

VANCE COUNTY BOARD OF ADJUSTMENTS

The Vance County Board of Adjustments met at a regular and duly advertised meeting on June 13, 2013 at 4:00 p.m. in the Commissioners Meeting Room of the Vance County Administrative Building at 122 Young Street in Henderson, NC.

MEMBERS PRESENT

Blake Haley – Chairperson
Agnes Harvin – Vice Chairperson
Thomas Shaw
Phyllis Stainback
Rev. Roosevelt Alston
Ruth Brummitt

Darrell Mullinix – Alternate #2
– present but not utilized

MEMBERS ABSENT

Alvin Johnson, Jr.

STAFF PRESENT

Jordan McMillen, Planning Director
Byron Mason, County Intern
Jonathan Care, County Attorney

ALTERNATES PRESENT

Ruxton Bobbitt – Alternate #1 –
replaced Alvin Johnson, Jr.

Vice Chairperson Harvin called the meeting of the Board of Adjustment to order and asked for a review of the minutes from the April 11, 2013 meeting. Mr. Thomas Shaw made a motion to approve the minutes as written. Ms. Ruth Brummitt seconded said motion and all present were in favor. VOTES: 7-0.

Vice Chairperson Harvin introduced the first case explaining the order of business, gave an opportunity for board members to express any conflicts, hearing none and then declared the public hearing open. Chairperson Haley entered the meeting and took over the proceedings from the Vice Chairperson.

BOA CASE NO. 20130613-1; Bullock Land, LLC (owner), Anthony Peace (applicant) – Variance to reduce setback from 30 feet to 15 feet allowing a single family home to be expanded.

Chairperson Haley asked Mr. McMillen to present the staff report. He then swore/affirmed in Mr. McMillen. Mr. McMillen presented the staff report:

The applicant is requesting a variance from the minimum setback (section 3.2.3) requirement to reduce the front setback from 30 feet to 15 feet.

Findings of Fact

1. The property is owned by Bullock Land, LLC. Mr. Anthony Peace is a managing member of Bullock Land, LLC.
2. The request is for a variance from the minimum front setback requirement of 30 feet as per section 3.2.3 of the zoning ordinance to allow a setback of 15 feet on the front side facing Frank Bullock Road.
3. The lot consists of 2.144 acres and previously consisted of an existing single family dwelling.
4. The property is located at 23 Frank Bullock Road and is identified as tax parcel 0586 03021.
5. The lot is currently zoned R-30 (Residential Low Density).
6. The application requesting the variance was filed on May 8, 2013.
7. The adjoining property owners were notified on May 21, 2013.
8. The property was posted on May 31, 2013.
9. The legal notice was run on May 18, and June 4, 2013.

Staff Comments

The applicant is proposing to expand an existing home that was built in the 1940s. The existing home is already located within the 30 foot setback (currently located approximately 18 feet from the right-of-way). The expansion will take place primarily on the rear side of the home away from Frank Bullock Road, but will necessitate an additional 3 foot of expansion to the front side of the home facing Frank Bullock Road. For this reason, the applicant has requested a reduced setback from 30 feet to 15 feet to

accommodate the existing nonconforming structure and to allow further expansion.

County Attorney Care advised the board that if the application were approved there is a need to receive an updated application to represent the proper owners of the property. He mentioned that while Mr. Peace is a member of the LLC, a member or an individual may not sign on behalf of the LLC as a whole.

Board Member Bobbitt questioned the width of the right-of-way in this area. Mr. McMillen mentioned that to his knowledge there is a 60 foot right-of-way meaning that there would be 30 foot on each side of the road. He further mentioned that this will be confirmed when an updated site plan survey is submitted.

THOSE SPEAKING FOR THE REQUEST (all those speaking in favor were sworn/affirmed in)

Mr. Anthony Peace (23 Frank Bullock Road) addressed the board and explained his plan to expand the dwelling at 23 Frank Bullock Road from roughly 2,000 sq. feet to roughly 3,000 sq. feet. He mentioned that the structure was built in 1946 which was prior to the roadway becoming a public roadway with established right-of-ways. He further mentioned that the expansion will take place primarily to the rear of the structure away from the right-of way.

Ms. Brummitt questioned the plans for the front side of the home facing the right-of-way and the need for the additional 3 feet. Mr. Peace responded that a wraparound porch will be added which will add 3 feet necessitating the variance.

Mr. Care advised the board against granting a general 15 foot setback in favor of a very specific variance that specifically addresses the 3 additional feet that is needed around the home. This would prevent other future structures from also benefitting from the general variance and would be granting more than the property owner needs for the expansion. He also advised that a better to scale survey be presented which would be helpful in making a more accurate determination of the exact distance that is needed for the addition.

THOSE SPEAKING AGAINST THE REQUEST

None present

BOARD DISCUSSION

The Board reviewed the variance check sheet as follows (Chair Haley verbally read each for the board to review):

1. If the applicant complies with the provisions of the Ordinance, he or she can make no reasonable use of their property.
2. The hardship of which the applicant complains results from unique circumstances related to the applicant's property.
3. The hardship is not the result of the applicant's own actions.
4. The variance will be in harmony with the general purpose and intent of the Ordinance and preserves the spirit of the Ordinance.
5. The granting of the variance assures the public safety and welfare and will not be injurious to the property or improvements in the neighborhood.

DECISION:

Ms. Harvin made a motion to grant the variance request subject to the following conditions: (1) submittal of an updated application and certificate of authority from all parties within Bullock Land, LLC (2) submittal of a new survey which shows the addition and exact amount of space needed for the variance (3) the variance will not be for 15 feet encompassing the entire portion of the property fronting Frank Bullock Road, but will only be for an additional 3 foot intrusion in the area of the house. Additionally that the findings of fact are approved as presented. Ms. Brummitt seconded said motion and all present were in favor. VOTES: 7-0. *Chairperson Haley declared the public hearing closed.*

ADJOURNMENT: There being no further business, Chair Haley declared the meeting adjourned.