



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

October 16, 2019

7:00PM

Town Hall Room 110

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

MINUTES APPROVAL:

Linda Bowerman noted a change to the minutes on Page 4 to state that Linda Bowerman asked if the existing tree on the side near the construction area would stay.

MOTION MADE BY LINDA BOWERMAN AND SECONDED BY MICHAEL CROWELL TO APPROVE MINUTES FROM AUGUST 21, 2019 MEETING. VOTE: AYES 6 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSENT/EXCUSED 4 (James Baker, Richard Ellington, Brian Hageman, Sriv Navaratnam)

Linda Bowerman opened the public hearings by asking that anyone who wishes to speak on the 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 Variance Request. Ms. Bowerman proceeded to ask the town staff if they would like to proceed with the presentation about the Variance Request for 1219, 1221, 1225, and 1227 Hillsborough Road.

PUBLIC HEARING: Variance Request for 1219, 1221, 1225, and 1227 Hillsborough Road

Hillsborough Road HOA, applicant of the subject properties, has submitted an application (Attachment B) requesting a variance to Section 15-163(a)(5) of the Land Use Ordinance for a properties located at 1219, 1221, 1225 and 1227 Hillsborough Road.

The following houses are served by a private road, those being: 1219, 1221, 1225 Hillsborough Road. This private road has two concrete strips (Attachment B) where the wheels of coming/going vehicles are supposed to drive on. Over time, this private road has dilapidated due to cars driving off the concrete strips and the area adjacent to Hillsborough Road has sunk and holds water.

The reason for this type of “private road” being installed is that Section 15-163(a)(5) limits each of these lots to a maximum of 5,000sf of impervious surface. The original builder of these homes in 2015 wanted to stay below this threshold, so this type of private road was installed in order to minimize the amount of impervious surface that the private road would take up.

The HOA for this four lot subdivision is requesting a variance to surpass the 5,000sf limitation in order to install a wider, hard surface (ie. concrete etc.) private road that will not cause cars to drive off the existing narrow concrete strips and to minimize the pooling of water adjacent to Hillsborough Road.

Below is a table of breakdown for impervious surface of existing versus proposed private road:

1. Existing private road impervious surface = 1500sf
 2. Proposed 10 foot wide asphalt/concrete private road impervious surface = 4500sf
- NET IMPERVIOUS SURFACE INCREASE = 3000sf

Jeff Kleaveland gave a brief Power Point presentation of the subject properties of the proposed paving of the driveway. The applicants completed and submitted the application for the Variance request and all homeowners of the four lots were present at the meeting and in agreement of the proposed driveway.

Michael Crowell asked if it would be best if the variance should be approved on a lot by lot basis. Jeff Kleaveland replied that lot three being the smallest lot would take the biggest loss due to its smaller size.

Garrett Baker asked if it would be better for each lot granted its own variance or the development as a whole be granted the variance which would be beneficial and best for the applicants.

Nicholas Herman, town attorney, suggested if you grant the variance request based on exempt from impervious square footage easement a certain amount of square feet up to the 3,000 square feet. Once that’s done no numbers change.

Jeff Kleaveland presented the slide showing that the water flows away from the whole subdivision. Drainage is not an issue due to the streets having proper drainage and the open space with vegetation around the properties also.

The applicants discussed how the issues affected visitors, deliveries, and their personal vehicles.

The applicants of the whole subdivision had multiple landscapers and engineers to come to the property to give estimates and the proper idea of what they would need to do to correct the problems they are having with the driveway. The applicants presented the hardships.

Linda Bowerman, Garrett Baker, Wil Heflin, Joseph Collins, and Michael Crowell board members were in agreement to approve the Variance Request due to the hardship that had been presented and all the homeowners were in agreement to make the necessary changes to benefit the subdivision as a whole.

MOTION WAS MADE BY LINDA BOWERMAN AND SECONDED BY MICHAEL CROWELL TO CLOSE THE PUBLIC HEARING. VOTE: VOTE: AYES 5 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSENT/EXCUSED 3 (James Baker, Richard Ellington, 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: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 2 (Richard Ellington, 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 WIL HEFLIN 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 5 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSTAINED 1 (James Baker) ABSENT/EXCUSED 2 (Richard Ellington, 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 WIL HEFLIN 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 5 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSTAINED 1 (James Baker): ABSENT/EXCUSED 2 (Richard Ellington, 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 WIL HEFLIN 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 5 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSTAINED 1 (James Baker): ABSENT/EXCUSED 2 (Richard Ellington, 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 WIL HEFLIN 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 5 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSTAINED 1 (James Baker): ABSENT/EXCUSED 2 (Richard Ellington, Sriv Navaratnam)

MOTION WAS MADE BY WIL HEFLIN 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. An improvement of the shared driveway of 2 foot strips to a 10 foot wide impervious surface (asphalt, concrete, etc) installed. This will not increase or decrease the original impervious details as included in the application. This variance will apply to the subdivision as a whole with condition of final review and approval by Zoning Division of the proposed work.

AYES 5(Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell,Wil Heflin). NOES 1 (James Baker): ABSENT/EXCUSED 2 (Richard Ellington, Sriv Navaratnam)

MOTION WAS MADE BY WIL HEFLIN AND SECONDED BY JOSEPH COLLINS THAT THE APPLICATION BE GRANTED SUBJECT TO THE CONDITIONS AGREED UPON. VOTE: VOTE: AYES 5 (Garrett Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSTAINED 1(James Baker): ABSENT/EXCUSED 2 (Richard Ellington, Sriv Navaratnam)

OLD/NEW BUSINESS

Town staff had nothing to report.

ADJOURN

MOTION WAS MADE BY JOSEPH COLLINS AND SECONDED BY WIL HEFLIN THAT THE MEETING BE ADJOURNED. VOTE: VOTE: AYES 6 (Garrett Baker, James Baker, Linda Bowerman, Joseph Collins, Michael Crowell, Wil Heflin). NOES 0: ABSENT/EXCUSED 2 (Richard Ellington, Sriv Navaratnam)