



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & Development Director

DEPARTMENT: Planning & Development

MEETING: Board of Adjustment – 2/16/2021

SUBJECT: Variance to the required 7.5' side yard setback to 5.9' for 167 Delaware Ave Lot 18

BACKGROUND:

The applicant J&S Land Development LLC, is requesting a variance of 1.6' from Section Sec. 40-74. - Dimensional standards for lots and principal structures that requires a 7.5' side yard setback. The property is located at 167 Delaware Ave is in the R-1B zoning district. The property consists of two 60' X 105' lots that were platted in 1939 as part of the Northern Section of Carolina Beach (LOTS 18/19 BLK 204). The former owner of the property purchased the two lots in 1955 and built the current single-family house in 1963. The house was built 4.1' over the property line that encroaches onto lot 19. When a building is proposed over property lines the lots should have been combined into one lot at the time of permitting. This was never done, and the heirs of the property sold both lots to the applicant.

To resolve the situation the applicant proposes to relocate the interior property line 10 feet to the north to create a 50' lot width for lot 19 from the original 60' width. The minimum lot width of the R-1B zoning district and per the subdivision regulations is 50'. The existing house would then be reconfigured on a 70' width lot (lot 18) to solve the encroachment issue onto lot 19. Any new property line would need to meet the required 7.5' side yard setback from the existing house. The existing structure is setback 5.9' from the proposed property line. Lot 19 currently has an accessory structure that is proposed to be removed. The applicant is seeking a variance to build on Lot 19 without having any encroachments from lot 18 on the property.

REQUIRED FINDINGS:

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

CONDITIONS:

In granting any variance, the Board may prescribe reasonable and appropriate conditions and safeguards, in conformity with this ordinance. Violation of any such conditions or safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article 19 of the Zoning Ordinance:

If the board supports the findings staff recommends the below condition for the variance

The variance is granted for the existing house only and any new structures on the property shall conform to the setback requirements.

Attachments

1. Application
2. Proposed Subdivision Plat
3. Northern Extension Plat of 1939 Lot 18 & Lot 19 Block 204
4. Deed for lot 19
5. Deed for lot 18
6. Map of Recombination Determination by staff