



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

June 17, 2020

7:00PM

Remote Meeting

MEMBERS PRESENT		TOWN ATTORNEY	STAFF
Garrett Baker		Nicholas Herman	Marty Roupe
Linda Bowerman			Dorian McLean
Michael Crowell			
Richard Ellington			
Brian Hageman			

Absent/Excused: James Baker, Joseph Collins, Sriv Navaratnam

Town Council Representative: Damon Seils - Absent

Brian Hageman opened the May 17, 2020 Board of Adjustment meeting by calling the meeting to order and reading the Agenda.

Martin Roupe, town staff, asked Nicholas Herman, town attorney to discuss the proper procedure of how the remote Board of Adjustment meetings needed to be conducted.

Nicholas Herman, town attorney, explained the procedure of how this and future Board of Adjustment remote meetings should be conducted in accordance with North Carolina General Statutes. When speaking each individual needs to state their name before speaking, and when making a decision to vote that each individual call out their name and vote AYE or NOE. Mr. Herman explained that it had to be 4/5th's of the board members voting on the variance request before proceeding. Mr. Herman reminded the board to identify yourself when making comments on any of the agenda items.

MINUTES APPROVAL:

MOTION MADE BY MICHAEL CROWELL AND SECONDED BY LINDA BOWERMAN TO APPROVE MINUTES FROM MAY 6, 2020 MEETING. VOTE: Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). ABSENT/EXCUSED 3 (James Baker, Joseph Collins, Sriv Navaratnam)

Special Use Permit Minor Modification Request for OWASA, 400 Jones Ferry Road:

Martin Roupe, town staff, gave a power point presentation to allow relief from the Type A screening requirement for the eastern frontage along Jones Ferry Road per Section 15-306 of the Land Use Ordinance. OWASA intends to install four (4) new waterline pipes that will range in size from 12 inches to 24 inches and this will require the removal of seven (7) existing trees. Trees will not to replace in this area due to possibility of the roots having a negative effect on the new underground pipes. The applicant is requesting relief from the Type A screening requirement per Section 15-309 of the Land Use Ordinance that allows the permit issuing authority to grant relief from the screening requirements due to unique situations. Mr. Roupe asked that the applicant explain more in detail to the board of the plans.

Matthew Miles of Hazen and Sawyer, explained that the reason for the additional pipes to be installed would be to better the water lines after the water line pipe failure in 2017. In order for the work to be done and the new pipes to not be disturbed by roots from the existing trees the trees would need to be removed. OWASA and Hazen and Sawyer are willing to replace the trees with other vegetation that would not disturb the pipes in the future.

Brian Hageman asked about the future plans of a sidewalk being installed on this side of Jones Ferry Road. Martin Roupe answered that it has been in place to install a sidewalk on the OWASA side of Jones Ferry Road for about 10 years but no tentative schedule for the sidewalk installment has a definitive date.

Linda Bowerman asked about what types of plants could be planted in the place of the tree removal grass, flowers, or other vegetation.

Matthew Miles of Hazen and Sawyer, said that grass would definitely be planted but vegetation with minimal to no roots would need to be replaced due to the new pipes being installed and not disturbed. The company is willing to replace but the grading would need to be flat without roots.

Richard Ellington is in agreement with the minor modification being approved due to the upgrade of the piping installation and the accommodations of the installation of vegetation, and future sidewalk.

Linda Bowerman is agreement with the work being done, sidewalk would be wonderful, and the screening would need to be replaced to make it prettier.

Garrett Baker recommend a condition for the plants with low roots and grass behind the fence. It may not be required though due to it being a public utility.

Martin Roupe explained that a typical screening is required due to the Land Use Ordinance.

Garrett Baker wanted to add that two conditions be added to make sure that the company would replace the trees that would be removed.

- #1 Landscaping in the area with identical 3 large trees and 3 small trees, and scrubs to be replaced with in kind.
- #2 Landscape plan to be submitted to Zoning Administrator for review and approval.

Brad Barber, OWASA, the trees are needing to be removed for the pipe installation, new signage installation, and the weather station so we are only able to replace a certain amount of trees.

Brian Hageman proceeded with a motion to vote on the order by members of the Board of Adjustment.

MOTION WAS MADE BY GARRETT BAKER AND SECONDED BY MICHAEL CROWELL TO APPROVE THE SPECIAL USE MINOR MODIFICATION FOR OWASA 400 JONES FERRY ROAD VOTE: AYES 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSENT/EXCUSED 3 (James Baker, Joseph Collins, Sriv Navaratnam)

Variance Request for 315 Jones Ferry Road

Martin Roupe gave a power point presentation of the lot across the street from OWASA that was identified as 303 Jones Ferry Road but GIS corrected address is 315 Jones Ferry Road. The Art Center has purchased the property and would like to proceed with building the new Art Center to remain in Carrboro. The future driveway, parking lot, retaining wall, and grading would need to be approved by the board and the EMC to encroach into the Zone 1 and Zone 2 stream buffers.

LeAnn Brown, attorney for the Arts Center has a series of witnesses that would like to present the findings of the 4 different hardships for the variance request to be approved.

1st Witness is Bernadette Pelissier, Chair of the Art Center, the Art Center has moved several times and we wanted to remain in Carrboro. We have been in operation for 43 years and this is the site that we have found and are committed to the town, building in the African American community, and would like the opportunity to work with Carrboro.

2nd Witness Dan Jewell, Coulter Jewell Thames, Architect, are assisting the Art Center with the site design. Our company has done many projects in Carrboro for 35 years with some being Lake Hogan Farm, Shelton Station, and the PTA Thrift Shop. This property is walkable to the downtown area. Mr. Jewell presented the first three hardships by reading the arguments in support.

3rd Witness and 4th Witness Adam Efrind, Indy S Environmental Wetland Scientist, and Preston Royster, Vice President of Coulter Jewell Thames, Stormwater Management. Adam and Preston presented the fourth hardship by reading the arguments in support.

LeAnn Brown the witnesses have presented evidence of the hardships for the request of the variance approval. The land is constricted as is and evidence presented is balanced out of the Land Use Ordinance. As stated, we are trying to keep the Art Center in the town of Carrboro.

Brad Loder, representative of 103 and 110 Barnes Street are in full support of the Art Center. The representatives of the Art Center have been thoughtful and respectful to communicate with the community. OWASA is using this time to upgrade the sewer system and we are in agreement with the development of the new Art Center.

Michael Crowell asked if an OWASA representative was present to speak.

Jessica Godreau, OWASA Engineer, OWASA is working with the Art Center. OWASA would need to upsize the sewer lines to 16 inches and they would accommodate the project.

Michael Crowell, OWASA would need to get in the buffer to install the new sewer line.

Jessica Godreau, OWASA would need an easement in order to install the new sewer line.

Richard Ellington, Is it an intermittent spring where the area is being drained. Rainfall water and just normal drainage.

Preston Royster it is just normal drainage and no intermittent spring is there.

Adam Efrind it just channels surface water runoff. Overland flow drainage and it flows with no wildlife living in it.

LeAnn Brown this is just step one of the process with a variance approval it will then go to the Town Council for a CUP as far as design and other necessary steps before construction.

MOTION WAS MADE BY BRIAN HAGEMAN AND SECONDED BY RICHARD ELLINGTON TO CLOSE THE PUBLIC HEARING. VOTE: AYES 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSENT/EXCUSED 3 (James Baker, Joseph Collins, Sriv Navaratnam)

Brian Hageman was in agreement of the Art Center with the conditions, site design, and the distant on the property.

Michael Crowell was in favor of the Arts Center we just need to tie in the correct words for the site plan before approval.

Garrett Baker variance request should be after the site plan especially in Zone 1 stream buffer.

Martin Roupe by right use of the Land Use Ordinance the variance is granted before a CUP is issued.

LeAnn Brown we are ok with the change of the date in the original wordage from July 17, 2015 to July 17, 2020.

Garrett Baker in agreement with two conditions to be added.

Condition #1 Date on documents to be changed from July 17, 2015 to July 17, 2020.

Condition #2 Variance granted solely to contract purchaser the Art Center.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY MICHAEL CROWELL THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, 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 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 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, 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 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 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, 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 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 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, 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 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 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, Sriv Navaratnam)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY BRIAN HAGEMAN 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. Date on documents to be changed from July 17, 2015 to July 17, 2020.
4. Variance granted solely to contract purchaser the Art Center.

AYES 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman).
NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins,
Sriv Navaratnam)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY LINDA BOWERMAN THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: AYES 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, Sriv Navaratnam)

OLD/NEW BUSINESS

Martin Roupe informed the board about the possibility of upcoming Special Exceptions and possibly a variance application as well. Martin Roupe asked if the board would look at the dates of July 15 or July 22 for the next Board of Adjustment meeting. Martin Roupe asked Dorian McLean to send out a poll of availability to the other Board of Adjustment Members for July 15 or July 22 date.

ADJOURN

MOTION MADE BY BRIAN HAGEMAN AND SECONDED BY GARRETT BAKER THAT THE MAY 6, 2020 BOARD OF ADJUSTMENT MEETING BE ADJOURNED AYES 5 (Garrett Baker, Linda Bowerman, Michael Crowell, Richard Ellington, Brian Hageman). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 3 (James Baker, Joseph Collins, Sriv Navaratnam)