

BOARD OF ADJUSTMENT

MINUTES

Thursday, February 28, 2019

The Blowing Rock Board of Adjustment met on Thursday, February 28, 2019 at 5:30 p.m. Members present were Dr. Charles Davant, Laurin Carter, Tom Dixon, EB Springs and Buz Helms. Staff present were Planning Director Kevin Rothrock and Planning and Zoning Support Specialist Tammy Bentley.

Chairman Davant called the meeting to order at 5:30 p.m.

APPROVE MINUTES:

Mr. Helms made a motion to approve the minutes from January 2019. Mr. Dixon seconded the motion. All were in favor of the motion.

Variance 2019-01 Albert Yount

Kevin Rothrock, Mr. Yount, and Mr. Bill Carter were sworn for testimony to the Board.

Mr. Rothrock reviewed the staff report. Albert Yount is requesting a street setback variance of 16 feet to construct a carport. The carport is proposed at 9 feet from the front property line. Mr. Yount's property qualified for a 5-foot administrative topography waiver of the 30-foot setback when his house was constructed pursuant with Section 16-12-.4.7. The current house meets the 25-foot reduced setback. Mr. Yount plans to build the carport on his driveway which will be 9 feet from the property line along the street and 16 feet from the edge of the pavement. The proposed carport will meet the 12-foot side setback.

Mr. Springs asked the vertical elevation from the driveway to the street. Mr. Rothrock said 11 to 12 feet.

Mr. Helms asked if the carport would use the retaining wall as part of the structure. Mr. Yount said that it would be freestanding.

Ms. Carter asked if the carport would be anchored. Mr. Yount said that yes. Ms. Carter asked if the roof would be slanted. Mr. Yount confirmed and added that he is working towards having a living roof with moss.

Chairman Davant asked the right-of-way from the road. Mr. Rothrock said 30 feet.

Mr. Helms asked if there were any comments from neighbors. Mr. Yount said he spoke with one neighbor who was fine with the carport, but then changed his mind as he thought the carport would blow away.

Mr. Springs asked how many public notices were sent to neighboring properties. Mr. Rothrock said 12. Mr. Springs asked if he had heard from any neighbors. Mr. Rothrock said that he heard from one neighbor who could not attend the meeting but wanted to cast her vote by proxy. Mr. Rothrock said he told her she cannot vote. Mr. Rothrock advised that she owns an empty lot adjacent to Mr. Yount's property.

Mr. Springs asked Mr. Yount what type materials would be used. Mr. Yount said the carport would be wood and that he would like to have a living roof on the carport. Mr. Yount said that if a living roof was not possible, the roof would be metal.

Mr. Yount addressed the Board. He said that he had tried to swap property with the neighbor (to avoid having to request a variance) that Mr. Rothrock had spoken to, adding that she was not ready to do anything with her lot. Mr. Yount said since constructing the house he has not come up with a concept that would work, then an architect visited him and suggested putting the carport next to the retaining wall. The architect asked him if he could get a variance. Mr. Yount said that as a Town Council member, he was reluctant to ask. Mr. Yount said he consulted with the Mayor about this and the Mayor said he is a citizen and has the right to this request.

Mr. Yount said the size is 14' by 22', adding that he had spoken with John Warren, Town of Blowing Rock Building Inspector and assured the Board that it must be built to current NC Building Codes.

Mr. Yount said he saw the nation's largest living roof in Dearborn, Michigan, which has inspired him to attempt a living roof on the carport.

Chairman Davant asked if, once built, could the carport be enclosed. Mr. Rothrock said that if the variance is granted a condition could be added stipulating that the carport cannot be enclosed. Mr. Helms asked, under this scenario, if Mr. Yount wanted to enclose the carport, would he have to request a new variance. Mr. Rothrock confirmed. Mr. Yount said he has no problem with stipulating that the carport cannot be enclosed.

Mr. Bill Carter or 401 Tarry Acres Drive said he has an extensive family and personal real estate background. He said that what Mr. Yount is requesting is very minimal. Mr. Carter said he spoke with the neighbor about the 'blowing away' concern and assured him that it must be built to code. Mr. Carter said that he has no problem with the carport as a neighbor and real estate expert.

Mr. Rothrock said the Board must determine facts from the testimony given and apply the facts to criteria. Then the Board could vote on the request.

Mr. Dixon made a motion to close the public hearing. Ms. Wilson seconded the motion. All were in favor of the motion.

The Board determined the following facts:

1. The hearing was advertised properly, and public notice given within 150 feet of Mr. Yount's property and is made part of this record.
2. The roof will be substantially lower than the public street.
3. The proposed carport will be difficult to see from the public street.
4. The proposed carport must meet North Carolina Building Codes, including high wind zones for mountain communities.
5. The proposed carport will have minimal impact on adjacent properties.

The Board applied the facts to (a). **All members agreed.**

- (a) Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The Board applied the facts to (b). **All members agreed.**

- (b) 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.

The Board applied the facts to (c). **All members agreed.**

- (c) 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.

The Board applied the facts to (d). **All members agreed.**

- (d) The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

*Mr. Springs made a motion to grant the variance on the condition that all exhibits are made part of the public record and that the carport not exceed 15' in width, 23' in length and 8' in height, seconded by Ms. Carter. **All members were in favor of the motion.***

Mr. Rothrock told the Board that he would prepare the order.

The Board discussed the possible Frasier appeal. Mr. Rothrock explained the appeals process to the Board.

With no further business, the Board adjourned at 6:25 p.m.

Dr. Charles Davant, Chairman

Tammy Bentley, Planning & Zoning
Support Specialist