

The Board of Adjustments met Monday, April 18, 2022, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle; Frank Lamia; Donna Cook; Ryan Baker, Alternate II; Hunter Simmons, Planning and Zoning Manager; and Allie Knutson, Secretary.

Absent: Mike Baugh and Casey Potts, City Planner.

Chairman Vira called the meeting to order at 5:00 PM.

Approval of Minutes

Cathy Slagle made a motion to approve the minutes from the March 21, 2022, meeting.

Frank Lamia seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Frank Lamia, and Donna Cook.

Nay: None.

Abstain: Ryan Baker.

BOA 22.04 Public hearing to consider the request of the Applicant, Rob Littleton, acting on behalf of the Owner, Patricia Niemeyer, for a 14' front setback variance as well as a 30' rear setback variance. The property is approximately 0.28 acres and is located at 863 Creek Drive. PPIN#: 63531

Hunter Simmons, Planning and Zoning Manager, presented the case summary and showed an aerial of the property.

The property is zoned R-1, Low Density Single-Family and if approved, the rear setback for this lot would be 5' in lieu of the required 35' and the front setback would be 26' in lieu of the required 40'. This property was considered by the Board of Adjustments in BOA Case 14.01. In 2014, the applicant was granted a 30' variance to the rear setback and a 10' variance to the front setback due to the shape of the property. The variance expired because it was not acted upon and was not recorded.

Overhangs and eaves are allowed to go 2' over the setback line. The applicant's proposed plan includes a 4' overhang over the setback line, but also includes a 3' eave for a total of 7' over the setback line. Staff's adjusted site plan was shown that translates the proposed dwelling within the setbacks as they were approved in 2014 if moved to the Southwest.

There is a hardship present as the lot has an unusual pie shape where a 40' front and rear setback meet each other over most of the lot. A portion of the area that does not have overlapping front and rear setbacks contains wetlands.

Recommendation:

Staff recommends denial of the 30' variance request to the rear setback and 14' variance request to the front setback.

Staff does not support the variance to the front setback of 14'. However, staff supports a variance to the front setback of 10' and a variance to the rear setback of 30', as originally approved in BOA 14.01.

Cathy Slagle asked about the 20' wetland buffer versus the 30' wetland buffer in the County. Mr. Simmons stated that new subdivisions have a 30' wetland buffer, but there was no wetland protection in the Zoning Ordinance or Building Code when some of the older lots were created so a 20' wetland buffer applies per building permits.

Cathy Slagle asked where the driveway would be, and Mr. Simmons stated that a driveway is something that would be looked at during the building permit and that a wetland delineation was done. Even with the wetland buffer, the house would be able to be moved to the Southwest within the setbacks of the variance that was approved in 2014.

The Applicant, Rob Littleton, 302 Poplar Place, stated that he thought the original variance that was granted in 2014 would run with the land and did not know it would expire. Since then, the lot has shrunk and changed significantly since the flood in 2014. He stated that he would like to be able to back their airstream in under the proposed overhang and eave and that shifting the house would put the driveway into the wetlands more.

Donna Cook asked what the footprint of the house is. Mr. Littleton stated it is 16'x48'.

Mr. Simmons stated that regarding the driveway, there are allowances to crossing wetlands where you are land locked. But, if there is another means of access, Erik Cortinas, Building Official, most likely will not allow any more encroachment into the wetlands. Being able to back an airstream in would not be a good enough reason to cut into wetland buffers for a driveway.

Chairman Vira asked why the driveway could not be on the east side of the property. Mr. Littleton stated that he wanted a circular driveway and that the house had been designed to fit inside the setbacks. Frank Lamia replied that the pylons were within the setbacks, but the house was not.

Ryan Baker asked for clarification for what the objections were to moving the home to the Southwest, other than parking the trailer, and stated that variances are granted based on hardships. Mr. Littleton responded by saying that he had no other objections. Mr. Simmons also mentioned that variances are tied to the land, they are not tied to existing floor plans. Mr. Littleton responded that he would like to have the original variance of 10' front and 30' rear, granted again, but that there would be an overhang. Mr. Simmons stated that would be a denial of a building permit.

Patricia Littleton (Niemeyer), 302 Poplar Place, stated that they she did not know the original variance would expire and since then, the lot has shrunk significantly. There is no way to access the property from the other side due to storm drains and power poles. None of the neighbors have any objection to the new variance they are requesting. Ryan Baker asked Mrs. Littleton to clarify the hardship in better detail as the only hardship being described is so they can pull an airstream in. Mrs. Littleton stated that according to staff, they are going to have to move the current driveway

further to the east to get it out of the wetland buffer, thus, they would also have to move the house plans, which will not work. Mr. Simmons clarified that the current driveway is not the problem, it's extending the driveway under the house that gets into the wetland buffer. A permit will not be issued if there are other alternatives.

Mr. Littleton stated that their building permit was denied because of the overhang. Mr. Simmons replied that they allow a maximum 2' of overhang, but they are requesting 7' over the property line.

Donna Cook asked if there had been other variances on the surrounding lots. Mr. Simmons stated that he believes that there have been other variances granted.

Chairman Vira opened the Public Hearing.

Lisa Adams, 860 Creek Drive, stated that she has lived on Creek Drive for twenty-five years and that Patricia Niemeyer has been a neighbor with environmental integrity for sixteen years. Ms. Adams stated that she and her neighbors had no objection to the requested variance and did not believe that the wetlands would be damaged in any way.

Chairman Vira closed the Public Hearing.

Cathy Slagle asked if the applicants would have to re-apply for the 2014 variance from Case BOA 14.01, if the variance for BOA 22.04 was denied. Mr. Simmons stated that they could approve the variance as requested or approve anything less than what had been requested.

Frank Lamia asked if plans for the proposed driveway had been submitted. Mr. Simmons stated that none of the plans submitted portrayed the driveway. Cathy Slagle asked if the proposed driveway plans would be checked in relation to the wetlands. Mr. Simmons stated that they would be and that wetlands can be accessed if there is no other point of access on the lot.

Motion:

Cathy Slagle made a motion to deny Case BOA 22.04 for the request of a 14' front setback and 30' rear setback variance. However, does support the variance that was granted in 2014 for Case BOA 14.01, for a front setback of 10' and a rear setback of 30'.

Ryan Baker seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Frank Lamia, Donna Cook, and Ryan Baker.

Nay: None.

Mr. Simmons reminded the Applicant and Owner that the variance would expire if not acted upon and recorded in 365 days and that a Notice of Action Letter would be sent to them.

Old/New Business

Mr. Simmons stated that there would be two cases on the agenda for next month.

Adjournment

Ryan Baker made a motion to adjourn.

Donna Cook seconded the motion and the motion carried unanimously with the following vote:

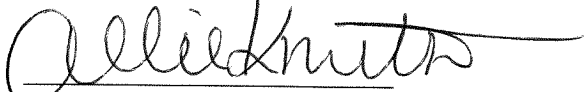
Aye: Anil Vira, Cathy Slagle, Frank Lamia, Donna Cook, and Ryan Baker.

Nay: None.

Adjourned at 6:01 p.m.



Anil Vira, Chairman



Allie Knutson, Secretary