

BOARD OF ADJUSTMENT

MINUTES

Thursday, April 28, 2022

The Blowing Rock Board of Adjustment met on Thursday, April 28, 2022 at 5:30 at Town Hall. Members present were E.B. Springs, Lance Campbell, Stephen Schiller, Brandon Walker and Paul McGill. Staff present was Planning Director Kevin Rothrock, Zoning Enforcement Officer, Brian Johnson and Planning and Zoning Support Specialist Taylor Miller.

Chairman Springs called the meeting to order at 5:32 p.m.

Charmain Springs requested to amend the agenda to move "Other Business" up and to address it now instead of later. He wanted to discuss the idea of needing 4 board members approval in order to grant a variance to the applicant. He asked the board to make a rule for themselves that stated in the event of the fifth board member – whoever that may be – were to not be present for the meeting, that the board would address the town as well as the applicants and ask if it is okay for only 4 members to be present knowing that they need 4 total votes in order to approve the variance for the applicant. This would mean they would not have a fifth person as a buffer in case one person were to say no. All of the board members agreed.

APPROVAL OF MINUTES

Chairman Springs asked if there were changes to the minutes from the December 15, 2021 meeting. Mr. Schiller advised that his name was spelt incorrectly in the first paragraph of the first page. Mr. Schiller also noted that Mr. Davis' name was spelt wrong on page 3, paragraph 6.

Chairman Springs made a motion to adopt the minutes from December 15, 2021. Seconded by Mr. Lance Campbell. All members were in favor of the motion.

SWEARING IN NEW MEMBERS

Chairman Springs asked that all new members be sworn to the board. Both new members Mr. Paul McGill and Mr. Brandon Walker were sworn to the board by Taylor Miller.

1. Variance #2022-01 Ben Frantzen for 126 Greenway Court

Chairman Springs asked if anyone had any conflict or bias related to the Mr. Frantzen's case. All members said no.

Chairman Springs asked if anyone had engaged in any ex parte communications with anyone in regard to the case. All board members stated no.

Chairman Springs stated that board members are allowed to drive by the property related to the case and asked if any board members had done so. All members advised they had driven by the property.

Chairman Springs asked board members and the public if they felt that anyone had standing in regard to the case – meaning that they felt there would be harm done if the case didn't go the way they thought it should go. Everyone said no. MR. Johnson advised no one came forward or asked to be a witness for this case.

Chairman Springs asked if it was okay with everyone, including Mr. Frantzen and all board members, that Taylor Miller works for the town and will be recording the minutes for the meeting. Everyone agreed that it was okay.

Chairman Springs then acknowledged that Mr. Brian Johnson sent an application packet to each of the board members with all of the information in regard to the variance. Chairman Springs asked if Mr. Frantzen had received one of those packets as well, Mr. Frantzen said yes.

Chairman Springs began to explain the steps that the board would go through for the meeting and the procedure for each of those steps. He then asked for everyone who would be a witness to the Frantzen case to be sworn in. Mr. Brian Johnson, Mr. Kevin Rothrock and Mr. Ben Frantzen were sworn for testimony to the Board.

Mr. Brian John took to the podium to present the staff report for the Frantzen Variance. The location for the variance is 126 Greenway Court in Blowing Rock. Further identified by the Watauga County PIN # 2807-97-2788-000. The property is zoned as Central Business. MR. Frantzen is asking for a variance of the parking space requirements – a reduction in the required 9 ft in width to 8 ft in width. This means he is asking for a 1-foot variance in the parking spot width requirement. This variance request is in relation to Section 16-20.6

Section 16-20.6 Parking Space Dimensions. *Each parking space shall contain a rectangular area at least nineteen feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.*

The parking space would be placed next to the building. Mr. Frantzen is considering using his building as short-term rentals and would be required to have a parking space per bedroom. He already has one existing parking space that meets all town ordinance standards but needs another to meet the short-term rental standards of 1 space per bedroom.

Mr. Brian Johnson referenced the application packet provided to all the board members and advised for them to look at the pictures included that show the presented parking space in relation to the building. He only has 8 ft from the building to the property line and wants to use that area as a designated parking space.

Mr. Johnson advised there were two letters in the packet provided that were from Mr. Ben Frantzen that explained his plans further for what he would like to do.

Chairman Springs asked if Mr. Frantzen had any questions for Mr. Johnson. Mr. Frantzen said no.

Chairman Springs asked for Mr. Johnson to pull up Mr. Frantzen's application for the variance. He pointed out that for the section "request description" Mr. Frantzen started out with saying something about a "conditional use permit" and wanted to know why that was there. Mr. Frantzen advised that he thought that was what he needed to apply for at first and then was corrected. Chairman Springs asked if anyone would be opposed to striking through the words "conditional use permit" to clear up any confusion it may cause. No one objected.

Chairman Springs made a motion to close the evidentiary hearing, seconded by Member McGill. All members in favor.

CHAIRMAN SPRINGS THEN LISTED THE FINDINGS OF FACT.

1. The applicant is Bernhard K. Frantzen.
2. The owner of the property in question is Bernhard K. Frantzen.
3. The address of the property in question is 126 Greenway Court, Blowing Rock, N.C., and its Watauga County PIN number is 2807-97-2788-000, and the building structure on the property was built in approximately 1972.
4. The property in question is zoned "CB," Central Business.
5. The applicant wants an existing parking space on the south side of the property's building structure to be useable for parking for a short-term rental business. That existing parking space is 8 feet wide and Blowing Rock Town Code section 16-20.6 requires a 9-foot-wide parking space for use with a short term rental. The applicant wants a 1 foot variance for the width of that existing parking place.
6. There are no other parties withstanding to come into this case.
7. The applicant did provide drawings or sketches and plans and pictures illustrating what the applicant wants to do.

8. The Town of Blowing Rock has provided and given all necessary legal notices of this case and this hearing. There were proper notices given to all property owners with property abutting the parcel of land that is at issue here, and proper notice was given to all persons entitled to receive notice. Notices were sent to 21 property owners.
9. The applicant did receive a copy of the Zoning Enforcement Officer's staff report prior to the meeting
10. There were no other witnesses in the hearing besides the applicant and the Zoning Enforcement Officer, Brian Johnson.
11. What the applicant is proposing would not impair emergency vehicles such as fire trucks and ambulances.
12. What the applicant is proposing would not block or impede visibility on any street or highway.
13. What the applicant is proposing would not be contrary to public health and/or safety.
14. Unique features of this property include the fact that the location for this existing parking place where the applicant is seeking the variance, is close to the existing building structure on one side and very open and not restricted on the other side. Other vehicles can pass by a vehicle parked in the parking place in question with ease.

The Board of Adjustment did adopt the above listed facts by a unanimous vote.

CHAIRMAN SPRINGS THEN LISTED THE CONCLUSIONS OF LAW.

1. Based upon the evidence presented and the facts shown above, the Board of Adjustment **FINDS** substantial material and competent evidence exists to conclude that in this case unnecessary hardship would result from the strict application of the regulation.
The board's vote on this fact was unanimous.
2. Based upon the evidence presented and the facts shown above, the Board of adjustment **FINDS** substantial material and competent evidence exists to conclude that in this case the hardship results from conditions that are particular to the property.
The board's vote on this fact was unanimous.

3. Based upon the evidence presented and the facts shown above the Board of Adjustment **FINDS** substantial material and competent evidence exists to conclude that in this case and the hardship did not result from actions taken by the applicant and property owner.

The Board's vote on this factor was unanimous.

4. Based upon the presented and the facts shown above, the Board of Adjustment **FINDS** substantial material and competent evidence exists to conclude that in this case the requested variance is consistent with the spirit, purpose and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

The Board's vote on this factor was unanimous.

5. The Board of Adjustment **DOES** grant the applicant a variance to have a parking spot of 8 ft in width instead of the regulated 9 ft allowed by Section 16-20.6.

The Board of Adjustment did adopt the above listed Conclusions of Law by unanimous vote.

Chairman Springs suggested a short restroom break from Board Members and the public.

2. Variance Request #2022-02 – Bill & Lisa Aycock for 882 Sunset Drive

Chairman Springs announced the variance request from Trent Woodcock on behalf of Lisa and Bill Aycock for 882 Sunset Dr.

Chairman Springs asked if any of the other board members had driven past the property to look at it. All members advised they had.

Chairman Springs asked if any of the board members had spoken to anyone near or around the property. All members advised they only observed the property.

Chairman Springs asked if anyone had any conflicts or bias due to relationships or family with property or property owners that would require them to remove themselves from the hearing. All members advised there was no conflict or bias.

Chairman Springs asked if anyone had engaged in any sort of ex parte communication before this hearing. All members advised they had not.

Chairman Springs asked Taylor Miller to swear in any witnesses that would be testifying in this case. Brian Johnson, Trent Woodcock, Lisa Aycock and Bill Aycock were all sworn in.

Chairman Springs looked over the variance application. Advised the applicant was Tm Construction and the owners of the property are Lisa and Bill Aycock. Chairman Springs then explained the steps of what would proceed throughout the hearing.

Chairman Springs asked if Mr. and Mrs. Aycock and Mr. Trent Woodcock if they had received a staff report for the hearing. They all said yes.

Mr. Brian Johnson gave the staff report for the variance request. Trent Woodcock, the general contractor for the property is requesting a variance on behalf of Mr. and Mrs. Aycock at 882 Sunset Drive. That property is further identified by the parcel ID of 2817-26-1994-000.

Chairman Springs interjected noting that he meant to ask if he felt like anyone had any standing towards this case. Meaning that if anyone felt that any harm would come to them or anyone else if this variance were to be approved. No one came forward.

Mr. Brian Johnson continued with the staff report. He advised they are requesting to apply section 16-12.4.6 to reduce the street setback to 23 feet from the street right-of-way/property line.

Section 16-12.4.6 states: The front yard requirements of this chapter for dwelling units shall not apply to any lot where the average setback of existing building located wholly or partially within one hundred feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case, the set back on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of twenty (20) feet from the street right-of-way lines.

The applicant is requesting relief from the existing 23 foot setback that is currently in place. They are asking for an 11 foot variance from the current 23 foot setback which would put the proposed structure 12 feet from the street if approved.

Mr. Johnson explained that the Aycock's are building a new home and a stand alone garage to go with it. The structure that will be 12 feet from the road will be the stand alone garage. There is already an existing driveway that went to a different lot that they will be utilizing for their new driveway that will lead to the new garage.

Chairman Springs requested that Mr. Johnson display the images provided in the application packet on the projector for all board members to see. Mr. Woodcock pointed out how important it is to be able to build the garage closer to the road due to the large incline and steepness of the lot.

Chairman Springs asked if all proper notices had been sent out. Mr. Johnson advised yes. Chairman Springs also asked if anyone had reached out to Mr. Johnson in reference to the specific variance request. Mr. Johnson advised he received two phone calls from two separate people but did not advise what those individuals said.

Chairman Springs asked if any members had any questions for Mr. Johnson. Mr. Walker asked if there were height requirements for the garage. Mr. Johnson advised structures are limited to 35 feet from the primary entrance.

Mr. Woodcock approached the podium. He described what the structure of the home will look like and how they will build the house on the lot. He acknowledged the extreme “drop-off” from the road down the property. They will build the house on a pedestal foundation and each side of the house will cantilever off in each direction. Mr. Woodcock described that they are able to do that for the house but not for a garage.

Chairman Springs asked Mr. Woodcock if he was aware of any easement for the property adjacent to the property in question. Mr. Woodcock said there was none that he knows of.

Mr. Springs asked Mr. & Mrs. Aycock if they knew of any easement for the property. They both advised they did not know of one and that the adjacent property owners signed over their rights to the previously existing easement. Those documents would be recorded according to Mr. Johnson.

Chairman Springs asked if anyone wanted to speak about the about the unique features of the property. They all acknowledge the steepness of property, even noted probably one of the steepest on the lots. Mr. Schiller asked what it would take to build a structural retaining wall as big as they would need to support of the garage. Mr. Woodcock advised it would be very difficult and would take an enormous amount of invasive work on the land and would cost around \$150,000.

Chairman Springs made a motion to close the evidentiary hearing, seconded by Member Walker. All members in favor.

CHAIRMAN SPRINGS THEN LISTED THE FINDINGS OF FACT.

1. The applicant is TM Woodcock Construction.
2. The owners of the property in question are Bill and Lisa Aycock.
3. The Watauga County PIN number of the property in question is 2817-26-1994-000, and the property has also become known as 882 Sunset Drive, Blowing Rock, N.C.
4. The property in question is zoned R-15.
5. The applicant wants to build a structure, a garage, on the property and build that garage closer to the street right-of-way/property line than Blowing Rock Code allows. The applicant wants to apply and utilize the administrative relief provided by Blowing Rock Code section 16-12.4.6, so as to get the street setback

distance required down to 23 feet, as measured by the Town, and then ask for a variance of 11 additional feet, making the closest point of the new garage structure 12 feet from the street right-of-way/property line.

6. There are no other parties withstanding to come into this case.
7. The applicant did provide drawings or sketches and plans and pictures illustrating what the applicant wants to do.
8. The Town of Blowing Rock has provided and given all necessary legal notices of this case and this hearing. There were proper notices given to all property owners with property abutting the parcel of land that is at issue here, and proper notice was given to all persons entitled to receive notice. Notices were sent to 13 property owners.
9. The applicant did receive a copy of the Zoning Enforcement Officer's staff report prior to the meeting.
10. The witnesses in the hearing were Trent Woodcock for applicant TM Woodcock, owners Bill and Lisa Aycok, and the Zoning Enforcement Officer, Brian Johnson.
11. What the applicant is proposing would not impair emergency vehicles such as fire trucks and ambulances.
12. What the applicant is proposing would not create a fire hazard.
13. What the applicant is proposing would not block or impede visibility on any street or highway.
14. What the applicant is proposing would not be contrary to public health and/or safety.
15. Unique features of this property include the fact that the building lot in question appears to be one of the steepest in the neighborhood, and one of the most difficult as far as accommodating construction of a house and garage.

The Board of Adjustment did adopt the above listed facts by a unanimous vote.

CHAIRMAN SPRINGS LISTED THE CONCLUSIONS OF LAW

1. Based upon the evidence presented and the facts shown above, the Board of Adjustment **FINDS** substantial, material and competent evidence exists to

conclude that in this case unnecessary hardship would result from the strict application of the regulation.

The Board's vote on this factor was unanimous.

2. Based upon the evidence presented and the facts shown above, the Board of Adjustment **FINDS** substantial, material, and competent evidence exists to conclude that in this case the hardship results from conditions that are peculiar to the property.

The Board's vote on this factor was unanimous.

3. Based upon the evidence presented and the facts shown above, the Board of Adjustment **FINDS** substantial, material, and competent evidence exists to conclude that in this case the hardship did not result from actions taken by the applicant or the property owner.

The Board's vote on this factor was unanimous.

4. Based upon the evidence presented and the facts shown above, the Board of Adjustment **FINDS** substantial, material, and competent evidence exists to conclude that in this case the requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

The Board's vote on this factor was unanimous.

5. The Board of Adjustment **DOES** grant the requested variance as shown in the applicant's variance application package. This is a variance for a setback distance variance of 11 additional feet toward the street right-of-way/property line, after application of the administrative relief provided by Blowing Rock Code section 16-12.4.6 has reduced the setback distance to 23 feet. After applying this variance of 11 feet to the 23 feet provided by section 16-12.4.6 the distance of the closest point of the new garage structure to the street right-of-way/property line will be 12 feet.

The board of adjustment did adopt the above listed Conclusions of Law by unanimous vote.

*Chairman Springs made a motion to adjourn the meeting at 7:20pm, seconded by Steven Schiller. **All members in favor.***

E.B. Springs, Chairman

Taylor Malm Miller, Planning & Zoning
Support Specialist