



Board of Adjustment Regular Meeting

June 27, 2023

Call to order

Board Chair Greg Gardner called the Board of Adjustment regular meeting to order at 1:00 p.m.

I. Roll Call

Board Members Present:

Mr. Greg Gardner, Chair
Mr. Wyn Hardy
Mr. Al Joyner
Mrs. Kimberly Sayles, Alternate (Serving)
Mr. Rick Spruill, Alternate (Serving)

Absent:

Mr. Neil Gurney, Vice Chair
Mr. Melvin Owensby
Mr. Mark Windfeldt, Alternate

Town Council Members and Town Representatives present:

Michael Williams, Community Development Director
Richard Carpenter, Development and Environmental Review Specialist
Kimberly Martin, Community Development Administrative Support Specialist
Commissioner David DiOrio, Council Liaison

II. Approval of Agenda

The agenda for the June 27, 2023 Board of Adjustment meeting was reviewed. **Mr. Al Joyner made a motion to approve agenda, as presented. Mr. Wyn Hardy seconded. All voted in favor.**

III. Approval of Minutes

The minutes from the May 23, 2023 Board meeting were reviewed. **Mrs. Kimberly Sayles made a motion to approve the May 23, 2022 meeting minutes, as presented. Mr. Hardy seconded and all voted in favor.**

IV. Public Comments

There were no comments from the public.

V. Old Business

There was no old business to discuss.

VI. New Business

A. *Variance Request: ZV2023006 regarding 142 Palmer Place for minimum side yard setback variance to add an accessory storage shed to single family home parcel.*

Chair Gardner explained the quasi-judicial hearing process and rules.

The following individuals were sworn in:

Michael Williams, Community Development Director

Richard Carpenter, Development and Environmental Review Specialist

Steven White, Property Owner

There were no challenges for cause or ex-parte communication. Mr. Joyner explained that he knows the applicant, but did not speak with them about the variance.

Director Michael Williams explained that the applicant is requesting a minimum side yard setback variance to add an accessory storage shed to a single family home parcel located at 142 Palmer Place. Director Williams displayed a photograph of the storage shed. Director Williams added that the variance would reduce the setback to 19 inches from the property line and from the adjacent property which is owned by Fairfield Mountains Property Association. It was noted that the parcel has uneven slopes and a lot of trees. Director Williams summarized that the applicant is requesting a variance for a 12' x 16' shed, which was placed on the site because the applicant noted that it was level and accessible. Director Williams expressed that the Board's decision should be based on substantial hardship. Director Williams noted that Fairfield Mountains Property Association had expressed that they have no issues with the structure and there were no other communications from neighboring property owners.

Mr. Joyner asked if the topography is the reasoning for the request and Director Williams answered yes. Mr. Joyner asked if there is another location within the setback that is accessible. Mr. Steven White, property owner, explained that there is a significant slope which makes that lot the only buildable space and added that the Property Association cannot build on the adjacent lot. Mr. Hardy asked if the shed is already built and Director Williams answered yes and that Rumbling Bald Resort had

permitted the structure, but the Town permits were not issued before the structure was built.

Mr. White noted that a permit was obtained from the Resort and he later found out that the conditions were not met. Mr. White also noted that it is on his property, is caddy-cornered from the proposed line, and both sides adjacent to the structure drop-off.

The testimony was closed and the Board began deliberation.

Board members discussed that there were no other locations for the shed to be constructed on the property and it was permitted by the Fairfield Mountain Property Association (Rumbling Bald).

Board members reviewed the following criteria:

1. Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district?

The Board determined that there are extraordinary and exceptional conditions pertaining to the property because of the topography.

2. Will granting the variance requested confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located?

The Board determined that granting the variance will not confer upon the applicant any special privileges.

3. Would a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located?

The Board determined that literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

4. Will the requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare?

The Board determined that the variance will be in harmony with the purpose and intent of the chapter and will not be injurious to the neighborhood or to the

general welfare. It was noted that this structure was approved by the Property Association.

5. Are the special circumstances the result of the actions of the applicant? What are any special circumstances due to?

The Board determined that the special circumstances are not the result of the actions of the applicant and are due to topography.

6. Is the variance requested is the minimum necessary for the proposed use of the land, building or structure?

The Board determined that the variance requested is the minimum necessary for the proposed use of the land, building, or structure.

Mr. Rick Spruill made a motion to grant Variance Request: ZV2023006 regarding 142 Palmer Place for minimum side yard setback variance to add an accessory storage shed to single family home parcel. Mr. Joyner seconded and all voted in favor.

B. Variance Request: ZV2023007 regarding 110 Church Street for front yard setback variance to add a small deck and handicap ramp to existing single family home.

Mr. Joyner explained the quasi-judicial hearing process and rules.

The following individuals were sworn in:

Michael Williams, Community Development Director
Richard Carpenter, Development and Environmental Review Specialist
Melissa Price, Property Owner

There were no challenges for cause or ex-parte communication.

Director Williams explained that the variance request is for a handicapped ramp and connecting deck. Director Williams noted that the applicant's husband is handicapped and has accessibility issues. It was detailed that property owner's house is built right on the setback and slopes make it difficult to put the ramp and deck in a difference location. Director Williams noted that the ramp will extend to the driveway and that the ramp is permitted, but the issue is the connecting deck. Director Williams asked the applicant if the deck could be smaller and the applicant expressed concern regarding increased difficulty with wheelchair access with a smaller deck. Director Williams noted that the deck would be extending 7 ft. from the house and that 4 ft. is the limit. Board

members reviewed a visual of the property and requested deck. Development and Environmental Review Specialist Richard Carpenter explained that the deck would be 18 ft. from the center of the road, which is his only concern. Mrs. Sayles asked if it is a major or minor street and Specialist Carpenter answered minor.

Mrs. Melissa Price, property owner, requested a variance for a deck running the width of the house (27 feet) and extend from the house 7 feet and will be built in conjunction with the accessibility ramp. Mrs. Price noted that there is already a 7 ft. walkway and steps in place, which is the reason she is requesting the 7 ft. extension from the house. It was noted that the ramp would span from the deck to the parking area. Mrs. Price explained that there is only one part of the yard that is navigable at this time. Mr. Price detailed that the reason for the deck is for a wheelchair to be able to be turned easily and it will be more attractive. Mrs. Sayles asked if the deck will have railings and covered roof and Mrs. Price answered that it will have railings, but no covered roof. Mr. Hardy asked if it is a free standing deck and Mrs. Price answered that it will be attached to the house. Mr. Joyner asked if there is a slope in the yard and Mrs. Price answered yes, which is why the ramp cannot be constructed in a different location. It was noted that azaleas will have to be moved. Photos of the property were reviewed.

Director Williams commented that the only element that will require a variance is for the extra 3 ft. of the deck. Mrs. Price noted that the extra feet are for better wheelchair navigation.

Mrs. Price thanked the Board.

The testimony was closed and the Board began deliberation.

Board members discussed that they have no issues with the request. It was noted that there were no comments from neighboring property owners.

Board members reviewed the following criteria:

1. Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district?

The Board determined that there are extraordinary and exceptional conditions pertaining to the property because of the topography, proximity to the setback, and Americans with Disabilities Act (ADA) compliance.

2. Will granting the variance requested confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located?

The Board determined that granting the variance will not confer upon the applicant any special privileges.

3. Would a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located?

The Board determined that literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

4. Will the requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare?

The Board determined that the variance will be in harmony with the purpose and intent of the chapter and will not be injurious to the neighborhood or to the general welfare. It was noted that the variance would improve public safety.

5. Are the special circumstances the result of the actions of the applicant? What are any special circumstances due to?

The Board determined that the special circumstances are not the result of the actions of the applicant.

6. Is the variance requested is the minimum necessary for the proposed use of the land, building or structure?

The Board determined that the variance requested is the minimum necessary for the proposed use of the land, building, or structure.

Mr. Hardy made a motion to grant Variance Request: ZV2023007 regarding 110 Church Street for front yard setback variance to add a small deck and handicap ramp to existing single family home. Mr. Gardner seconded and all voted in favor.

VII. June Department Report

Director Williams provided the Board with a department report for the month of June.


VIII. Adjournment

Chair Gardner asked for a motion to adjourn the Board of Adjustment regular meeting at 1:55 p.m. Mr. Spruill made motion to adjourn and Mr. Joyner seconded. All members voted in favor.

ATTEST:



Olivia Stewman, Town Clerk



Greg Gardner, Board Chair