

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, April 13, 2021
1:30 p.m. in the City Operations Center

The Hendersonville Board of Adjustment held its regular monthly meeting on April 13, 2021 at 1:30 p.m. in the Council Chambers in City Hall, 160 6th Avenue East, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Chris Freeman, Ernest Mowell, Roger Woolsey, Libby Collina, Charles Webb, Barbara McCoy, Vice-Chair, Steve Smith, Kathy Watkins, Candi Guffey, Matt Manley, Planning Manager, Angela Becker, City Attorney, Tyler Henry, Code Enforcement Officer and Secretary to the Board Terri Swann.

Chair called the meeting to order at 1:31 p.m.

Approval of the Revised Agenda: A motion was made by Mr. Freeman and seconded by Ms. McCoy to approve the revised agenda. The motion passed unanimously.

Approval of the Minutes of the March 9, 2021 meeting. A motion was made by Ms. McCoy and seconded by Mr. Freeman to approve the minutes as written. The motion passed unanimously.

Approval of the Decision for a variance from Tim Cagle (File No. V-03-09-01), 305 Blythe Street. A motion was made by Mr. Freeman to accept the decision as written. Mr. Mowell seconded the motion which passed unanimously.

Variance – Craig Payne – Lot 2 Laurel Spring Lane

Chair swore in all persons to give testimony. Those sworn in were Tyler Henry, Code Enforcement Officer and Craig Payne, applicant.

Chair opened the public hearing.

Application for a variance of Section 5-3-3 on the front setback requirement for the property located at Lot 2 Laurel Spring Lane.

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 this variance is for Lot 2 of Laurel Spring Lane PIN # 9568-16-8927. The subject property is currently zoned R-15, Medium Density Residential. The front setback requirement is 30 feet. The applicant is proposing this to be an 8-foot setback.

Mr. Henry stated on the screen is the proposed hardships stated by the applicant. The applicant is claiming natural barriers specific to the topography and slope of the parcel itself and there is a road barrier that exists and cuts through the front third of the parcel. The slope of the land between the roadbed and the front of the parcel is 25 to 35 degrees and behind the roadbed to the property line it increases in slope to 40 to 60 degrees.

Mr. Henry presented an image of the subject property on screen. The minimum lot size for the R-15 district is 15,000 square feet. This subject property is 20,473 square feet which meets the minimum lot size requirement. The preexisting roadbed outlined by the brown line shows where the roadbed exists on the property. Again, the applicant states that the slope is between 25 and 35 degrees for the front of the property between the property line and the roadbed and beyond the roadbed to the back property line it increases to 40 to 60 degrees. The applicant is proposing to build a single family dwelling between the roadbed and the front property line.

Mr. Henry showed the site plan of the property. You will notice the 8-foot front setback is between the front property line and a small portion of the front of the house. The remainder of the house will be on average 14 feet from the front property line.

Mr. Henry stated based on the staff review of the applicant's information there is a suggested motion for the application.

Chair asked if there were any questions for staff.

Ms. Collina asked if this was an unopened road or a trail, or what is this actually. Mr. Henry stated there appears to be no connection to any existing road now. It appears that the road that was there was an old access road to get to a property that was further down. Ms. Collina stated this is not like an unopened road that was platted in the city. We do have those in the city, and this is not what that is, correct? Mr. Henry deferred this question to the applicant.

Craig Payne state his name. He stated Lot 2 is the proposed property then there is Lot 3 and Lot 4 and that is a driveway that went to an old house on Lot 3 and the garage was on Lot 4. The roadbed was the driveway originally.

Mr. Woolsey asked if this was a new subdivision. Mr. Payne stated it is a new subdivision of 8 lots. The old home has been removed.

Ms. Guffey asked if the applicant would be building on Lot 3. Mr. Payne stated that is a separate parcel with a different owner.

Mr. Payne stated his address is 12 Flycatcher Way in Arden, North Carolina. He stated to start off with the word hardship is in there but there are so many people that are suffering right now, he wouldn't consider this a hardship. He is trying to build on virgin soil. He has 18 years of experience and he would always choose to build on virgin soil. Also, it reduces his impact on the land. It is a much more simplified smarter way to build on this property. The roadbed creates potential engineering issues that he doesn't know about yet because he has not gotten an engineer out there to look at the back two-thirds of the property. It is ridiculously steep.

Chair asked if there were any further questions for the applicant.

Ms. Watkins stated she rode out there and asked if he had built the two houses that are currently there. Mr. Payne stated no. Ms. Watkins stated in the picture of the land where the house will be built it is very steep. Would he have to backfill where the parking is? Mr. Payne stated the idea is to do what is called a suspended slab for the parking and the garage and the lower level would be what is called superior wall on a gravel footer. The suspended slab, the further you go back it gets significantly more expensive and he will need

engineering on that roadbed, and it would make it more complicated. He also stated his father would be in a wheelchair soon and he would like to have the home handicap accessible and the closer he is to the street the more accessible it will be for him.

Ms. Collina asked if the driveway would be suspended. Mr. Payne stated kinda, the superior walls will come up vertically and then the suspended slab system that you won't see, that is steel, and the slab will be poured on that. Ms. Collina stated from the road to his garage will he fill in and build his driveway on gravel or will his driveway be built on corrugated metal. Mr. Payne stated it will be a suspended slab driveway and you will see superior walls on each side and so it will not be open underneath.

Ms. Watkins stated none of that will cause erosion problems that close to the street. Mr. Payne stated no, it will actually help it because it will make it a little more solid.

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 Mr. Craig Payne for a variance from Section 5-3-3 of 22' on the required 30' front setback to construct a single-family dwelling on Lot 2 of Laurel Spring Lane with a PIN of 9568-16-8927, 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. Woolsey seconded the motion.

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

Mr. Woolsey	Yes
Mr. Freeman	Yes
Mr. Webb	Yes
Ms. McCoy	Yes
Ms. Lowrance	Yes
Mr. Mowell	Yes
Ms. Collina	Yes
Ms. Watkins	Yes
Ms. Guffey	Yes
Mr. Smith	Yes

The vote was unanimous. Motion approved.

Meeting adjourned a 1:53 p.m.


Melinda Lowrance, Chair


Terri Swann, Secretary