

Town of Weaverville

Zoning Board of Adjustment
Minutes – Monday, May 8, 2017

The Zoning Board of Adjustment of the Town of Weaverville met for its regularly scheduled monthly meeting at 7pm on Monday, May 8, 2017 in council chambers at Town Hall at 30 South Main Street, Weaverville.

Present: Chairman Al Root, Board Members Paul Clauhs, Tycer Lewis, Jeff McKenna and Cynthia Wright, Alternate Member Roger Parkin, Town Attorney Jennifer Jackson and Town Planner James Eller.

1. Call to Order

Chairman Al Root called the meeting to order at 7:00pm.

Chairman Root gave those in attendance a description of the quasi-judicial process to which the Zoning Board of Adjustment is bound and read for the record the standards applied to situations where variances are requested.

2. Public Hearing Regarding an Application for a Variance on an Unaddressed Parcel on West Street, PIN: 9742-25-3578. The Nature of Said Variance is from the Minimum Lot Area and Minimum Lot Width Established by the Zoning Code on a Nonconforming Lot of Record.

Mr. Eller briefly described the application including the applicant, the location of the property and the nature of the variance being requested.

Ms. Wright motioned to enter the public hearing. Mr. Clauhs seconded and all voted unanimously.

The Board, upon question by the Chairman, reported no conflicts of interest or ex parte communication.

Mr. Eller, on behalf of the Town and Ms. Dorsey, the applicant were identified as parties to the matter and sworn in. Shana Brookshire and Lori Nelson were identified as possible witnesses and were also sworn in.

Mr. Eller presented the following items which were entered into evidence for consideration:

Exhibit 1-A: affidavit of posting, Exhibit 1-B: affidavit of mailing and Exhibit 1-C: affidavit of publication showing that the public hearing has been duly advertised. Exhibit 2: a packet of information submitted to the Board in which the following items were included. Section 36-328 – Powers and Duties of the Zoning Board of Adjustment; Section 36-21 – Nonconforming lots of record; Section 36-106 – Table of dimensional requirements; a statement prepared by staff addressing the question of jurisdiction and precedents related to the requested variance; the variance application; a map of the property from the Buncombe County GIS and the plat of the property recorded in 1910.

Chairman Root asked Ms. Dorsey if she had any questions for Mr. Eller and she denied.

Ms. Dorsey testified to the Board that the property was under contract to be sold contingent to the issuance of a variance to make the lot buildable. Mr. Lewis spoke to Ms. Dorsey to ensure that the setback regulations placed upon the property were understood. Mr. Root asked Ms. Dorsey if all three nonconforming lots under her ownership were purchased simultaneously and she confirmed.

Ms. Dorsey called upon Ms. Brookshire to testify as a witness. Ms. Brookshire testified that she was the representing agent for the property and was assisting the applicant in the proposed sale. She noted that an additional home on West Street would add and not detract from the neighboring property values. Mr. Eller had no questions related to Ms. Brookshire's testimony.

Ms. Dorsey called upon Ms. Nelson to testify as a witness. Ms. Nelson testified that she was the representing agent of a proposed buyer of the property in question. She noted that her clients proposed purchase of the property was contingent upon the issuance of a variance to make the lot buildable. Mr. Eller had no questions related to Ms. Nelson's testimony.

Chairman Root asked Mr. Eller if there were any precedents related to variances granted to nonconforming lots of record. Mr. Eller identified 124 and 126 South Main Street which were recorded in 1920 and had achieved variances related to minimum lot area and minimum lot width from the Zoning Board of Adjustment in July of 2013.

Ms. Jackson noted to the Board the standards which must be considered when reviewing a variance application.

Mr. Lewis motioned to exit the public hearing. Mr. Clauhs seconded and all voted unanimously.

3. Consideration of a Motion Establishing a Ruling on the Aforementioned Application for a Variance.

Mr. Lewis motioned to approve the variances requested from the minimum lot area and minimum lot width with the condition that the setback requirements of the R-1 Zoning District are still observed. Ms. Wright seconded and all voted unanimously.

4. Public Hearing on an Application for a Variance on the Property Commonly Known as 11 Lakeshore Drive, PIN: 9742-16-0551. The Nature of Said Variance is from the Setback and Yard Use Limitations Established by the Zoning Code.

Mr. Eller briefly described the application including the applicant, the location of the property and the nature of the variance being requested.

Mr. Clauhs motioned to enter the public hearing. Mr. Lewis seconded and all voted unanimously.

The Board, upon question by the Chairman, reported no ex parte communication. Mr. Lewis identified a possible conflict of interest due to the proximity of property under his ownership to that of the applicant. Chairman Root asked if Mr. Lewis had a fixed opinion on the matter due to the location of the property and Mr. Lewis denied.

Mr. Eller, on behalf of the Town and Mr. Morris, the applicant were identified as parties to the matter and sworn in. No possible witnesses were identified.

Mr. Eller presented the following items which were entered into evidence for consideration:

Exhibit 1-A: affidavit of posting, Exhibit 1-B: affidavit of mailing and Exhibit 1-C: affidavit of publication showing that the public hearing has been duly advertised. Exhibit 2: a packet of information submitted to the Board in which the following items were included. Section 36-5 definitions, specifically setback and yard, front; Section 36-106 Table of dimensional requirements; the variance application and a map of the property from the Buncombe County GIS.

Chairman Root asked Mr. Morris if he had any questions for Mr. Eller and he denied.

Mr. Morris testified to the Board that the restrictions placed upon his property constituted an undue hardship, the hardship results from conditions peculiar to the property and that said hardship is not a result of any action he has taken.

Mr. Lewis motioned to exit the public hearing. Mr. Clauhs seconded and all voted unanimously.

5. Consideration of a Motion Establishing a Ruling on the Aforementioned Application for a Variance.

Ms. Wright motioned to approve the variance requested from the yard use limitations to permit the applicant to construct a residential garage on a portion of the property in front of the building line. Mr. McKenna seconded and all voted unanimously.

6. Any Other Business to Come Before the Board.

No further business was discussed.

7. Adjournment.

Mr. Clauhs motioned to adjourn. Mr. Lewis seconded and all voted unanimously.

**Al Root, Chairman
Zoning Board of Adjustment**

ATTEST:

**James W. Eller
Town Planner / Deputy Town Clerk**