

Draft

BOARD OF ADJUSTMENT

MINUTES

Thursday January 22, 2015

The Blowing Rock Board of Adjustment met on Thursday, January 22, 2015 at 7:00 p.m. Members present were Laurin Carter, Jerry Starnes, Suzanne Wilson, Joe Papa and Dr. Charles Davant. Members absent were Annie Whatley and Terry Story. Staff present was Planning Director Kevin Rothrock and Administrative Assistant Tammy Bentley.

Dr. Davant, acting as Chair, called the meeting to order at 7:10 p.m.

APPROVE MINUTES:

Mr. Starnes made a motion to approve the minutes from September, 2013. Ms. Wilson seconded the motion. All were in favor of the motion.

New member Laurin Carter was sworn to the Board.

Kevin Rothrock, Mr. John Chilman, Mr. David Chilman and Mr. Doug Matheson were sworn in for testimony to the Board.

Mr. Rothrock reviewed the staff report and PowerPoint presentation for the board in reference to Variance #2015-01:

John and Parichehre Chilman are requesting a setback variance of 7 feet from the standard 12-foot setback from both side property lines and the rear property line to allow a single-family structure to be built. The Applicant requests a perpetual variance to be recorded with the title of the property. No variance is requested from the street setback. The property, Lot 10 of the Lila Spilman Subdivision, is located on Wallingford Street and is further identified by Watauga County PIN 2807-86-4922-000. The property is zoned R-15, single-family.

Dr. Davant asked Mr. Rothrock if the surrounding property owners had been notified. Mr. Rothrock responded yes and added that he had spoken with Ms. Kathy Dacchille and the Mathesons.

Dr. Davant asked if town staff has concerns with the storm water run-off. Mr. Rothrock said that Ms. Dacchille was concerned about the run-off and he told her that the run-off would be taken care of on the applicant's property.

Mr. Starnes asked if the run-off would be culverted through the center of the property. Mr. Rothrock said he would let the applicant answer.

Attorney Nathan Miller spoke for the applicant. He asked the Board to focus on the proposed site plan; that at this point they don't have an answer on the existing ditch. He said that they don't think the water in the ditch is a stream and that the Army Corps of Engineers concurs. He said that the variance is needed because the ditch runs through the property and is quite big, especially in some places. He added that they were coming before this Board because this is the first step of many more steps to go. He said that they will need Army Corps of Engineers, State, and Town permits and currently the property cannot be used because of the ditch. He said that they need a variance no matter where the house is situated. He added that they don't know if the ditch can be moved or piped. He also asked that the variance be granted in perpetuity.

Dr. Davant said that variances run with the land and they did not need to request perpetuity. Mr. Rothrock said that variances can be temporary and need to be approved specific to a length of time.

Mr. Papa asked if the variance is for the site plan presented. Mr. Miller said the site plan is moveable, but the 7 foot variance is not. He added that is too early in the process to provide a definite site plan. Mr. Papa said that he was worried about the house being so close to the neighbors. Mr. Miller said that the surrounding properties that currently have houses on them cannot build another house on their property and that the only adjoining vacant lot has plenty of land to build on. Mr. Papa said that he was ok with the variance request based on the proposed site plan, but is hesitant to approve since the house can be situated anywhere within the setbacks. Mr. Miller said that having to deal with 3 agencies makes siting the house difficult and that they did not want to get approval from the other agencies only to have the Town deny the variance.

Ms. Carter asked for confirmation that the applicant cannot proceed without the variance. Mr. Miller confirmed.

Mr. John Chilman addressed the Board. He said that he and his wife have owned a home on Spruce Road for at least 21 years and their increasing age makes getting downtown increasingly difficult to get to Main Street. He added that they bought the Wallingford Street lot 9 years ago and they are still battling getting a house on the site.

Mr. Miller asked Mr. Chilman if his intent was to build a single family home on the property. Mr. Chilman confirmed. Mr. Miller asked Mr. Chilman how many family members would use the house. Mr. Chilman said that his children and grandchildren would use the home.

Mr. Miller asked Mr. Chilman if the Army Corps of Engineers had been to the site. Mr. Chilman said yes, and their conclusion was that there was not a water course on the property and that it would not be under their jurisdiction. Mr. Miller asked if Mr. Chilman's understanding was that the ditch could be culverted. Mr. Chilman said yes, that was his understanding.

Mr. Miller asked Mr. Chilman if his desired placement of the house is that of the site plan presented to the Board. Mr. Chilman said yes, but that the footprint may need to shift to accommodate the ditch. Mr. Miller asked Mr. Chilman if the house will face Wallingford Street. Mr. Chilman said yes.

Ms. Wilson asked Mr. Chilman the size of the house. Mr. Chilman said it would be 2400 to 2500 square feet.

Ms. Carter asked if the culvert would support the quantity of dirt required to cover it. Mr. Chilman said yes. Mr. Miller added that a permit will not be issued without an engineer's report stating such.

Mr. Miller asked Mr. Chilman if the house must be moved would it be on top of any neighbors. Mr. Chilman said no. Mr. Miller asked Mr. Chilman if the Mathesons supported the variance request. Mr. Chilman said yes.

Mr. David Chilman, Mr. John Chilman's son, explained the photos of the site to the Board as he had taken them. Mr. Miller asked Mr. Chilman if the current setbacks were strictly complied with and the ditch could not be covered, could a house be built. Mr. Chilman said no, that that would be highly impractical. Mr. Miller asked Mr. Chilman if the ditch affects any other properties. Mr. Chilman said no. Mr. Miller asked Mr. Chilman if he had dug the ditch, to which he answered "no".

Ms. Carter noted that the run-off over the years has made a big gully and that a culvert would stop that.

Dr. Davant asked Mr. Rothrock if there was any chance the Army Corps of Engineers would require culverting. Mr. Rothrock said no.

Mr. Miller asked Mr. John Chilman what would happen to the property when he and his wife pass. Mr. Chilman said it would pass to their children. Mr. Miller asked Mr. Chilman why they wanted the variance to run with the land. Mr. Chilman said that he and his wife are both in their 80s and their future is uncertain.

Mr. Doug Matheson addressed the Board. He said that he was here in support of the project and that he has known that the ditch would be an issue for any owner and has watched the ditch grow larger. He said that the Chilman's investment would be a nice addition to the neighborhood.

Mr. Starnes said that the Board needs to answer the questions. Mr. Rothrock said that supporting facts should be stated.

Ms. Carter said that the applicant must have the variance to move forward. She added that the lot is ugly and if it is maintained, the ditch will not grow.

Dr. Davant noted that the subdivision was platted in 1950 before zoning was adopted.

Mr. Rothrock told the Board to consider these facts in their deliberations.

- 1) The ditch on the lot makes siting of a house within the current setbacks difficult;
- 2) The difficulty of pinning down the Army Corps of Engineers without going through the entire process; and
- 3) That the lot was created in 1950.

The Board discussed the issues and what guidelines must be met to approve the request.

- a) Strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance. **Mr. Starnes made a motion to find for the applicant. Mr. Papa seconded. All members were in favor of the motion.**
- b) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. **Mr. Papa made a motion to find for the applicant. Ms. Wilson seconded. All members were in favor of the motion.**
- c) In the granting of the variance the public safety and welfare have been secured and substantial justice has been done. **Mr. Starnes made a motion to find for the applicant. Ms. Carter seconded. All members were in favor of the motion.**

Mr. Starnes made a motion to grant the variance for 7 feet from the standard 12 feet setback on all sides to run with the land in perpetuity. Mr. Papa seconded the motion. All were in favor of the motion.

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

Mr. Miller thanked the Board for their time and consideration.

Ms. Carter made a motion to adjourn. All members were in favor of the motion.

Adjourn

With no further business, the Board adjourned at 8:00 p.m.

Dr. Charles Davant, Acting Chairman

Tammy Bentley, Administrative Assistant