

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, September 14, 2021
1:30 p.m. in the City Operations Center

The Hendersonville Board of Adjustment held its regular monthly meeting on September 14, 2021 at 1:30 p.m. in the Assembly Room in City Operations Center, 305 Williams Street, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Barbara McCoy, Roger Woolsey, Libby Collina, Charles Webb, Kathy Watkins, Lew Holloway, Community Development Director, Matt Manley, Planning Manager, Tyler Henry, Code Enforcement Officer, Alex Hunt, Planner and Secretary to the Board Terri Swann.

Absent: Chris Freeman, Steve Smith, Candi Guffey

Chair called the meeting to order at 1:27 p.m.

Approval of the Agenda: A motion was made by Ms. Watkins and seconded by Mr. Woolsey to approve the agenda. The motion passed unanimously.

Approval of the Minutes of the June 8, 2021 meeting. A motion was made by Mr. Woolsey and seconded by Ms. McCoy to approve the minutes as written. The motion passed unanimously.

Approval of the Decisions for a variance application from Doyle Barnes – 1523 Druid Hills Avenue and a variance application from Inez Diaz – 636 Midway Street. A motion was made by Ms. Collina to accept the Decisions as written. Mr. Webb seconded the motion which passed unanimously.

Variance – Dennis Dunlap – 1600 Four Seasons Boulevard

Chair swore in all persons to give testimony. Those sworn in were Tyler Henry, Code Enforcement Officer, Dennis Dunlap and Tracie Fowler.

Chair opened the public hearing.

Tyler Henry, Code Enforcement Officer with the City of Hendersonville stated his name and title for the record. He asked that the staff reports, and attachments be entered into evidence for this hearing.

Mr. Henry stated the Community Development Department has received an application from Dennis Dunlap for a variance from Section 5-8-3 of the Zoning Ordinance. The request is for 15' on the required 15-foot side setback to construct an addition to the existing building.

Mr. Henry stated the following concerning the subject property:

- The subject property is identified as PIN 9579-13-8904 and is currently zoned C-3, Highway Business.

- The lot size is approximately 20,908 sq. ft. This is well within the required minimum lot size for non-residential uses in the C-3 zoning district which is 10,000 sq. ft.
- Based on Henderson County building records, the building located on the property was built in 1984.
- The proposed addition to the building is 16' (W) x 30' (L) x 14' (H) on Side A of the building.

Mr. Henry stated the applicant is claiming that they are unable to build the addition on Side B of the existing building because of the bad soil conditions consisting of loose backfill that was not properly compacted and is unsuitable to build on. The addition will be a pull-thru garage.

Photos were shown of the property. An image of the building was shown with the addition. It was not drawn to scale.

Mr. Henry stated based on the staff review of the applicant's information there is a suggested motion for the application. The motion is to be made in the affirmative.

Chair asked if there were any questions for staff. There were no questions for staff.

Dennis Dunlap, Dunlap Construction, 720B N. Grove Street stated Jiffy Lube had approached him about building the addition. Van Clinkscales had done a survey on the property and that is when he realized this would not meet the setback requirement for the side of the building. The property slopes down to a steep bank. This addition is a drive-thru garage with an alignment machine. They did consider the other side but the fill dirt has settled and caved in about seven feet and the soil is not suitable to build on.

Chair asked if there were any questions for the applicant.

Mr. Mowell asked if this is a drive-thru bay and if there would be a pit underneath. Mr. Dunlap stated this was the old Fire Department building and there is a basement underneath. There will not be a pit underneath the addition. It is just an alignment machine.

Ms. Collina asked if the soil on Side B could be removed and filled with more stable soil. Mr. Dunlap stated with the grade and slope and how the area drops about seven feet it would not be possible to build on that side now.

Mr. Woolsey asked if there would be a wall on that side. Mr. Dunlap stated no it is a standard slope and is not greater than 45 feet so he would not have to construct a wall..

Chair asked if there were any further questions for the applicant. There were no further questions.

Chair asked if anyone else would like to speak in favor of the project. No one spoke. Chair asked if anyone would like to speak in opposition. No one spoke.

Chair closed the public hearing for Board discussion.

Ms. Watkins made the following motion: With regard to the request by Dennis Dunlap for a variance from Section 5-8-3 to reduce the side setback required by Section 5-8-3 of the Zoning Code for C-3, Highway Business Zoning District from 15' to 0', I move the Board to find that (a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant, (b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Accordingly, I further move the Board to grant the requested variance in accordance with and only to the extent represented in the application. Mr. Woolsey seconded the motion.

Chair called for the vote. The following vote was taken by a show of hands.

Mr. Woolsey	Yes
Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. McCoy	Yes
Ms. Watkins	Yes
Ms. Collina	Yes

The vote was unanimous. Motion approved.

Variance– Tracie Fowler– 526 Fleming Street

Mr. Henry asked that the staff report and application be submitted into the record. He stated his name and title for the record.

Mr. Henry stated this application is for a variance from Section 6-2-4: Repairs and Maintenance. The request is to repair a legal non-conforming use beyond 10% of the total taxable value withing a 12-month period.

Mr. Henry stated the following concerning the subject property:

- The subject property is identified as PIN 9568-68-2651 and is zoned MIC, Medical Institutional and Cultural.
- The lot size is approximately 31,363 sq. ft. This is well within the required minimum lot size for the MIC zoning district (8,000 sq. ft.).
- Based on the Henderson County building records, the dwelling units located on this property were built in 1960.
- The MIC zoning district was established on March 4, 1965.
- When the MIC zoning district was originally formed, multi-family dwelling units including apartments were permitted uses.
- Staff could not establish any evidence that the use on the property ever changed or ceased for a period of time greater than 180 days since the creation of the MIC district.

- The use on the property is considered to be a legal, non-conforming use by staff.
- According to Henderson County building records, at the time of this report the property is valued at \$423,639.
- The applicant has submitted two project proposals in the amounts of \$768,200 and \$766,750.

Mr. Henry showed the estimates on the screen along with the photos of the property and structures.

Mr. Henry stated based on the staff review of the applicant's information there is a suggested motion for the application. The motion is to be made in the affirmative.

Chair asked if the Board had any questions for staff. There were no questions.

Tracie Fowler, applicant stated she is not sure what the age of the buildings are but she estimated them to be 80+ years. The materials that were used are no longer used and are expensive. There is no practical way to do this, but they are wanting to bring the properties up to a modern look and functionality.

Ms. Watkins asked if this was just for the small building. Ms. Fowler stated no, it is for all the buildings. It will not be an exact replica. There are two duplexes and a cottage on the property and the larger house is the baseline for a more consistent look and still represent the original style.

Mr. Woolsey asked if she plans to change the main building. Ms. Fowler stated yes, not the footprint, but they will change the exterior (replacing siding, roof and decking). The two cabins will be upgraded.

Ms. Watkins asked if the property would need approval from the Historic Preservation Commission. The applicant stated no, it would not.

Ms. Collina asked what the applicant planned to do with the property. Ms. Fowler stated it will be short term/vacation rentals. Ms. Collina asked if she planned to do the work all at once or in phases. Ms. Fowler stated they will do the work over a course of a year and in phases. Ms. Fowler stated they are almost at the breaking point of making this work.

Chair asked if the buildings were rented out now. Ms. Fowler stated yes, and those tenants will have the option to continue to rent after the remodeling is finished. Chair asked how many tenants were there now. Ms. Fowler stated 7 to 9.

Chair asked if there were any further questions for the applicant. There were no further questions.

Chair asked if anyone else would like to speak in favor of the project or if anyone would like to speak in opposition.

Chair swore in Jim Crafton.

Jim Crafton, First Baptist Church stated he has a couple of questions and is not necessarily opposed to this application. Will the buildings be on septic or city sewer? There is drainage

from the wall that has weep holes in it. Ms. Fowler stated it is on city sewer. Mr. Crafton stated in the pictures it shows landscape changes and he would ask that the changes not create surface run-off onto the church property.

Chair asked if anyone else would like to speak. No one spoke.

Mr. Mowell asked what the history was on the maintenance and repairs and not exceeding 10% of the current assessed taxable value. He would like to hear from staff after the meeting.

Chair closed the public hearing for Board discussion.

Mr. Mowell made the following motion: With regard to the request by Tracie Fowler for a variance from Section 6-2-4 to renovate structures serving a legal, nonconforming use beyond 10% of the total taxable value of the property within a 12 month period, I move the Board to find (a) strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant, (b) the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, and (c) in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Accordingly, I further move the Board to grant the requested variance in accordance with and only to the extent represented in the application. Mr. Webb seconded the motion.

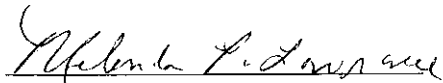
Chair called for the vote. The following vote was taken by a show of hands.

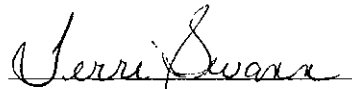
Mr. Woolsey	Yes
Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. McCoy	Yes
Ms. Watkins	Yes
Ms. Collina	Yes

The vote was unanimous. Motion approved.

Lew Holloway, Community Development Director stated he did not have any specific insight on when or why the 10% cap was put into place. He stated the goal for nonconforming uses is to remove that use over time and if in fact it is a nonconforming use they do want it to go away eventually and this cap provides a way to do this.

Meeting adjourned a 2:00 p.m.


Melinda Lowrance, Chair


Terri Swann, Secretary