

VANCE COUNTY BOARD OF ADJUSTMENTS

The Vance County Board of Adjustments met at a regular and duly advertised meeting on April 10, 2014 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

Thomas Shaw – Chairperson
Alvin Johnson, Jr. – Vice Chairperson
Agnes Harvin
Ruth Brummitt
Phyllis Stainback

MEMBERS ABSENT

Blake Haley
Rev. Roosevelt Alston

STAFF PRESENT

Jordan McMillen, Planning Director
Jonathan Care, County Attorney

ALTERNATES PRESENT

Ruxton Bobbitt – Alternate #1 –
Replaced Blake Haley

Chairperson Shaw called the meeting of the Board of Adjustment to order and asked for a review of the minutes from the January 9, 2014 meeting. Ms. Stainback made a motion to approve the minutes. Ms. Brummitt seconded said motion and all present were in favor. VOTES: 6-0.

Ms. Stainback later came back and revisited the earlier motion and requested 4 spelling/grammatical changes to the minutes.

Chairperson Shaw 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.

BOA CASE NO. 20140410-1; Michael W. Fletcher (owners), Tim Bridges (Caston Home Builders (applicant) – Variance side setback from 20 feet to 10 feet and the front setback from 30 feet to 25 feet. Also to reduce distance from well and septic to 50 feet subject to health department approval.

Chairperson Shaw swore in Mr. McMillen and Mr. Tim Bridges (Builder with Caston Home Builders). Chair Shaw then asked Mr. McMillen to present the staff report. Mr. McMillen presented the staff report and reviewed the DRAFT findings of facts as follows:

Description of Variance Request:

The applicant is requesting a variance from the minimum setback (section 3.2.3) requirement to reduce the side setback from 20 feet to 10 feet and the front setback from 30 feet to 25 feet. In addition to the setback variance the applicant is requesting a variance from the separation requirement of 100 feet between the well and septic system as per section 3.2 D 4 of the zoning ordinance. Based upon a specially designed system and concurrence from the Health Department the applicant is in need of reducing this distance from 100 feet to 50 feet or required separation.

DRAFT Findings of Fact

1. The property is owned by Michael & Sharon Fletcher.
2. The request is for a variance from section 3.2.3 of the zoning ordinance to allow a reduction of the side setback from 20 to 10 feet and of the front setback from 30 to 25 feet.
3. The lot is 0.443 acres – Initially the applicant had an incorrect acreage of 0.68 acres. This would qualify the lot as a substandard lot of record.
4. The lot is currently vacant.
5. The property is located along Kerr Lake Club Drive and is identified as tax parcel 0600C02004.
6. The lot is currently zoned R-30 (Residential Low Density) and is vacant.
7. The application requesting the variance was filed on March 12, 2014.
8. The adjoining property owners were notified on March 24, 2014.
9. The property was posted on March 27, 2014.
10. The legal notice was run on March 26, and April 2, 2014.

Staff Comments

The applicant is proposing to build a 1710 sq. ft. home with an additional basement, attached garage, porch and deck. Currently there is some discrepancy in the size of the lot. The deed references an older recorded plat (included in packet) that does not include the acreages. The applicant will confirm this prior to the meeting. The lot size should have little bearing on the variance considering if it is undersized, it is a lot or record (meaning an existing lot created prior to lot size standards) which would be allowed to be used. However a variance would still be required to use it with current regulations. It is possible that the lot size in addition to the special type of septic system required (a drip irrigation system) are the contributing factors for the necessity of this variance.

In considering this request, it is important to consider that the variance would move the proposed structure away from the northern property line and thus further away from the existing home to the north. The south and the west sides of the property are bounded by the Kerr Lake Country Club and does not appear to be developable currently. On the west side is an existing pond on the Club land and on the south is an existing stream.

It is important to note that the NC general statutes have changed slightly regarding the criteria for granting a variance. See the last page of this packet for the revised criteria.

Mr. Bobbitt questioned whether the Board of Adjustment or the Health Department would have the ultimate approval of the septic system. Mr. McMillen responded that there are two separate approvals, one from the Board of Adjustment to reduce the required separation distance and then the Health Department approval of the designed system and construction.

Ms. Harvin questioned whether the house is being increased in size or if it is just being moved. Mr. McMillen referred the question to the applicant. See his response below.

Ms. Brummitt questioned whether a survey was supplied with the request. Mr. McMillen mentioned that the original survey of the subdivision was supplied and would be sufficient to transfer the property; however that recorded survey does not include the acreages for the lots. Mr. McMillen mentioned that it would be helpful to have a certified site plan submitted with the zoning permit application to allow all measurements to be confirmed in regard to the septic area.

THOSE SPEAKING FOR THE REQUEST

Mr. Tim Bridges (Builder with Caston Home Builders) addressed the board and responded to earlier questions. He explained that the house will be moved 5 feet further away from the septic tank to allow sufficient space to dig the footers and the foundation. He further explained that the septic system will be an engineered closed loop system which is referred to as a drip system.

Ms. Stainback questioned whether similar sized homes are being built in this area. Mr. Bridges explained that the lot has been owned by the current owner since the early 1980s and the subdivision was originally developed in the 1960s. When developed the lots were undersized prior to today's lot size standards.

THOSE SPEAKING AGAINST THE REQUEST

None present

BOARD DISCUSSION

The Board reviewed the variance check sheet as follows (Chair Shaw verbally read each for the board to review): A variance may be granted by the Board if evidence that is presented by the applicant persuades the Board to reach the following conclusions:

1. The unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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.
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 hardship.
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.

In responding to the board discussion, Ms. Harvin referenced the property being purchased in the 1980s before lot standards and mentioned that public safety seems to be achieved with the special septic system. She also pointed out that it appears that no further development could occur on the South or West side of the property.

DECISION:

Mr. Bobbitt made a motion to issue and approve the variance request, to approve the findings of facts (#3 above has been revised to show actual acreage), and to approve the site plan subject to having a certified site plan submitted prior to issuance of a zoning permit to confirm all distances and measurements.

Ms. Harvin seconded said motion and all present were in favor. VOTES: 6-0.

Chairperson Shaw declared the public hearing closed.

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