

## BOARD OF ADJUSTMENT

### MINUTES

Thursday, April 27, 2017

The Blowing Rock Board of Adjustment met on Thursday, April 27, 2017 at 5:30 p.m. Members present were Suzanne Wilson, Tom Dixson, EB Springs and Harrison Herbst. Members Jerry Starnes, Dr. Charles Davant, Laurin Carter, Lance Campbell and Terry Story were absent. Staff present were Planning Director Kevin Rothrock and Planning and Zoning Support Specialist Tammy Bentley.

Mr. Dixson called the meeting to order at 5:30 p.m.

#### **APPROVE MINUTES:**

*Mr. Springs made a motion to approve the minutes from October, 2016. Ms. Wilson seconded the motion. All were in favor of the motion.*

#### **Variance 2017-01 David Sweet**

Kevin Rothrock, and Mr. Sweet were sworn in for testimony to the Board.

Mr. Rothrock reviewed the staff report and PowerPoint presentation provided by the applicant for the Board in reference to Variance #2017-01:

David Sweet is requesting a setback variance of 2.4 feet from the standard 8-foot setback to construct a garage 5.6 feet from the rear property line. The property is located at 156 Green Street and further identified by Watauga County PIN 2807-89-5074-000. The property is zoned R-6M, multi-family. There are two residential structures located on this property.

Mr. Sweet is requesting relief from the rear setback of his property to add a garage to the existing 2 story house. The rear of the existing house encroaches into the rear setback about 2 feet and if the variance is approved, Mr. Sweet could line up the rear building walls of the existing house and the proposed garage. An alley runs behind the property and serves the neighboring property to the west. If approved, the proposed garage would be 10.5 feet from the edge of the alley at the closest point.

Mr. Rothrock asked Mr. Sweet if his intent is have the back wall of the garage be in line with the existing back wall of the house. Mr. Sweet confirmed. Mr. Rothrock told the Board that

the setback amount could change as a result of aligning the garage back wall with the existing house wall.

Mr. Springs asked if this was the house that in involved in a fire. Mr. Sweet and Mr. Rothrock confirmed. Mr. Springs asked if this construction will be part of repairing the fire damage. Mr. Sweet confirmed.

Mr. Rothrock told the Board that they must vote on all determinations and that the vote must be unanimous for the variance to be granted. Mr. Rothrock added that the Board could suggest a lesser setback.

Mr. Sweet addressed the Board. He said there is an existing alley way along the back side of the house that is further from the house than the property line and that this alley cannot be expanded or moved without expending considerable funds. He added that he wanted to align the back side of the house and that, in his opinion, no one would be damaged by granting this waiver.

Ms. Wilson asked Mr. Sweet the depth of the garage. He replied 24 feet.

Mr. Dixon asked Mr. Sweet if the variance is not approved will the garage be built. Mr. Sweet said yes, and added that no garage is ever big enough.

Mr. Springs asked Mr. Sweet if he would agree to the variance being approved with the understanding that the garage will not be extended any further on the left side of the property. Mr. Sweet confirmed and added that he plans to put a driveway on the left side of the house to access the back alley. Mr. Rothrock said the driveway can be added without a zoning permit.

Mr. Springs asked about the roof line of the garage. Mr. Sweet said that it will follow the roof line of the main house and added there will be a bedroom over the garage.

Mr. Sweet shared a rear elevation of the property with the Board.

Mr. Herbst asked if this is mainly aesthetic. Mr. Sweet confirmed.

Mr. Dixon said this looks very nice and from his perspective he is not sure that there is a hardship if the variance is not granted.

Ms. Wilson noted that building costs would increase if the garage is not built in line with the house.

Mr. Springs said that he doesn't like the facts, but we are stuck with them. He added that they could see if the garage could be located elsewhere on the property, but it did not appear to be possible.

Mr. Sweet said the garage could be freestanding, but he wants to be able to access the main level of the house from the garage.

Mr. Springs said this could be called an aesthetic hardship. Mr. Sweet said yes, but not when considering carrying cargo from a detached garage in a pouring rain.

Mr. Springs asked who owns the alley. Mr. Sweet said he is not sure.

Ms. Wilson asked Mr. Rothrock if he had checked on the alley ownership. Mr. Rothrock said staff could not determine ownership; it is a platted alley and probably privately owned.

Mr. Herbst asked Mr. Sweet how this request impacts the construction. Mr. Sweet said he is trying to tie into the existing walls and roofs; that it is easier to line up to the existing structure. Mr. Sweet added that the shed roof will be removed and the garage roof and house roof line will match.

Mr. Springs asked Mr. Rothrock if the drawings will become part of the 'forever' record. Mr. Rothrock said that variances are recorded, but that attachments are not recorded. Mr. Springs said the attachments need to be recorded. Mr. Rothrock said they can be added to the variance.

Mr. Herbst asked when the setback was established. Mr. Rothrock said 1984.

Mr. Dixon asked if the alley way and uniqueness could be a factor.

Mr. Dixon asked who received notice of the meeting and if staff had heard from anyone. Mr. Rothrock said notice was mailed to all property owners within 150 feet of Mr. Sweet's property and that staff has not heard from anyone. Mr. Sweet said that Mr. David Beach and Ms. Susie Green are ok with the variance.

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. There is no level of hardship required by the Land Use Code.
2. The property was in the setback when Mr. and Mrs. Sweet purchased it.
3. An unattached garage is a hardship and the design presented makes sense.
4. The unclaimed alley way creates a peculiarity and the inability to determine the owner of the alley is a hardship.
5. Aesthetics are better in the proposed design.
6. Access to the garage from the alley is not possible due to the grade.
7. Construction methods pose a hardship to the Applicant.

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 garage wall and house wall and garage overhang and house overhang match, seconded by Ms. Wilson. **All members were in favor of the motion.***

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

With no further business, the Board adjourned at 6:05 p.m.

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Mr. Tom Dixson, Chairman

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Tammy Bentley, Planning & Zoning  
Support Specialist