



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

March 17, 2021

7:00PM

Zoom Remote Meeting

MEMBERS PRESENT		TOWN ATTORNEY	STAFF
Garrett Baker	Sriv Navaratnam	Nicholas Herman	Martin Roupe
James Baker			James Thomas
Linda Bowerman			Dorian McLean
Richard Ellington			
Brian Hageman			

Absent/Excused: Joseph Collins

MINUTES APPROVAL:

Consideration of February 17, 2021 MINUTES TABLED TO NEXT BOARD OF ADJUSTMENT MEETING.

PUBLIC HEARING: Variance Request at 104 Hill Street

Conor Tighe & Alyssa Miserendino, owners/applicants of the subject property, have submitted an application requesting a variance to allow encroachment into the Zone 1 and 2 Riparian Buffer per Section 15-269(a) of the Land Use Ordinance for the construction of a new single-family residence at 104 Hill Street. The Board is asked to continue the public hearing and consider whether to approve the request.

Updated Information: Town staff has received an updated site plan (Attachment C) showing the location of the 48 inch RCP pipe, thirty (30) foot easement per the request of the Board of Adjustment. It should be noted that the southeastern portion of the rear deck area that is encroaching into the Riparian Buffer 1 and thirty (30) foot easement will be cantilevered. There will be no support post nor footing within the buffer nor easement. Additionally, Josh Dalton with Sungate Design has reviewed the revised site plan and is satisfied with the finished floor elevation of the proposed house and the site plan showing the 48 inch RCP pipe and easement. (see the "Staff Report" – Attachment A)

James Thomas gave a brief Power Point presentation of the subject property of the proposed construction of a new single family residence that would need to encroach into the Zone 1 and 2 Riparian Buffer per Section 15-269 (a) of The Land Use Ordinance. Mr. Thomas presented the revised site plan that included the location of the 48 inch pipe.

Mr. Thomas informed the board if they needed to ask Josh Dalton, town engineer, anything that he can be available by phone as he is traveling.

Conor Tighe and Alysissa Miserendino, applicants, are present if the board has any further questions.

Richard Ellington questioned the 1st of the 4 conditions if there were any significant deviations or changes made from the prior meeting.

Martin Roupe informed the Board that the condition 1 is directly from the Town of Carrboro LUO.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY GARRETT BAKER TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

Garrett Baker was concerned if any recorded easements were already in place, that the new easement may not be eligible for recording. James Thomas mentioned that the existing easement was recorded in the 1980s with nothing to identify the location of the easement on the property. Mr. Thomas reminded the board that Josh Dalton, town engineer reviewed the 30 feet verses the 15 feet easement of what the town is recommending due to possible future repairs that may be needed for the pipe.

Brian Hageman was in agreement that the applicants have provided the information that the board had requested and that he was ready to vote if other board members were in agreement as well. Sriv Navaratnam, Linda Bowerman, and Garrett Baker expressed they were ready vote.

Brian Hageman asked Richard Ellington if he would like to walk the board through the worksheet. Richard Ellington agreed and proceeded with Board of Adjustment Variance Worksheet.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: VOTE: AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

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 RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN 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 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

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 RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN 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 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

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 RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN 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 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

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 RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN 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 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN 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 a 30 foot wide permanent easement centered along the existing pipe be provided prior to the issuance of the Certificate of Occupancy for the new single family residence.
4. The per LUO Section 15-92.1, the town shall receive reasonable assurance from EMC staff about approval or no action required by EMC that permissions from them are not required related to encroachment into the Zone 1 stream buffer or such approval shall be granted by EMC prior to approval of the zoning permit.
5. The permit shall become effective on March 19, 2021 unless the Board of Adjustment receives written comments from the public. If that occurs then the Variance Request would need to return to the Board of Adjustment for final vote for approval at the next scheduled Board of Adjustment meeting.

AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: VOTE: AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSTAINED 0: ABSENT/EXCUSED 1 (Joseph Collins)

MOTION WAS MADE BY JAMES BAKER AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: VOTE: AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 1 (Joseph Collins)

OLD/NEW BUSINESS

Martin Roupe, town staff mentioned a possible agenda item for April if applicant completes application. Dorian McLean will send out a poll if there will be a potential meeting.

ADJOURN

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON THAT THE MEETING BE ADJOURNED. VOTE: VOTE: AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Richard Ellington, Brian Hageman, Sriv Navaratnam). NOES 0: ABSENT/EXCUSED 1 (Joseph Collins)