



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

August 21, 2019

7:00PM

Town Hall Room 110

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

MINUTES APPROVAL:

MOTION MADE BY RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN TO APPROVE MINUTES FROM JULY 17, 2019 MEETING. VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

Brian Hageman opened the public hearings by asking that anyone who wishes to speak on the Special Exception Permit Requests and Variance Request may come up to be sworn in. Dorian McLean, swore in town staff and members of the general public that wished to speak concerning the Special Exception Permits and Variance Request. Mr. Hageman proceeded to ask the town staff if they would like to proceed with the presentation about the Special Exception Permit for 407 Waterside Drive.

PUBLIC HEARING: Special Exception Permit for 407 Waterside Drive

The applicants/owners, Tom & Michelle Cawley are requesting a Special Exception Permit for the construction of a screen porch that will encroach approximately six (6) inches into the side yard setbacks at 407 Waterside Drive (Orange County PIN 9779-53-5365).

This is a RSIR-2 Zoning District and the side setbacks are five (5) feet, but the applicant is requesting to encroach six (6) inches into the side yard 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.

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

Richard Ellington asked if the existing deck on the house would be where the proposed construction of the screen porch would be. Tom Cawley, applicant/owner, stated that yes and the change of the existing would increase by 2 feet. Mr. Cawley stated that the neighbors on each side of him were in agreement of the proposed screened porch.

Brian Hageman asked if the applicant/owner was only asking for 6 inches.

Jeff Kleaveland stated that the applicant is asking for 6 inches in the encroachment.

Linda Bowerman and Richard Ellington board members were in agreement to approve the Special Exception Permit due to the neighbors being in agreement and the applicant only requesting 6 inches into the encroachment for the screened porch.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY LINDA BOWERMAN TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY JOSEPH COLLINS THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN THAT THE APPLICATION COMPLIES WITH THE FOLLOWING FINDINGS REQUIRED BY SECTION 15-92.1. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

- 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 LINDA BOWERMAN THAT THE APPLICATION BE ISSUED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 is permitted by this special exception permit.

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 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

PUBLIC HEARING: Special Exception Permit for 200 Lisa Drive

The applicant, David Huppert is requesting a Special Exception Permit for the installation of a deck that will encroach almost ten (10) feet into the side-yard building setbacks at 103 Spring Valley Rd. (Orange County PIN 9779419117). The deck will be attached to a proposed screened porch. The proposed porch does not encroach into the building setbacks.

His property is located in the Residential-20 (R-20) Zoning District with a standard boundary line building setback of 20 feet, but the applicant is requesting to encroach 9.3 feet into the side yard setback- this is about a 50% 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.

Jeff Kleaveland gave a brief Power Point presentation of the subject property of the proposed deck. The applicant completed and submitted the application for the Special Exception Permit. Mr. Kleaveland mailed out neighbor petitions and received no feedback or comments from neighbors about the proposed deck.

Michael Crowell asked about the existing concrete next to the existing deck. David Huppert, applicant, stated that the concrete would be broken up and taken off and that grass would replace the concrete.

Linda Bowerman asked if the existing tree in the side near the construction area would stay. David Huppert, applicant, stated the tree would remain.

Richard Ellington stated that he was in agreement with approving the deck due less concrete is good and that no neighbors had any issues and that they were in agreement with the building of the deck.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS THAT THE APPLICATION COMPLIES WITH THE FOLLOWING FINDINGS REQUIRED BY SECTION 15-92.1. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

- 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 BRIAN HAGEMAN AND SECONDED BY WIL HEFLIN THAT THE APPLICATION BE ISSUED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 is permitted by this special exception permit.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY JOSEPH COLLINS THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

PUBLIC HEARING: Variance Request at 121 Pine Street

Katherine Mills, owner and applicant of the 121 Pine Street property (OC 9778589472), has submitted a variance request application (Attachment C) to allow encroachment into the Zone 1 or Zone 2 Water Quality Buffers as regulated by Section 15-269 of the Land Use Ordinance. The variance would allow construction of a utility/garden shed (not to exceed 150 sf) in the backyard of the property which is entirely constrained by Town buffers. See Attachment B for a GIS exhibit of the property showing the stream buffers.

Jeff Kleaveland gave his PowerPoint presentation to the Board. Mr. Kleaveland presented to the board the location of the proposed shed location with 2 options. Mr. Kleaveland expressed to the board that Option 1 would require the Board to review, adopt conditions, and make recommendations on this variance but a final decision from the EMC is required for approval. Option 2 the ordinance allows the Board to act on the variance and adopt conditions as needed and the options presented by the site limit the location of the shed to only a few areas.

Brian Hageman questioned if the location at the very back side of the creek would be the best location for the proposed shed to not be in the Zone 1 Stream buffer which would include it having to go further than the board for approval.

Michael Crowell asked what type of items would be stored in the proposed shed like nothing toxic or containment that would affect stormwater.

The applicant stated that the proposed shed is going to be primarily used for storage.

Richard Ellington asked if the stream was ephemeral or intermittent. Jeff Kleaveland stated that the stream was intermittent.

Wil Heflin and Michael Crowell asked if it is an unnecessary hardship and if the location could be changed to any other location on the property to not effect Zone 1 or Zone 2 stream buffers.

The applicant had no issue with the location of the proposed shed being changed.

Jeff Kleaveland stated that he received an email of concern from one of the neighbors and that it was accessible in the information packet. No neighbors were present at the board meeting. The board decided to come up with a change to one of the conditions that were staff recommended.

The applicant was in agreement with the board's decision of the change of wordage in the second staff recommendation and the board's addition of all four staff recommendations to the added to the conditions for the board to approve the variance.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 MICHAEL CROWELL 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 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 MICHAEL CROWELL 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 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 MICHAEL CROWELL 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 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 MICHAEL CROWELL 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 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON 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. That the proposed shed is less than or equal to 150 square feet in area and is located within the Zone 2 stream buffer more than 30' from the edge of bank of the intermittent stream and meets all applicable building setbacks from Section 15-184 of the Land Use Ordinance. A site plan shall be provided to Zoning Division for review and approval.
4. That all activities shall be designed, constructed and maintained to minimize soil and vegetation disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities. The shed shall be mounted above the ground with 18 inches or more clearance to allow stormwater to flow beneath the structure during storm events. It shall be anchored in place.
5. To the extent practicable, the plan will demonstrate compliance with the diffuse flow requirements of Section 15-269.4 of the Land Use Ordinance.
6. 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.

AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

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 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)

OLD/NEW BUSINESS

Dorian McLean, town staff had nothing to report. Jeff Kleaveland, town staff also had nothing to report.

ADJOURN

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY DAVID COLLINS THAT THE MEETING BE ADJOURNED. VOTE: VOTE: AYES 6 (Linda Bowerman, Joseph Collins, Michael Crowell, Richard Ellington, Brian Hageman, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (Garrett Baker, James Baker, Sriv Navaratnam)