

**MEETING MINUTES  
OF THE  
GREENSBORO BOARD OF ADJUSTMENT**

**July 29, 2019**

The meeting of the Greensboro Board of Adjustment was held on Monday, July 29, 2019 at 5:34 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, Danielle Brame and Deborah Bowers. City staff present: Shayna Thiel, Steve Galanti and Andrew Kelly, Assistant 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 (July 8, 2019)**

Mr. Waddell moved to approve the minutes, seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays: 0.)

**SWEARING IN OF STAFF**

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

**CONTINUANCES/WITHDRAWALS**

Ms. Thiel advised that the applicant of BOA-19-24 at 2907 Spring Garden Street is requesting a continuance. **(GRANTED)**

Chair Truby requested the applicant to come forward and provide their name and address for the record.

**Drew Wofford, 2901 Spring Garden Street.** Mr. Wolford stated the Neighborhood Association is still working on preparing comments and has requested a continuance, which he has no problem with.

**Adam Spivey, 2406 Springwood Drive.** Mr. Spivey, representing the Lindley Park Neighborhood Association, agrees to a 60-day continuance.

Chair Truby inquired if there was anyone else to speak on the matter. No one came forward. Chair Truby stated he did not see any issues with it and requested a motion.

Mr. Ramsey moved to grant a 60-day continuance, seconded by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays: 0.)

**OLD BUSINESS**

No Old Business.

**NEW BUSINESS**

**1. VARIANCES**

**a. BOA-19-26: 1809 SAINT ANDREWS ROAD.** Scott and Tiffany Crenshaw request a variance to allow a proposed detached garage to encroach 3.5 feet into a required 10 foot side setback. **(APPROVED)**

Ms. Thiel stated in BOA-19-26 at 1809 Saint Andrews Road, Scott and Tiffany Crenshaw request a variance to allow a proposed detached garage to encroach 3.5 feet into a required 10 foot side setback. The detached garage will be 6.5 feet from the side property line.

Evidence from the applicants includes Exhibits A through D. Supporting documentation from staff includes Exhibits 1 through 7. The Land Development Ordinance reference is Section 30-8-11.1 (C)(2): Accessory structures over 15 feet tall must be set back at least 10 feet from side and rear lot lines.

**Background and Site Information:** The subject lot is located on the west side of Saint Andrews Road, east of Dalton Road, and is zoned R-5. Tax records indicate the lot contains approximately 22,216 square feet and the house was constructed in 1994. The existing 576 square foot accessory structure, which was constructed in 2003, is considered a nonconforming structure as it encroaches into the required 10 foot side setback for accessory structures taller than 15 feet. The applicants propose to enclose the existing accessory structure, changing it from a carport to a garage in the same location without enlarging the footprint. The accessory structure will remain 6.5 feet from the side property line and requires a variance to encroach 3.5 feet into the required 10 foot side setback.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted the applicable overlay.

Chair Truby asked the applicants to come to the podium and provide their name/address for the record.

**Scott Crenshaw, 1809 Saint Andrews Road.** Mr. Crenshaw stated there is an existing carport that is a beautiful structure and well designed. They would like to utilize as much of the existing structure as possible to maintain the current look and feel. They want to enclose the walls to create a closed in garage to match the house.

Chair Truby inquired if there were any questions of the applicant.

**Peter Zook, 709 Sunset Drive.** Mr. Oliver asked Mr. Zook if the existing carport was being made into a garage, required more land. Mr. Zook responded no and said that when the existing carport was constructed, the roof exceeded the 15 foot height limit to be less than 10 feet from the property line. The current roof is 16 or 17 feet.

Chair Truby inquired if there were any further questions of the applicant. Ms. Skenes asked if by enclosing the structure it into a garage is where you get into the side lines issues. Mr. Zook responded that if the structure was less than 15 feet tall, it could be 3 feet from the side property line. Mr. Crenshaw added that the structure was existing when they brought the home five years ago. Mr. Oliver asked if the structure height is what makes it encroach 3.5 feet into a required 10 foot side setback. Mr. Crenshaw responded that the structure currently is encroaching.

Chair Truby asked if there were any other questions. No questions. Chair Truby asked if anyone wished to speak in favor of the request. No one came forward. Chair Truby asked if there was anyone in opposition to the request. No one came forward. Chair Truby requested a motion to close the public hearing. Ms. Skenes so moved, seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays; 0.)

## **BOARD DISCUSSION**

The Board members indicated their support of the application.

Mr. Waddell moved that, in BOA-19-26 at 1809 Saint Andrews Road, based on the stated findings of fact, the Zoning Enforcement Office 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 strict application of the variance would prevent the desired use of the property. The garage would not achieve its intended purpose.
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 hardship results from the location of the existing carport and its configuration.
3. The hardship is not the result of the applicant's own actions because the carport was originally constructed prior to the time the property was acquired by the owner.

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 location of the garage is consistent with the current architecture. No benefit will be derived by the public by denying the variance.

Seconded by Ms. Skenes. The Board voted 7-0 in favor of the variance. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays:0.)

**b. BOA-19-27: 309 SOUTH CHIMNEY ROCK ROAD.** Marc Isaacson, on behalf of Jason and Annie Speer, requests a variance to allow an accessory structure to encroach 19 feet into a required 30 foot street setback. **(APPROVED)**

Ms. Thiel stated in BOA-19-27 at 309 South Chimney Rock Road, Marc Isaacson, on behalf of Jason and Annie Speer, requests a variance to allow an accessory structure to encroach 19 feet into a required 30 foot street setback. The accessory structure is 11 feet from the property line along Interstate 40.

Evidence from the applicant includes Exhibits A through C. Supporting documentation from staff includes Exhibits 1 through 7. The Land Development Ordinance reference is Section 30-8-11.1(B)(3): Accessory structures may be located in front of the principal structure but are not allowed in a required street setback, and Section 30-7-6, Table 7-15: Minimum street setback (thoroughfare) in HI District is 30 feet.

**Background and Site Information:** The subject lot is located on the east side of South Chimney Rock Road, north of Swiggett Road, and is zoned HI. Tax records indicate the lot contains approximately 3.04 acres. The Technical Review Committee approved a site plan for the property on May 25, 2018, but that plan did not include the accessory structure. The accessory structure was constructed during site development and the property owners submitted a plan for building inspection review after-the-fact to address the accessory structure. During that review, staff noted the accessory structure encroached into the required 30 foot street setback for accessory structures associated with nonresidential development. The applicant requests a variance to allow the accessory structure to be 11 feet from the property line along Interstate 40, encroaching 19 feet into the required 30 foot street setback.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted the applicable overlay.

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

**Marc Issacson, 804 Green Valley Road.** Mr. Issacson provided materials to the Board members. He represents Jason and Annie Speer, owners of the Redi Mix Concrete business located at this property. This property adjoins Interstate 40, has good access to I-40 for their trucks and other vehicles. The area is zoned HI (Heavy Industrial). During the development of the property and construction of various facilities/equipment, the Speers were advised by the Fire Department during the last inspection of the process that they needed to place the storage building in a certain area on the property. The storage building houses various ground-up materials and other mixed materials that need to remain absolutely dry. It was important to the Speers to locate the storage building on the highest point on the property where there would not be any drainage, risk of flooding or any type of moisture getting into the building. The property is subject to many regulations, restrictions, and constraints which are outlined on the site plan. There is a wide drainage easement running through the property because the property slopes to the east. Another reason to pick this location for the storage building was because it required a long travel taper. Once a building is placed on a piece of property like the one shown, it is required to have ADA compliance/disability access, and needed a long concrete ramp installed.

The street setback ordinance normally is intended to govern the uniformity of the setbacks of buildings from a public street and to provide safe site lines and access of vehicles. The adjoining public right of way here is I-40, sitting approximately 30 feet above this property into which there is no direct access and is why there is a 30 foot setback. I-40 in this location is subject to scenic corridor regulations and the building was required to be painted a certain color, made of certain materials, and certain landscaping was installed to comply with the scenic corridor regulations. This building is located there specifically to provide safe access for employees. There are 53 foot trailers entering and exiting the property every day picking up concrete and dropping off materials. The storage building is located on the driver's side and in an area safe and efficient for drivers and employees to exit the

property. The location takes into account the maneuvering of the trucks, long vehicles, and the site drainage. Mr. Isaacson stated when all the facts are applied in the hardship test, the variance should be granted.

Chair Truby asked if there were any questions by Board members. Chair Truby asked the applicant why the storage building wasn't shown on the original site plan. Mr. Isaacson responded that he believed initially there was to be a trailer on the property to serve as a storage area, but because of the scenic corridor regulations, they were advised that a trailer was not permissible. A building was then considered, which led to discussions about required foundation, ADA compliance, concrete taper, 90 foot ramp, and walkway area. A simple matter became a complicated matter. Mr. Oliver asked if it was the Fire Department who advised about the location. Mr. Isaacson responded yes, the Fire Inspector was the last inspection who said this needed to be a certain level of building and needed to be located in the current location.

Chair Truby asked if there were further questions, and there were none. Chair Truby inquired if there was anyone to speak in favor of the application. No one came forward. Chair Truby inquired if there was anyone to speak in opposition. No one came forward. Chair Truby requested a motion to close the public hearing. Ms. Skenes so moved, seconded by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers and Brame. Nays: 0.)

### **BOARD DISCUSSION**

Chair Truby inquired if there was any discussion. Ms. Skenes stated the argument was valid in terms of placement and why. She does not think anyone on I-40 will complain about the building being close to the highway. The general consensus of the Board was in agreement to approve.

Mr. Oliver moved that, in BOA-19-27, 309 South Chimney Rock, 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 location of the building will need to be altered and a hardship will ensue. The applicant will not have adequate space to move machinery. It would increase safety hazards.
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 property has a unique layout, in that it is surrounded by right aways. This creates a restraint on the ability to use the space.
3. The hardship is not the result of the applicant's own actions because moving the structure to any other location on the lot would also violate set back restrictions. The land is being used as intended.
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 this variance is the least possible deviation from the intent of the ordinance. There will not be a negative impact on the intent of the ordinance.

Seconded by Mr. Waddell. The Board voted 7-0 in favor to grant the variance. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays: 0.)

Chair Truby requested the applicant to approach and be sworn. The applicant was sworn.

**c. BOA-19-28: 602 MEADOWOOD STREET.** Ada Castro requests two variances to allow an existing accessory structure over 15 feet to encroach 2 feet into a required 10 foot rear setback and to allow an existing accessory structure larger than 600 square feet to be separated by 6.5 feet from the other structures on the lot when at least 10 feet is required. **(APPROVED)**

Ms. Thiel stated in BOA-19-28 at 602 Meadowood Street, Ada Castro requests two variances. (1) To allow an existing accessory structure over 15 feet tall to encroach into a required 10 foot rear setback. The accessory structure is 8 feet from the rear of the property line. Section 30-8-11.1(C)(2). (2) To allow an existing accessory structure larger than 600 square feet to be separated by 6.5 feet from another accessory structure on the lot when at least 10 feet is required.

Evidence from the applicant includes Exhibits A and B. Supporting documentation from staff includes Exhibits 1 through 9. The Land Development Ordinance reference is Section 30-8-11.1(C)(2), Rear setback for accessory structures over 15 feet tall is 10 feet. Section 30-8-11.1(E)(2), Accessory structures larger than 600 square feet must be separated by at least 10 feet from other structures on the lot.

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

**Background and Site Information:** The subject lot is located on the west side of Meadowood Street, north of Sagebrush Trail, and is zoned R-3. Tax records indicate the lot contains approximately 23,958 square feet and the house was constructed in 1963. On March 2018, building permit #201802656 was issued to allow for the construction of a 17 foot by 25 foot accessory building. During the inspection process, an inspector noticed that the building under construction was larger than approved by the permit and encroached into an easement. A stop work order was issued on April 3, 2019. To address the easement encroachment, the applicant requested an easement release, which was granted on June 19, 2019. The applicant is now seeking variances to allow the larger accessory structure to encroach 2 feet into a required 10 foot rear setback and be separated by only 6.5 feet from another accessory structure on the lot when at least 10 feet is required. If these variances are granted, the applicant will be able to apply for a new building permit to complete the work in progress.

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

**Ms. Ada Castro, 602 Meadowood Street.** Ms. Castro stated a stop work order was issued because they used the existing foundation and did not know it was 2 feet into the 10 foot setback requirement. The structure is needed to house excess furniture. She wants to move forward and apply for another permit to finish what has been started.

Chair Truby asked if the foundation was already there. Ms. Castro responded it was existing when they moved there and did not know when the foundation was built. She has applied for a permit and showed plans to the City to move forward. Ms. Skenes asked if the permit previously issued for a two story building and if a foundation was there. Ms. Castro responded it appeared to have been started and they decided to use what was there. She called it a foundation, but then said it's not really a foundation. Ms. Skenes inquired if it was one story or two. Ms. Castro responded it was two story, but only for storage. Ms. Skenes asked if the foundation was larger than was originally permitted. Ms. Thiel responded that two covered porches were added that were not shown on the original permit application. Ms. Skene asked if it was the square footage of the building that caused the stop work order or the addition of the two porches. Ms. Thiel responded because the structure was in the easement and was not a storage building. Plans were not submitted for a storage building. Ms. Skenes asked what was done differently than from the issued permit. Mr. Galanti responded that the porches were not shown on the original permit. Ms. Skenes asked if the porches are what pushed it closer to the back of the existing gazebo. Mr. Galanti responded that was correct. Ms. Skenes asked, under the ordinance, what triggers the difference between an accessory building and accessory dwelling unit. Mr. Galanti responded an accessory dwelling unit must have three components in order to be a dwelling unit. A storage building only would not have those three components.

Ms. Skenes confirmed this is not going to be a dwelling unit. Mr. Galanti responded she was correct. Mr. Galanti responded the ordinance calls for the three items to be separate living quarters with cooking, sleeping and sanitary facilities. Ms. Skenes asked if a bathroom, kitchen, and a bedroom would constitute accessory dwelling. Mr. Galanti responded that was correct. Ms. Skenes asked Ms. Castro if there was any plumbing in the building. Ms. Castro responded there is because it will be a pool house and a storage building. As part of separate permits, the house will be enlarged in the front, as approved by a variance. Ms. Skenes asked if the foundation in the back of the house has been permitted and approved. Ms. Thiel responded that a two story addition to the back of the house has a building permit. Ms. Castro stated they are not intending to use the accessory structure as a second dwelling. Mr. Waddell asked where the accessory structure get electricity. Ms. Castro responded that power would come from her house. Mr. Ramsey asked if there was a foundation in the back yard when the house was purchased. Ms. Castro said it wasn't really a foundation, so that's why she acquired a permit. Mr. Waddell asked where the pool will be placed. Ms. Castro responded it will be in the middle, approximately 10 feet from the back addition and 10 feet from the accessory structure. Mr. Ramsey confirmed the work was started and had a building

permit, but then inspectors determined the foundation didn't match the permit and encroached into an easement. Ms. Castro stated it had been approved, and that she did not know about the encroachment. Mr. Ramsey asked about the work started but not finished. Ms. Castro responded there was a stop work order and the work did not get finished. Mr. Ramsey asked if someone else had started the work and she decided to finish it. Ms. Castro responded yes, and said that's why she applied for a permit with the City to move forward with the accessory structure. Ms. Skenes asked if there was any existing brick or other materials there when she decided to use what was there to build up from. Ms. Castro responded just the box. Mr. Waddell stated that Exhibit 2: 2018 Aerial Map, shows a box where the accessory structure is proposed. Mr. Oliver asked if Ms. Castro put the structure there that is indicated in Exhibit 2. Ms. Castro responded she did not.

Chair Truby asked if there were any further questions from the Board. Chair Truby inquired if there was anyone to speak in favor of the request. No one came forward. Chair Truby asked if there was anyone in opposition to the request. Chair Truby asked them to come forward and be sworn in.

**Whitney Cobia and Ryan Krause, 5604 Sagebrush Trail.** Ms. Cobia stated their house was purchased in September of 2018 and there was nothing in the location of the accessory structure. The foundation referred to in Exhibit 2 looked like a garden box. When construction started, they thought was going to be a storage building, but it became a house close to theirs. There is no privacy in their yard because the accessory structure is right on their fence line. Ms. Cobia said there is no pool and is not sure where one would go as there is a brick structure with a cover over it and no walls in the middle of the yard that was there when they moved in. Mr. Cobia stated since they've added the house, they feel it is encroaching on their privacy. The accessory structure looks like another house on a single-family lot. Chair Truby asked if it was pretty far along. Mr. Krause responded that it is almost done. Ms. Cobia stated it looks like a house, as it has windows, porches, plumbing and electricity. Ms. Cobia stated if they had known this accessory structure was going to be built, they would not have brought their house, as they enjoy sitting out back, having privacy and they feel they no longer have privacy. Chair Truby asked if they believe this is actually an accessory dwelling unit, not a storage building. Ms. Cobia responded yes. Ms. Cobia believes the outline on the Exhibit was a garden box. Ms. Thiel stated the aerial photos are from 2018. Ms. Bowers stated it looks like the accessory structure backs up to the area just beyond their driveway. Ms. Cobia responded that the left side of Ms. Castro's yard is the back side of their yard. Theirs is the third house down on Sagebrush Trail if looking at Exhibit 2. Chair Truby stated the pictures of the two story accessory structure that the Board is asked to approve a variance for shows that it is pretty much built.

Chair Truby asked of any further questions for the opposition. No further questions. Chair Truby asked the applicant to approach the podium.

Mr. Oliver asked what is upstairs. Ms. Castro responded it is just space to be used as storage. Mr. Ramsey asked if a contractor built the house. Ms. Castro responded that she built it. Mr. Ramsey asked if the Board does not grant the variance, will the house have to be removed. Mr. Galanti responded the building would have to be removed or made compliant by cutting off pieces. Ms. Skenes asked if the two porches are what is not in compliance. Mr. Galanti responded the easement and the accessory structure are not related to one another. This accessory structure was in the easement, which has been released. Ms. Skenes asked if the two story accessory structure without the porches is in compliance now that the easement has been released. Mr. Galanti responded no, it is still within 2 feet of the setback. The required setback is 10 feet and they are within 2 feet which is the subject of one of the variance requests. Mr. Ramsey asked if even though the easement was released by the Planning Board, the request is now before this Board for a variance. Mr. Galanti responded that was correct, for the setback. Mr. Ramsey asked if the easement is released what exactly does it mean then. Mr. Kelly responded the easement is a separate issue. Mr. Galanti was saying there was an easement running along the back property line, which has been released and no longer an issue. Even if there was not an easement, the location of this accessory structure is still 8 feet from the property line and is required to be 10 feet. It is a setback issue. Mr. Ramsey asked if this building had been 2 feet back, exactly as it is now, would it be in compliance or not. Mr. Galanti responded it still would not meet the 10 foot separation from other structures requirement. Chair Truby stated there has to be a separation of 10 feet between structures.

Chair Truby asked if there were any other questions for the applicant. None were presented. Chair Truby requested a motion to close the public hearing. Mr. Waddell so moved, seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays: 0.)

## **BOARD DISCUSSION**

The idea of removing the porch close to the gazebo was discussed. Mr. Galanti advised it is the other porch that is in the 10 foot rear setback, not the porch that is 6½ feet from the gazebo. If the porch was removed the two foot problem would not be solved. Chair Truby stated the applicant is only asking for a 2 foot variance and the structure is going to remain and discussed whether the 2 feet encroachment makes that big of a difference for the neighbors. The architectural drawings clearly indicate that this is a storage building and a pump house. There should not be anybody living in that upstairs. There is no plumbing other than for the pump house for the pool. There are no bathrooms or bedrooms shown on the upper level. A suggestion was made that to create peace, harmony and privacy for the neighbors, there could be no windows on the rear of the structure and a privacy fence be placed between the properties instead of the current wire fence. Mr. Galanti stated that the plan submitted by the applicant shows the side of the building facing the neighbors on Sagebrush Trail labeled as the left side elevation and that there are no windows on that side. Mr. Waddell stated that the height appears to be at issue because it is tall and is invasive. Mr. Ramsey stated that he struggles with having the structure torn down, but is also concerned with privacy issues. Chair Truby asked if this variance is approved, could the applicants make the structure an accessory dwelling unit if they came back before the Board. Mr. Galanti responded that he could not answer that as there are several regulations that would be different between an accessory structure and an accessory dwelling. Chair Truby stated that if he thought there was any chance the accessory structure could be converted into an accessory dwelling, he would not be in favor of these variances. If it stays as storage and can be assured that it stays as storage, he would be in favor. It would violate zoning if it became an accessory dwelling. Chair Truby suggested that if the neighbors see people living there, they should call Zoning Enforcement for an investigation. Chair Truby is concerned about the structure being set up as a dwelling. The applicant was asked if the building was air conditioned. Ms. Castro responded yes, because of the pool and the bathroom. Chair Truby asked if upstairs was air conditioned. Ms. Castro responded that it is not; it is only for the bathroom. Mr. Kelly advised the variance requests are to allow an existing accessory structure to be this close and is separate under the LDO.

Chair Truby asked if there was any other discussion. Nothing further. Chair Truby asked for a motion to be made.

Mr. Ramsey moved that, in BOA-19-28, 602 Meadowood Street, based on the stated findings of fact, the Zoning Enforcement Officer be overruled and the variances 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 strict application of the ordinance will prevent the applicant from completing the current construction project which will improve the 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 strict application will prevent the current construction of the existing structure that inadvertently intrudes 2 feet into the allowed setback.
3. The hardship is not the result of the applicant's own actions because the applicant inadvertently encroached without intention of violating the ordinance and found out as a result of a separate building permit application.
4. The variances are in harmony with the general purpose and intent of this ordinance and preserve its spirit and assures public safety, welfare and substantial justice because the improvement is in conformance with the neighborhood and improves the value of the applicant's property.

Seconded by Mr. Waddell. The Board voted 7-0 in favor to grant both variances. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers and Brame. Nays: 0.)

## **2. SPECIAL EXCEPTION**

**a. BOA-19-29: 305 West Bessemer Avenue.** Joseph Bugni requests a Special Exception to allow a proposed addition to encroach 10 feet into a required 20 foot rear setback. **(APPROVED)**

Ms. Thiel stated in BOA-19-29, 305 West Bessemer Drive, Joseph Bugni requests a special exception to allow a proposed addition to encroach 10 feet into a required 20 foot rear setback. The addition will be 10 feet from the rear property line.

Evidence from the applicant includes Exhibits A through E. Supporting documentation from staff includes Exhibits 1 through 7. The Land Development Ordinance reference is Section 30-7-3.2, Table 7-2: R-5 rear setback is 20 feet.

**Background and Site Information:** The subject property is located on the south side of West Bessemer Avenue, west of Virginia Street, and is zoned R-5. Tax records indicate the lot contains approximately 10,890 square feet and the house was constructed in 1922. The applicant wishes to construct an addition at the back of the house that will encroach 10 feet into a required 20 foot rear setback. The applicant also proposes to add a covered deck at the back of the house that will encroach 8 feet into the same rear setback. As part of the improvements to the property, the applicant also proposes to add an uncovered deck less than 4 feet above grade and replace a nonconforming accessory garage. Both proposed improvements will meet setback requirements. At its meeting on May 29, 2019, the Historic Preservation Commission approved a Certificate of Appropriateness for the proposed work and recommended that a special exception be granted.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted the applicable overlays.

**Joseph Bugni, 305 West Bessemer Avenue.** Mr. Bugni stated he is doing a complete renovation on the property and is adding an addition. He would like to have a master bedroom on the first floor for value. The builder and architect are with him for any specific questions concerning the plans.

Chair Truby inquired if there were any other questions for the applicant. Ms. Bowers referred to Exhibit C and asked if the bedroom was going in the green area. Mr. Bugni responded the master bedroom stays inside the current structure. The yellow/green area is the kitchen space. The blue is the deck that is no higher than 4 feet off the ground. Chair asked if there were any other questions for the applicant. Seeing none, Chair Truby inquired if there was anyone to speak in favor.

**Greg Seifert, 523 Woodland Drive.** Mr. Seifert is the general contractor who has been working on this project and all the paperwork since March. They have worked with Fisher Park and came to a resolution for what they were trying to achieve. They have talked to several neighbors who are in support. They have worked with the Greensboro Historic Preservation Commission and have their approval. They are hoping this is the last meeting.

Chair Truby inquired if there was anyone else wishing to speak in favor or in opposition. No one came forward. Chair Truby requested a motion to close the public hearing. Ms. Bowers so moved, seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers, and Brame. Nays: 0.)

## **BOARD DISCUSSION**

The Board was in general consensus to approve the special exception request.

Ms. Skenes moved that, in BOA-19-29, 305 West Bessemer Avenue, based on the stated findings of fact, the Zoning Enforcement Officer be overruled and the special exception granted based on the following:

1. This special exception is in harmony with the general purpose and intent of this ordinance and preserves its spirit because the addition will be 10 feet from the rear lot line. Part of the improvements include replacing a nonconforming garage. The Historic Preservation Commission has approved a Certificate of Appropriateness for the proposed work.
2. The granting of the special exception assures the public safety and welfare and does substantial justice because the applicant met with adjoining property owners who have given consent and the Historic Preservation Commission has granted a Certificate of Appropriateness.

Seconded by Mr. Waddell. The Board voted 7-0 in favor to grant the special exception. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Bowers and Brame. Nays: 0.)

**OTHER BUSINESS**

No other business was presented.

**ABSENCES:**

The absence of Ms. Necas was acknowledged as excused.

**ADJOURNMENT**

The meeting was adjourned by Chair Truby at approximately 6:53 p.m.

Respectfully submitted,

Chuck Truby,

Chair of the Board of Adjustment