

## BOARD OF ADJUSTMENT

### MINUTES

**Wednesday, December 15, 2021**

The Blowing Rock Board of Adjustment met on Wednesday, December 15, 2021 at 5:30 at Town Hall. Members present were E.B. Springs, Lee Rocamora, Lance Campbell, Steven Schiller and Catherine Perry. Staff present were Planning Director Kevin Rothrock, Brian Johnson, Zoning Enforcement and Planning and Zoning Support Specialist Tammy Bentley.

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

#### **APPROVAL OF MINUTES:**

*Chairman Springs asked if there were changes to the minutes from the February 21, 2021 meeting. Chairman Springs said, at the bottom of Page 5, the minutes should read 'and there will be no finishing the attic area'. Dr. Rocamora made a motion to approve the amended minutes, seconded by Mr. Campbell. All members were in favor of the motion.*

#### **Swearing in New Members**

Chairman Springs asked that all members sworn to the Board. Chairman Springs, Dr. Rocamora, Mr. Campbell, Ms. Perry, Ms. Murphy and Mr. Schiller were sworn to the Board.

#### **Selection of Board Chair and Vice-Chair**

Chairman Springs asked for nominations for Chair. *Mr. Schiller nominated Chairman Springs, seconded by Dr. Rocamora. Dr. Rocamora made a motion to close nominations for Chair, seconded by Mr. Campbell. All members were in favor of the motions.*

Chairman Springs asked for nominations for Vice-Chair. *Chairman Springs nominated Mr. Campbell, seconded by Mr. Schiller. Dr. Rocamora made a motion to close nominations for Chair, seconded by Chairman Springs. All members were in favor of the motions.*

#### **1. Variance 2021-02 John Davis**

Chairman Springs asked Mr. and Mrs. Davis if they received the staff report from Mr. Rothrock. They said they did. Chairman Springs explained how this process works.

Chairman Springs asked if anyone feels like they are a party to the proceeding. There were none. Chairman Springs asked Mr. Rothrock if anyone requested to testify via phone or Zoom. Mr. Rothrock said no.

Mr. Rothrock, Mr. and Mrs. John Davis, Mr. Ryan Parks and Ms. Joellyn Gibbons were sworn for testimony to the Board.

Chairman Springs asked the Board members if any had conflicts of interest or had any ex-parte communications. Dr. Rocamora said he visited the site and met the owner and builder but advised them that he could not discuss the variance request. Mr. Campbell also visited the site, but no one was there. Chairman Springs said that he received an unsolicited email. Chairman Springs advised that he did not respond to the email, nor did it have any effect on his ability to serve. Chairman Springs asked Mr. Davis and Mr. Rothrock if they had any objections to him serving. Mr. Davis said he did not. Mr. Rothrock and Mr. Davis said they did not have any objections to the site visits.

Mr. Rothrock gave the staff report. John Davis, III is requesting a setback variance of 8.5 feet from the applicable 20-foot street setback to build an addition to his house. The closest point of the new proposed addition will be 11.5 feet from the property line. The property is located at 255 Hill Top Way and is further identified by Watauga County PIN 2817-14-7357-000. The property is zoned R-15, Single-family.

Mr. Davis has requested to apply Section 16-12.4.6 to reduce the street setback to 20 feet from the street right-of-way/property line. This is an administrative relief of the setback.

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 buildings 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 setback 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, whichever is greater.*

The setback of the adjacent home at 273 Hill Top Way was measured and the 20-foot setback can be utilized. However, Mr. Davis needs additional relief from the 20-foot setback and is requesting 8.5 feet of variance to build his proposed addition. The proposed addition would be 11.5 feet from the property line if the variance is approved.

Mr. Campbell asked why the 20-foot setback is not enough. Mr. Rothrock said 20 feet from is not enough to accommodate the design of the proposed addition. Chairman Springs asked the year the house was built and the zoning district. Mr. Rothrock said 1956 and that the property is zoned R-15.

Chairman Springs asked who provided the photos and diagrams. Mr. Rothrock said the applicant provided all but the aerial image.

Chairman Springs asked Mr. Rothrock if proper public notice was sent. Mr. Rothrock confirmed. Chairman Springs asked if the nearby properties received notice and how many were notified. Mr. Rothrock said yes that the notice was sent to 13 properties.

Chairman Springs asked Mr. Rothrock if he or the Town had taken a position on this variance request. Mr. Rothrock advised he had not. Chairman Springs asked if the proposed structure would impair emergency vehicle access to the neighborhood. Mr. Rothrock said no. Chairman Springs asked if it would block the line of site or be contrary to public health and safety. Mr. Rothrock said no.

Mr. John Davis thanked the Board for their time. Mr. Davis said the existing house, built in 1956, is 8'7" from the eave of the house to the right-of-way. Mr. Davis said the addition would be 3'7" further back from the existing house.

Mr. David said they have lived on Hill Top Way for 5 years not full time, but they hope to make this their full-time residence. Mr. Davis said he bought Lot 23 in 2018 and combined the two lots so he could enlarge the master bedroom and bath. Mr. Davis said Lot 23 was not buildable when he purchased it.

Mr. Davis said that he cannot reasonably use the property without a variance. Mr. Davis said that he worked closely with his builder to find a reasonable placement of the addition. Mr. Davis said he is not aware of any opposition by neighbors and hopes the Board approves his request. Mr. Davis said he has a full survey if needed.

Dr. Rocamora asked to see the floorplan. Mr. Davis explained the layout. Mr. Parks said the bedroom width is 15'4".

Ms. Joellyn Gibbons of 293 Hill Top Way said she was speaking for she and her husband. Ms. Gibbons said they are very much in favor of this being granted. Ms. Gibbons said it would make the Davis' home much more beautiful and enhance the neighborhood.

The Board discussed the findings of fact. Dr. Rocamora said if the addition were moved back the opening would be sufficient. Mr. Parks said moving the addition back would eliminate the egress window which is required by the Building Code. Mr. Parks said the entire back of the house would have to be reworked if the addition is further back. Ms. Davis added that the HVAC would be on the sidewalk.

Dr. Rocamora said the location of the addition was a personal preference. Chairman Springs noted that the location of the addition is for aesthetic reasons. Mr. Davis added that the location of the addition is a way to use Lot 23. Mr. Campbell noted that in 1956 setbacks

were not required and the existing house setback is 8'7" and the addition will be further back. Mr. Stephen Schiller asked if the cost of moving the addition back. Mr. Parks said the HVAC would be around \$700, window \$3,000. Mr. Parks added that the electrical would need to be relocated and the well-established landscaping would be lost.

Chairman Springs listed the findings of fact.

1. The applicant is John Davis III.
2. The owner of the property in question is John Davis III.
3. The address of the property in question is 255 Hill Top Way, Blowing Rock, N.C.
4. The property is zoned R-15.
5. The applicant wants to do the following, which would violate zoning regulations and which would require a variance:  
Applicant wants to build an addition onto the existing house. Applicant wants to apply the setback distance relief of Blowing Rock ordinance section 16-12.4.6, which would be a street setback of 20 feet. Then, the applicant wants a variance of 8.5 feet on that 20 feet right of way/property line setback which would result in the applicant's addition being 11.5 feet from the property line.
6. The Blowing Rock zoning code ordinance section which is at issue here and which stands in the applicant's way is Section 16-12.4.6, and put into words, the ordinance requires a setback on the front yard / street side of 20 feet from the street right of way.
7. There are not other parties with standing to come into this case and hearing.
8. The applicant did provide drawings or sketches or plans or pictures illustrating what the applicant wants to do.
9. The Town of Blowing Rock has provided and given all necessary legal notices of this case and this hearing.
10. There was proper notice of this case and hearing given to all property owners with property abutting the parcel of land which is at issue here, and proper notice was given to any other person entitled to receive notice. Thirteen (13) property owners were given notice.
11. The applicant did receive a copy of the Planning Director's staff report prior to the hearing.

12. There was another witness in this hearing besides the applicant and the Planning Director. The name of that witness is Joellyn Gibbons and her address is 193 Hill Top Way, Blowing Rock, N.C. This witness expressed no problems or objections to the applicant's plans.
13. What the applicant is proposing would not impair emergency vehicles such as fire trucks and ambulances.
14. What the applicant is proposing would not create a fire hazard.
15. What the applicant is proposing would not block or impede visibility on any street or highway.
16. What the applicant is proposing would not be contrary to public health and/or safety.
17. Unique features of this property include:  
The existing house is extremely close to the street side property line.  
The addition must go in the location sought so that it lines up with the existing bedroom.
18. The addition could be set back approximately 5 feet and 8 inches more from the property line, but for aesthetic and practical reasons the applicant really wants the addition to be sited as proposed by applicant.
19. The existing house was built 8 feet and 7 inches from the right of way/property line, and the variance request here by the applicant will have the new addition located 11.5 feet from the right of way/property line.
20. If the proposed addition were set back further from the right of way/property line than what is proposed, there would be additional costs incurred as well as a reduction in aesthetics.

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

*Chairman Springs made a motion to close the public hearing seconded by Mr. Campbell. All were in favor of the motion.*

The Board determined the following 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 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 applicant a variance as he has proposed in his application, and he may build 8.5 feet into the 20-foot setback allowed by Blowing Rock Code Section 16-12.4.6.

This decision is effective upon filing with the Clerk.

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

Having no other business *Mr. Campbell made a motion to adjourn, seconded by Chairman Springs. All members were in favor of the motion.*

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E.B. Springs, Chairman

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Tammy Bentley, Planning & Zoning  
Support Specialist