized support letter from a neighbor. She did talk 95 percent of their neighbors who are aware of their project and have no issues. Chair Truby asked if there was anyone else to speak in favor or in opposition. No one came forward. Chair Truby requested a motion to close the public hearing.

A motion was made by Ms. Skenes, seconded by Mr. Ramsey to close the public hearing. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

## **BOARD DISCUSSION**

The Board members indicated their support of the request.

Ms. Necas moved that, in case BOA-19-13, 7 Manor Ridge Court, based on the findings of fact, the zoning enforcement officer be overruled and that the variance be granted based on the following:

1. 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 property only includes a bedroom and a full bath upstairs and it will be a physical hardship to climb the stairs for the owners.
2. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicants' property because it is a slab foundation and plumbing issues make adding a bedroom and bath to any other location in the house difficult.
3. The hardship is not the result of the applicants' own action because the house is nonconforming and any addition will automatically require a variance. Plumbing issues and necessary square footage for the new bedroom prohibit additions to the back of the house.
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the size of the addition just 3 feet beyond the current porch will not detract from the character of the neighborhood and will add value to the property.

Seconded by Mr. Waddell. Board voted 7-0 in favor of granting the variance. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

**d. BOA-19-15: 2435 BATTLEGROUND AVENUE.** James Sipsis, on behalf of Oakcrest Center, LLC requests a variance to allow the area of an existing freestanding sign to exceed the maximum allowed by 21 square feet. **(GRANTED)**

The applicants were sworn in to present testimony regarding BOA-19-15.

Ms. Thiel stated in BOA-19-15, at 2435 Battleground Avenue, the applicant, James Sipsis, on behalf of Oakcrest Center, LLC requests a variance to allow the area of an existing freestanding sign to exceed the maximum allowed by 21 square feet. The free standing sign is 221 square feet and the maximum allowed is 200 square feet.

Evidence from the applicant include Exhibits A and B. Supporting documentation from staff includes Exhibits 1 through 12. The Land Development Ordinance reference is Section 30-14-7.3, Table 14-2: maximum area of a free standing sign in C-M District is 200 square feet.

**Background and Site Information:** The subject lot is located on the west side of Battleground Avenue, south of Oakcrest Avenue, and is zoned C-M. Tax records indicate the lot contains approximately 2.97 acres and the building was constructed in 1964. The existing 221 square foot sign is considered nonconforming as it exceeds the maximum area allowed by 21 square feet. The original sign, as shown in Exhibit 7, was approved on July 11, 2011 and erected on the property. At that time, it met the 200 square foot maximum requirement. Sometime after 2011, the applicant installed a 21 square foot (7 foot by 3 foot) electronic message board at the bottom of the existing sign without a permit.

On July 5, 2018, the City issued a Notice of Violation for installing a sign without a permit and for exceeding the maximum allowable footage. On July 11, 2018, the applicant submitted a sign permit application for the addition of the electronic message board. On December 13, 2018, the applicant was notified that the sign permit could not be approved because the addition of the electronic message board to the existing free standing sign caused the total area to exceed the maximum allowed. On March 5, 2019, the City issued a civil penalty for not remedying the Notice of Violation. The applicant seeks a variance to exceed the maximum area allowed for a free standing sign and thus allow the added electronic message board to remain.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Ms. Skenes stated that the staff presentation indicated that there was not a permit requested for the 21 square foot message board, but in two different places in the applicant's presentation, it is stated he had a permit in place for the sign since July of 2018. She asked if the applicant applied for a permit, but it was not issued. Ms. Thiel responded that is correct.

Chair Truby asked how the Notice of Violation came about. Mr. Kirkman responded that staff received an inquiry to look at the sign. It was investigated and determined the electronic message board did not have a permit. The applicant came in to request a permit and staff determined it was too large for the overall square footage, so the applicant was informed to request a variance.

Ms. Bowers asked if the banners that were there previously below where the signage is were okay. Mr. Kirkman did not know the specifics of the banners that had been there before, but suspected they were not since banners are supposed to be attached by a semi-rigid frame and secured. Without all the specifics, he was unable to answer the question fully. Ms. Skenes asked if temporary banners are acceptable. Mr. Kirkman responded that there is a provision for special promotion banners for commercial uses. There are also provisions in the ordinance for a banner sign that requires a permit and must be attached to a semi-rigid frame and secured. Ms. Skenes asked if the banners were legal. Mr. Kirkman responded to his knowledge, they would not have been allowed.

Chair Truby asked the applicant to come forward to provide his name and address for the record.

**Jimmy Sipsis, 2925 New Hanover Drive, Greensboro, NC; Sam Helmi, Oakcrest Family Restaurant at 2435 Battleground Avenue, Greensboro, NC; Robert Benson, Attorney for Oakridge Shopping Center.** Mr.

Benson stated the previous banner had been there for 15 years and was held by a wooden plaque behind the sign so it would not blow in the wind. It was taken down when Mr. Helmi replaced it with the electronic sign. Mr. Helmi did not know the electronic sign was out of order because the banner had been there for 15 years. Mr. Helmi has run the Oakcrest restaurant for 19 years. The new electronic message sign has been there for 2 years, and Mr. Helmi was not aware of any complaints regarding the sign. Mr. Benson stated since Mr. Helmi had the electronic sign, he had about a 10 percent increase in business. Mr. Benson stated both Mr. Sipsis and Mr. Helmi are here to address any questions.

Chair Truby inquired if there were questions for the applicants. For clarification, Ms. Skenes asked how long the message board has been up. Mr. Helmi responded about two years. Ms. Bowers inquired if there were any comments from the other occupants of the shopping. Mr. Helmi responded to his knowledge no one has complained about the sign. Mr. Sipsis stated if he went in each unit, they would not have a problem with the sign, and no one has ever said anything to him about it.

Chair Truby inquired if there were any other questions. Chair Truby inquired for anyone else to speak in favor. No response. Chair Truby inquired of anyone in opposition. A motion to close the public hearing was made by Ms. Necas, seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

### **BOARD DISCUSSION**

Ms. Bowers asked who had the sign on top. Mr. Sipsis responded that Fleet Plumbing does. Ms. Necas asked staff if the sign is approved, is it just for the sign or will they need approval for size and then go before a board because it's electronic. Mr. Kirkman responded if the variance is granted to allow the total square footage to increase, staff should be approving the sign permanently. The electronic message board is considered part of the overall sign and if it meets certain standards in the ordinance, it would also be approved. Ms. Bowers asked if it is taken down, it is just open space. Mr. Kirkman responded that was correct. Chuck Truby inquired when the LDO was established, did it change the square footage of signs. Mr. Kirkman responded there were not any changes related to sign dimensions and felt these are consistent with what was in the Unified Development Ordinance. Ms. Skenes stated her memory was they did not touch on the signs as they did not want to create any nonconforming scenarios and left the signage size in place across the board in terms of zoning.

Chair Truby stated because of the location, he is in support of this, but generally is not in support of giving a competitive advantage over another business because of a larger sign. Because the electronic message board is low on the sign, he does not see it as having a negative impact and is good with the variance. Ms. Necas stated she is in support of the variance as the variance is small and makes a big difference in their livelihood. Mr. Oliver stated the restaurant now gets two spaces on the sign, everyone else has one. When he drove by, he noted that you can see it coming toward downtown on Battleground but not going out because cars block the sign.

Ms. Skenes moved that, in case BOA-19-15, 2435 Battleground Avenue, based on the findings of fact, the zoning enforcement officer be overruled and the variance be granted based on the following:

1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying the strict application of the ordinance because the 21 square foot message board at the bottom of the name sign would have to be removed.
2. 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 for 15 years, the applicant has been using banners for additional exposure.
3. The hardship is not the result of the applicant's own action because a permit was applied for after the message board was installed and at the time the message board had been in place for two years.
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and ensures public safety, welfare, and substantial justice because the sign has been in place for two years and has led to an increase in business of 10 percent for a locally owned business.

Seconded by Mr. Waddell. The Board voted 7-0 in favor to approve the variance. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

**e. BOA 19-16, 1711 Forest Valley Road.** Douglas and Jennifer Cason request a variance to allow a proposed deck addition to encroach 14.8 feet into a required 37-foot front setback. **(GRANTED)**

The applicant was sworn in to present testimony regarding BOA-19-16.

Ms. Thiel stated in BOA-19-16, at 1711 Forest Valley Road, the applicants, Douglas and Jennifer Cason request a variance to allow a proposed deck addition to encroach 14.8 feet into a required 37-foot front setback. The deck addition will be 22.2 feet from the front property line.

Evidence from the applicant include Exhibits A, B and C. Supporting documentation from staff include Exhibits 1 through 7. The Land Development Ordinance reference is Section 30-7-1.4: street setback computations.

**Background and Site Information:** The subject lot is located on the west side of Forest Valley Road, north of Wembley Court, and zoned R-3. Tax records indicate the lot contains approximately 11,761 square feet and the house was constructed in 1968. The existing house is considered a nonconforming structure as it encroaches into the required 37 foot front setback. Any enlargement of a nonconforming structure must conform to the dimensional requirements of the zoning district unless the Board of Adjustment grants a variance.

The applicants propose to construct a deck addition at the front of the house that will encroach 14.8 feet into the required 37 foot front setback and be 22.2 feet from the front property line, so a variance is required. There are no applicable overlays or plans. The land use is single-family dwelling.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to come forward to provide his name and address for the record.

**Douglas Cason, 1711 Forest Valley Road, Greensboro, NC.** Mr. Cason moved here from Texas in August and purchased this house but was not happy with yard and pursued how to extend the current porch. The house encroaches into the front setback by about 4 feet. He is asking for a 5 ½ foot extension off the existing porch to build a deck of about 14-16 feet that would be faced with wood to look like a solid deck and be harmonious with the architecture. Mr. Cason provided an image of the proposed deck. This is a unique lot, with an angular, small back yard and lots of trees. There will be a tree between the proposed deck and the street. The front yard has a very steep grade and by having the deck, the family could be outside and be a part of the Connections 2025 movement by fostering a front porch culture. He has spoken with the neighbors and they are in favor.

Chair Truby inquired if there were questions for the applicant. Mr. Oliver asked if the tree remained and how close the proposed deck would be. Mr. Cason responded that the tree will remain and from where the extension ends, the tree would be another 4-4 ½ feet, which he believes is ample room between the porch and the tree.

Chair Truby asked for any other questions. Nothing further. Chair Truby asked for a motion to close the public hearing. A motion to close the public hearing was made by Mr. Ramsey, seconded by Ms. Necas. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

## **BOARD DISCUSSION**

The Board agreed it was a reasonable request and agreed the picture (provided by applicant) was very helpful.

Mr. Oliver moved that, in case BOA 19-16, 1711 Forest Valley Road, based on the stated findings of fact, the zoning enforcement officer be overruled and the variance granted based on the following:

1. 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 home's lot has an angled front and back yard with a deep slope that makes use of the yard very limited.

2. 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 there are very limited options to improve this property.
3. The hardship is not the result of the applicants' own actions because the house was already built when the owner purchased it. There are very limited options for outside use of the yard.
4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the porch will adhere and blend with the architecture of the home and blend in with the neighborhood. Other houses nearby have similar and even larger porches.

Seconded by Ms. Necas. The Board voted 7-0 in favor of granting the variance. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays; none.)

#### **OTHER BUSINESS**

None.

#### **ACKNOWLEDGEMENT OF ABSENCES**

Laura Blackstock is absent.

#### **ADJOURNMENT**

The meeting was adjourned by Chair Truby at approximately 6:18 p.m.

Respectfully submitted,

Chuck Truby,

Chair of the Board of Adjustment