

VANCE COUNTY BOARD OF ADJUSTMENTS

The Vance County Board of Adjustments met at a regular and duly advertised meeting on September 12, 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
Thomas Shaw
Ruth Brummitt
Rev. Roosevelt Alston

MEMBERS ABSENT

Agnes Harvin – Vice Chairperson
Phyllis Stainback
Alvin Johnson, Jr.

ALTERNATES PRESENT

Ruxton Bobbitt – Alternate #1 –
replaced Agnes Harvin
Darrell Mullinix – Alternate #2 –
replaced Phyllis Stainback

STAFF PRESENT

Jordan McMillen, Deputy County
Manager/Director of Planning and Development
Jonathan Care, County Attorney

Chairperson Haley called the meeting of the Board of Adjustment to order and asked for a review of the minutes from the August 8, 2013 meeting. Mr. Bobbitt made a motion to approve the minutes as presented. Mr. Shaw seconded said motion and all present were in favor. VOTES: 6-0.

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Chairperson Haley began the continuation of BOA Case No. 20130808-2.
Continuation of BOA CASE NO. 20130808-2; Christine, Carl, & Joe Samford (owners), Nexsen Pruet, PLLC – Thomas H. Johnson, Jr., Esq. – agent for property owner (applicant) – Conditional Use Permit to allow construction of a 300 foot monopole cell tower.

Having previously swearing in Mr. McMillen, Chair Haley asked Mr. McMillen to present the staff report on this case. Mr. McMillen mentioned that the applicant has requested an additional continuation and staff agrees with the need for a continuation of this case. He mentioned that there were some outstanding items to be submitted that were still to be completed and asked the board to continue the hearing until October 10, 2013 at 4 PM.

DECISION:

Ms. Brummitt made a motion to continue the hearing until October 10, 2013 at 4:00 PM. Mr. Bobbitt seconded said motion and all present were in favor. VOTES: 6-0.

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Chairperson Haley introduced the second 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 for the following case:

BOA CASE NO. 20130912-1; Charles & Louise Parham (owners), Charles & Louise Parham (applicant) – Variance to reduce rear setback from 25 feet to 8 feet.

Chairperson Haley asked Mr. McMillen to present the staff report. He then swore 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 rear setback from 25 feet to 8 feet.

Findings of Fact

- 1. The property is owned by Charles & Louise Parham.
2. The request is for a variance from the minimum rear setback requirement of 25 feet as per section 3.2.3 of the zoning ordinance to allow a setback of 8 feet on the rear side.
3. The lot consists of 1.8 acres and includes an existing single family dwelling with associated accessory structures.
4. The property is located 2620 Nutbush Road and is identified as tax parcel 0600C03005.

5. The lot is currently zoned R-30 (Residential Low Density).
6. The application requesting the variance was filed on August 12, 2013.
7. The adjoining property owners were notified on August 28, 2013.
8. The property was posted on August 29, 2013.
9. The legal notice was run on August 30, and September 6, 2013.

#### Staff Comments

The applicant is proposing to construct a 22 ft. by 22 ft. addition to an existing building. The existing structure was built prior to the zoning ordinance and prior to the establishment of setbacks for this property. The application states that the homeowner is handicapped and the new addition would include creating a handicapped accessible entrance into the existing structure.

Based upon a preliminary review of the property, the current built upon area (impervious area) is approximately 23% of the total lot acreage. While this exceeds the 20% built upon area limit within the R-30 zoning district, the new structure will not be increasing or adding any additional impervious area. This is true as the structure will be built in an area that is currently black top pavement.

If a variance is considered for this location, it would be advisable to consider this specific structure for the variance as opposed to applying it to the entire rear property line.

Mr. Bobbitt questioned whether the proposed addition would be any closer to the property line than the existing structure. Mr. McMillen responded that the addition would not be any closer than the existing structure. Ms. Brummitt pointed out a discrepancy in the size of the addition as shown on the drawings (one source says 22'x22' and the other says 22'x26'). Mr. McMillen stated that his understanding was that the addition would be 22'x22'.

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

Ms. Louise Parham (applicant) and Mr. Chris Fisher (grandson of applicant) addressed the board. Mr. Fisher provided an overview of the request and stated that the structure would be 22'x22'. He presented photos of the existing property showing the location for the addition. Mr. Bobbitt questioned whether there was any vegetation along the property line. Mr. Fisher responded that there was vegetation along the line and that no impediments would be created for fire and rescue if needed in the future. Mr. Haley questioned whether the 4 separate pieces of property had been recombined. Mr. Fisher responded that the property had been recombined recently into 1 parcel.

#### **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:**

Mr. Bobbitt made a motion to approve the variance request for a 22'x22' structure to be located within 8 feet of the property line. The variance only applies to this specific addition and does not extend across the

entirety of the rear property line. Included in this approval is the staff comments and findings of facts as presented by staff. Ms. Brummitt seconded said motion and all present were in favor. VOTES: 6-0.

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Chairperson Haley introduced the third agenda item:

*Schedule date for appeal hearing – Camper located along Leisure Lane;*

Mr. McMillen addressed the board and requested a consensus from the board as to whether September 26, 2013 at 4 PM would be suitable for an appeal hearing from a property owner using a camper along Leisure Lane.

Following discussion by the board on an appropriate date the chairman called a meeting for September 26, 2013 at 4 PM.

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