



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

May 15, 2019

7:00PM

Town Hall Room 110

MEMBERS PRESENT		TOWN ATTORNEY	STAFF
James Baker	Wil Heflin	Nick Herman	Jeff Kleaveland
Linda Bowerman	Sriv Navaratnam		Dorian McLean
Joseph Collins			James Thomas
Richard Ellington			
Brian Hageman			
Absent/Excused:			

MINUTES APPROVAL:

MOTION MADE BY JAMES BAKER AND SECONDED BY JOSEPH COLLINS TO APPROVE MINUTES FROM OCTOBER 18, 2017 MEETING. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0

Brian Hageman opened the meeting asking that anyone who wishes to speak on the Special Exception Permit for 105 Dillard Street, Variance Request at 703 Hillsborough Road, and Variance Request at 200 Spring Valley Road, come up to the podium, and be sworn in by town staff Dorian McLean.

PUBLIC HEARING: Special Exception Permit for 105 Dillard Street

The applicant, Sammy Slade is requesting a Special Exception Permit for the installation of a spiral staircase that will encroach three (3) feet into the side yard setbacks at 105 Dillard Street (Orange County PIN 9778-48-7956).

This is a R-10 Zoning District and the setbacks are twelve (12) feet, but the applicant is requesting to encroach three (3) feet into the side yard setback-this is a 25 percent encroachment into the required setback. Section 15-92.1 of the Land Use Ordinance gives the Board of Adjustment the authority to grant Special Exception Permits to allow reductions of up to fifty percent (50%) in the required distances buildings must be setback from lot boundary lines.

James Thomas gave a brief Power Point presentation of the subject property of the proposed area of the spiral staircase. The applicant completed and submitted the application for the Special Exception Permit. Mr. Thomas mailed out neighbor petitions and received no feedback or comments from neighbors about the proposed addition.

Sammy Slade applicant/owner, the reason for the request for the variance is that guests could access directly from the upstairs to the exterior of the home rather than just the interior stair access. They could have considered building on the back due to the slope would not be the best option.

Sammy Slade applicant/owner explained that existing exterior deck is present for the bottom deck currently with attaching more spiral stairs to access the upper deck.

Brian Hageman asked if the neighbors of 103 Dillard Street and 107 Dillard Street were in agreement. Mr. Sammy Slade applicant/owner said that he had received signatures from the neighbors and that they were in agreement of the Special Exception Permit for the installation of the staircase.

MOTION WAS MADE BY JAMES BAKER AND SECONDED BY LINDA BOWERMAN TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0

Board of Adjustment deliberated and was all in agreement with approving the Special Exception Permit at 105 Dillard Street.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY SRIV NAVARATNAM THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY JOSEPH COLLINS THAT THE APPLICATION COMPLIES WITH THE FOLLOWING FINDINGS REQUIRED BY SECTION 15-92.1. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0

- A. The existing building is a conforming residential use in a residential district.
- B. The existing building has existed for at least three (3) years prior to the date of the application for a special exception permit.
- C. The special exception requested applies only to a setback from a lot line boundary.
- D. The special exception being requested does not exceed 50% of the required setbacks of Section 15-184(a)(4), nor would it permit any part of a building to be located closer to a

lot boundary that a distance equal to one-half of the minimum building separation requirement of North Carolina State Building Code.

- E. The special exception, if granted, will not create a threat to the public health or safety.
- F. The special exception, if granted, will not adversely affect the value of adjoining or neighboring properties.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY BRIAN HAGEMAN THAT THE APPLICATION BE ISSUED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
3. That the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house are permitted by this special exception permit.
4. To encroach be encure up to but no more than 3 feet into the side setbacks.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY WIL HEFLIN THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0

PUBLIC HEARING: Variance Request at 703 Hillsborough Road

Jason and Tara Moon, owners and applicants for the 703 Hillsborough Rd. property (OC PIN 9779400321), have submitted a variance request application to allow encroachment into the 40' right-of-way building setback on Simpson Street as regulated by Section 15-184 of the Land Use Ordinance. The variance would allow the construction of a 48' x 35' fenced enclosure (approximate size) within the 40' right-of-way building setback on Simpson Street. The property is located in the R-20 zoning district.

Jeff Kleaveland gave his PowerPoint presentation to the Board. Mr. Kleaveland presented to the board the location of the proposed 6 foot fence enclosure. Mr. Kleaveland expressed to the board of the trucks that drive on the street regularly when posted signs say NO TRUCKS but numerous slides show how often large commercial size trucks access Simpson Street with the added noise that they cause when passing by.

Richard Ellington questioned if the town had any plans on future projects such as widening Simpson Street or adding sidewalks.

Jeff Kleaveland had no information as to any future plans with any projects on Simpson Street.

Jason Moon, applicant/owner discussed how another property in the neighborhood had an 8 foot fence and his variance request is for a 6 foot fence due to the noise from the passing by of commercial trucks as well as privacy as his son's room is on the side of his home adjacent to Simpson Street.

Linda Bowerman asked if the homeowner considered planting some scrubs or vegetation instead of building a fence. Mr. Moon considered due to the time it takes for growth it just is not really a sensible option for him at the moment with the current conditions.

James Baker asked if downsizing the fence size being nearer to the house instead of all the way to the property line would be considered as an option. Mr. Moon would like to make a patio with some pavers to maybe add a grill to utilize the space due to the fence for when he would have family gatherings or guests.

Wil Heflin questioned Simpson Street was elevated higher than the property. Mr. Kleaveland answered that it may be elevated about two (2) feet more than the property.

Brenda Greenberg neighbor of 801 Hillsborough Road who lives directly across the street from Mr. Moon stated that she was in agreement that Mr. Moon be granted the variance request because of the son's bedroom near the noisy street and that it would take too long before scrubs to grow to be an option. If the fence is built tastefully then she is in agreement with the approval of the variance request.

MOTION WAS MADE BY WIL HEFLIN AND SECONDED BY SRIV NAVARATNAM TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED: 0

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED: 0

The Board of Adjustment deliberated and discussed the findings and agreed to grant the variance as described below:

Having heard all the evidence and arguments presented at the hearing, the Board finds that the application is complete and that the application should be and is hereby approved. In approving this variance, the Board concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. In the reaching these conditions, and pursuant to Section 15-92(b) of the Town of Carrboro Land Use Ordinance, the Board finds that:

1. Unnecessary hardship would result from the strict application of this ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER THAT UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION OF THIS ORDINANCE. IT SHALL NOT BE NECESSARY TO DEMONSTRATE THAT, IN THE ABSENCE OF THE VARIANCE, NO REASONABLE USE CAN BE MADE OF THE PROPERTY VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

2. The hardship results 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.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER THAT THE HARDSHIP RESULTS 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 VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

3. The hardship did 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.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER THE HARDSHIP DID 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. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

4. 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.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER 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 SERVED. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER THAT THE APPLICATION IS GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall complete the development strictly in accordance with the presentation submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

PUBLIC HEARING: Variance Requests at 200 Spring Valley Road

Richard Paschal and Helen Buiskool, owners and applicants of 200 Spring Valley Rd. (OC PIN 9779513669), have submitted an application for a variance to allow encroachment into the 35' Bramblebush Drive right-of-way building setback as regulated by Section 15-184 of the Land Use Ordinance. The variance, if granted, would allow for the construction of an addition to the existing home. The property is zoned R-15.

Jeff Kleaveland gave his PowerPoint presentation to the Board. Mr. Kleaveland stated that the located of the road would never be extended and that it currently is a gravel road and that it has paved gutters on each side of the road. The applicants request for the variance to build proposed addition would be a screened porch and deck with ground underneath. Mr. Kleaveland received one phone call inquiry and a letter from neighbor Heidi Perry of 402 Robert Hunt Drive concerned about drainage issues.

Helen Buiskool applicant/owner talked of the proposed screened porch would be built over current deck describing that the land between the homes with the proposed addition should not cause any hardship for anyone.

Richard Ellington questioned if the town does routine maintenance on the gravel roadway and the maintaining the surrounding area such as mowing, etc.

Richard Paschal co-owner/applicant stated that one of the neighbors contacted him and he emailed the neighbor back but they did not have an issue with the proposed addition.

James Baker is in agreement with the variance request if we could add one additional proposed condition.

Nicholas Herman, town attorney, informed the board that the wording could include all in one variance to be voted on.

The staff recommendations in addition to the standard conditions were agreed with all the present Board of Adjustment members.

MOTION WAS MADE BY JAMES BAKER AND SECONDED BY RICHARD ELLINGTON TO CLOSE THE PUBLIC HEARING. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED: 0

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED: 0

Board of Adjustment deliberated and discussed the findings and agreed to grant the variance as described below:

Having heard all the evidence and arguments presented at the hearing, the Board finds that the application is complete and that the application should be and is hereby approved. In approving this variance, the Board concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done. In the reaching these conditions, and pursuant to Section 15-92(b) of the Town of Carrboro Land Use Ordinance, the Board finds that:

1. Unnecessary hardship would result from the strict application of this ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS THAT UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION OF THIS ORDINANCE. IT SHALL NOT BE NECESSARY TO DEMONSTRATE THAT, IN THE ABSENCE OF THE VARIANCE, NO REASONABLE USE CAN BE MADE OF THE PROPERTY VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

2. The hardship results 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.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS THAT THE HARDSHIP RESULTS 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 VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

3. The hardship did 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.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS THE HARDSHIP DID 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. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

4. 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.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS 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 SERVED. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JAMES BAKER THAT THE APPLICATION IS GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall complete the development strictly in accordance with the presentation submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
3. Built substantially in conformity with the plans as submitted during public testimony by the applicant, with the exception that the screen porch portion of the premises be allowed to encroach up to but not in excess of an 18ft setback.

VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY LINDA BOWERMAN THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0; ABSENT/EXCUSED: 0

OLD/NEW BUSINESS

Jeff Kleaveland and Dorian McLean had nothing to report of future items that would be presented to the board. Richard Ellington asked if the applicant for 104 Center Street has presented further evidence for the variance request. Dorian McLean stated she talked to Martin Roupe and the applicant has not presented any information at the current time.

ADJOURN

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY DAVID COLLINS THAT THE MEETING BE ADJOURNED. VOTE: VOTE: AYES 7 (James Baker, Linda Bowerman, Joseph Collins, Richard Ellington, Brian Hageman, Wil Heflin, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 0