



VANCE COUNTY
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BOARD OF ADJUSTMENT
MINUTES

March 12, 2020

TO: Vance County Board of Adjustment
FROM: Angie Blount
SUBJECT: Case# VA2020312-1 – Variance – Side Setbacks, Dwelling – 108 Mickey Lane, Henderson, NC
DATE: March 12, 2020

Board Members Present: Chair, J. Thomas Shaw, Vice-Chair, Ruth Jones, Phyllis Stainback, Logan Darensburg, Alvin Johnson, Jr., Alternate, Ruxton Bobbitt

Board Members Absent: Agnes Harvin, Blake Haley

County Staff: Sherry Moss, Interim Planning Director, Angie Blount, Planner, Jonathan Care, County Attorney

Chairperson Shaw opened the March 12, 2020 meeting of the Vance County Board of Adjustment at a little past 4:00 pm. Chairperson Shaw announced the first order of business would be to approve the minutes of the December 12, 2019 meeting. Alvin Johnson, Jr. made a motion to approve the minutes as presented which was seconded by board member Logan Darensburg. A vote was taken and the minutes were approved unanimously. Chairperson Shaw announced the next order of business would be to approve the minutes from the January 9, 2020 meeting. Board member Phyllis Stainback made a motion to approve the minutes as presented. Board member Ruth Jones seconded the motion. A unanimous vote was taken to approve the minutes.

Chairperson Shaw announced the first case would be VA202312-1, a variance request for 108 Mickey Lane, Henderson, NC, by owner and applicant Robert and Diane Peper, Sr. The variance would be for the side setbacks in order to construct a site built single-family dwelling. Chairperson Shaw asked planning to present the case.

Angie Blount, planner for Vance County, explained that the request was for a variance from the side setback requirements for a dwelling on property zoned Residential Medium Density, or R30. The required setback is 20' on each side, to which the proposed dwelling has 13.5 on the left side and 4.9 on the right, requiring a variance of 6' on the left and 15' on the right. Mrs. Blount explained that the applicant recently had to replace the septic system and in doing so, a greater amount of space was taken in for lines and drain fields as well as the tank. Before the new system, part of the old system was on the neighboring property. Currently the new system fits entirely on the applicant's property. Mrs. Blount explained that the proposed new site built dwelling would be replacing an aged manufactured home, which the applicant stated did not meet his family's needs. Mrs. Blount stated the applicant's hardship resulted from the additional space required for the improved septic system.

Board member Mrs. Jones asked what the square footage of the proposed dwelling would be. Mrs. Blount replied it would be 30' x 40', 1200 sq. ft. Board member Mr. Bobbitt asked if the new septic permit had been issued, to which Mrs. Blount replied that it had. Mr. Bobbitt then asked if the system had been installed, to which Mrs. Blount replied that she did not know if installation had occurred, but that the applicant was present to answer questions from the board. Board member Mrs. Jones asked if the applicant planned to put a deck on the rear of the proposed dwelling, to which Mrs. Blount advised she did not know but that the site plan did not show one. Board member Mrs. Stainback asked what "deeds overlap" meant on the site plan. Jonathan Care, County Attorney answered it was placed on the plat because that is what the surveyor found and he is required to note what he found. He found a discrepancy between Kerr Lakes maps and the deeds and the legal description that the applicant provided. Mr. Care added that he did not believe the discrepancies made any difference in the case because the setbacks from

the lake are zero. He added that the differences are not a concern in the variance request. Board member Mr. Bobbitt asked where the side setbacks are noted. Mrs. Blount advised the setbacks are not shown on the site plan, but that they are asking for 6.5 feet on the right side 15.1 feet. Mrs. Blount added that it is a very small lot. Board member Mrs. Jones asked where the drain fields are located. Mrs. Blount advised it was between the septic tank and the house, but that it was entirely on the applicant's property now, where before they had an easement onto a neighboring property.

Chairperson Shaw asked the applicant, Mr. Peper to come to the podium. Mr. Peper took the podium and stated his name and that he is the owner of the property at 108 Mickey Lane. Board member Mr. Bobbitt asked if the system had been installed, to which Mr. Peper replied it had. Chairperson Mr. Shaw asked if they used the existing septic tank. Mr. Peper replied that there was not an existing tank, that it had been shared with a neighbor, and so they installed a new tank. Mr. Peper advised they had installed a permablock system. Mr. Peper advised he had talked with his neighbors on either side and they seemed to be in agreement that this will be an improvement over what was there. Mr. Peper advised the old mobile home had been right against the fence on one side and with the new stick built home it will be off the property lines on both sides. Mr. Peper advised he will be able to get through on both sides. Board member Mr. Bobbitt asked if any procedure was followed to abandon the old system. Mr. Peper advised that there was one line from the old drain field that had been shared with a neighbor but that it had been capped off under the neighbor's property. Board member Mr. Bobbitt asked what the distance was from the right-side property line to the neighbors dwelling. Mr. Peper advised it was about 75 feet, plenty of room for emergency vehicles to get through. Board member Mr. Bobbitt asked what the distance was on the left side. Mr. Peper replied the Whitmore house on the left is farther back on the lot toward the road and that there was plenty of room on the corp property for access. Chairperson Mr. Shaw asked about the house right on the property line. Mr. Peper showed the board on a map the location of the Whitmore home and the Craft home. Board member Mr. Bobbitt asked if anything would be allowed to be built over the drain fields. Mr. Peper advised he would not need to build over any drain lines. He advised he would be able to build and meet the setbacks for the drain field. Mr. Peper added that the system he put in was three times what a normal system cost.

Chairperson Shaw asked if there were any further questions. Malory Fly stepped to the podium and stated she would speak for her father, Mr. Whitmore, of 103 Mickey Lane. Mrs. Fly stated that she was concerned about the system that Mr. Peper is installing is too close to her father's property to work and do a sufficient job. Mrs. Fly stated that if the system overflowed it would back up on their property. She further commented that the lot was originally a camp site and the home that was there was placed without permit in the 1980's. Mr. Bobbitt commented that he has had experience with this type of system and that it is the type that would address the concerns Mrs. Fly had regarding overflow. He added that it is a very sophisticated system and filters on a small lot so that the waste comes out clear. Mr. Bobbitt added that the health department would be the ones that would address her concerns if it did ever overflow. He stated this system is made for this type of situation.

Chairperson Shaw asked if there was any further discussion from the board or from staff. Being none, he went through the variance check sheet. Board member Mr. Bobbitt asked if the board would have to give a reason to justify why they voted the way they did. Chairperson Shaw advised they would not. After going through the check list, Chairperson Shaw asked if someone would like to make a motion. Board member Mr. Bobbitt made a motion to approve the variance request for the side setbacks, and to include the finding of fact and staff comments. The motion was seconded by board member Mr. Alvin Johnson. A vote was taken which was unanimous to approve the variance request. Mr. Shaw declared the case for a variance request at 108 Mickey Lane closed. Chairperson Shaw asked if there were any further business for the board. Mrs. Blount stated that attendance by some board members needed to be addressed. She stated that there were at least two board members who had averaged one or two meetings in the last year and that there had been a doubt that there would be a quorum at this meeting. She added that if Mr. Bobbitt had not cancelled an appointment to be here, business could not have been conducted. Mrs. Blount asked what the procedure would be to replace a board member on both boards. Board member

Mrs. Jones advised that she had talked to Commissioner Dan Brummitt about replacement and that he was aware of the situation. The board agreed that new applications needed to be considered.

Chairperson Shaw declared the March 12, 2020 meeting of the Vance County Board of Adjustment adjourned at a little after 5 pm.