



**CITY OF LINCOLNTON
BOARD OF ADJUSTMENT**

PO DRAWER 617, LINCOLNTON, NC 28092

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BOARD MEMBERS: Gene Poinsette, Chair, poinsetteg@charter.net ; Änd Lynn, Vice-Chair, andmlynn@gmail.com ; Jamel Farley, afarley2351@gmail.com; Becky Burke, beckyburke940@gmail.com ; Jerry Hoffman, jlskhoffman@charter.net.

Tuesday, February 20, 2018 Meeting

Present: Gene Poinsette, Änd Lynn, Jerry Hoffman, Jamel Farley, Becky Burke

Absent: none

Call to Order

Chairman Gene Poinsette called the meeting to order and recognized that all members were present for a quorum.

Approval of Minutes

Chairman Gene Poinsette asked the Board if there were any additions or corrections to the minutes of the January 16, 2018 meeting.

Motion: Änd Lynn made a motion to approve the minutes. Becky Burke seconded. Motion carried unanimously.

BOA-2-2018

A Variance application from Jeff R. Hurt is for the subdivision of a single parcel of land. Once divided, one of the parcels will meet the minimum lot size of 10,000 SF and the second lot will not being 6,500 SF. The subject property is located on 527 North Flint Street (Parcel 15459).

Jean Derby swore in Brett Hicks and Jeff Hurt.

Brett Hicks addressed the Board, noting the following:

The subject property is located at 527 North Flint Street. The site is zoned Residential-10 (R-10) and the total property size is .38 acres.

The variance request is to subdivide a single parcel to create two individual parcels: one of

approx. 10,000 square feet and one of approx. 6,500 square feet. The R-10 district requires a minimum lot size of 10,000 square feet. The owners of 527 Flint Street and 612 Alexander Street (an adjacent property) have entered into an agreement to purchase if the requested variance is approved. An abandoned alleyway between 612 Alexander Street and 527 North Flint Street is currently preventing ease of combining the 527 Flint Street portion with 612 Alexander Street. The owner of 612 Alexander Street is moving forward, has legal representation to gain ownership of this abandoned alleyway, and once this is completed, will combine his current property with the subdivided section of 527 North Flint Street (which houses the accessory building) and the abandoned alleyway into one parcel.

UDO Requirements

- 10,000 square foot lot size is required.

Findings of Fact

1. Unnecessary hardship would result from the strict application of the zoning regulations.
 - a. (It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.)
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
 - a. (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.)
3. The hardship did not result from actions taken by the applicant or the property owner.
 - a. (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.)
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Staff Comments

- The current owner of 612 Alexander Street has tried to acquire the portion of 527 North Flint Street through a normal purchase process. However, the abandoned alleyway has presented an obstacle. Once the alleyway has been legally obtained the owner will legally combine that with his existing property in addition to the portion of 527 North Flint Street into one parcel, meeting all requirements.
- The temporary variation from the minimum lot size does not appear to create a threat to public safety.
- The applicant will be able to provide additional information, at the meeting, regarding how the four findings of fact are met.

Mr. Hurt explained that he had the approval of every adjacent land owner with the exception of one. That landowner passed away and left the property to his children and it has been abandoned for years. The son is stationed in Hawaii and he cannot locate the daughter.

After a lengthy discussion and several clarifications from the Applicant and adjoining property owner and input from the City Attorney, Chairman Gene Poinsette asked if there was a motion.

Motion: And Lynn made a motion to approve the application. Jerry Hoffman seconded. Motion carried unanimously.

BOA-3-2018 – A Variance application from Glenda Garrison Richards is for an accessory structure on a residential parcel of land. The accessory structure will not meet the required side yard setback of 10 feet. The subject property is located at 6 Circle Drive (Parcel 22499)

Jean Derby swore in Susan Peal.

The subject property is located at 6 Circle Drive. The site is zoned Residential-8 (R-8) and the total property size is .17 acres.

A 10' X 12" accessory building was placed on the property without obtaining zoning or building permits. The City received a complaint about the building several years after construction. Accessory building was found to be located within the right side setback. The ordinance requires that the accessory building be ten (10) feet from the side property line.

The variance request is to allow the building to stay in the same location, which is approximately one (1) to two (2) feet from the property line on the side.

UDO Requirements

- Side Yard Setback Requirement – ten (10) feet

Findings of Fact

5. Unnecessary hardship would result from the strict application of the zoning regulations.
 - a. (It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.)
6. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
 - a. (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.)
7. The hardship did not result from actions taken by the applicant or the property owner.
 - a. (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.)
8. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Staff Comments

- Notwithstanding the fact that the building was placed on the property without the proper permits, the property size is small (0.17) acres. The existing house sits approximately five (5) feet from the street right of way of Circle Drive, thirteen (13) feet from each of the side property lines and approximately ninety (90) feet from the rear property line. Based on the pie shape of this lot this could potentially be a hardship as there is very little room to place any accessory building on the property.
- The accessory building does not appear to create a threat to public safety.
- The applicant will be able to provide additional information at the meeting, regarding how the four findings of fact are met.

After a brief discussion, Chairman Gene Poinsette asked if there was a motion.

Motion: And Lynn made a motion to approve the application. Becky Burke seconded. Motion carried unanimously.

Chairman Gene Poinsette asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

Motion: Jamel Farley made a motion to adjourn. And Lynn seconded. Motion carried unanimously.

Jean Derby