

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, August 8, 2023
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held its regular monthly meeting on August 8, 2023, 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, Ernest Mowell, Vice-Chair, Charles Webb, Kathy Watkins, Chauncey Whiting, Laura Flores, Lynette Oliver, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney and Lew Holloway, Community Development Director.

Absent:

Chair called the meeting to order at 1:40 p.m.

Approval of Amended Meeting Schedule: A motion was made by Mr. Mowell to approve the amended meeting schedule. Mr. Whiting seconded the motion which passed unanimously.

Approval of the Agenda: A motion was made by Mrs. Watkins to approve the agenda. The motion was seconded by Mr. Whiting and passed unanimously.

Variance – Elizabeth Collina – 869 Thornton Place (B23-064-VAR).

Chair stated today we have one public hearing to consider. A variance request from Elizabeth Collina for the property located at 869 Thornton Place. Any persons desiring to testify in these hearings must first be sworn in. Since this is a quasi-judicial hearing, it is very important that we have an accurate record of what goes on here. Therefore, we must ask that you refrain from speaking until recognized by the Chair and, when recognized, that you come forward to the podium and begin by stating your name and address. Anyone present who has knowledge of anything of value that has been given or promised in exchange for a position to be taken on this application should disclose it now.

Chair swore in all persons to give testimony.

Chair opened the public hearing.

Alexandra Hunt, Planner I stated her name and title for the record. She stated staff is in receipt of an application from Elizabeth Collina for a variance from Section 5-3-3 Dimensional Requirements in accordance with the definition of rear yards in Section 12-2-2 Definition of Terms to reduce the required 15' rear setback requirements to 7'.

Ms. Hunt gave the project background:

The subject property is identified as PIN 9569-51-0060 and is zoned R-15, Medium Density Residential.

The variance request is to reduce the current 12' rear setback to 7' for the purpose of constructing an 8' x 20' elevated rear deck. There is a diagram shown in your staff report that also depicts the requested variance. That will be shown later in the presentation.

The subject property is located at 869 Thornton Place. It is zoned R-15, Medium Density Residential and is approximately 0.46 acres or 20,037.6 sq. ft. The subject property currently contains a single-family residential dwelling. On February 14, 2017 the Board of Adjustment granted a variance to reduce the rear setback from the required 15' to 12' due to the steep topography of the parcel to construct the single-family dwelling that exists today.

The Henderson County GIS parcel map was shown of the property.

Site photos of the property were shown.

An example of a cantilevered deck was shown.

A diagram that staff produced as a visual aid for the requested variance was shown and explained.

Section 10-9 of the Zoning Ordinance states that a variance constitutes permission to depart from the literal requirements of the ordinance. In order for a variance to be granted, the findings of fact in subsections 1-4 of Section 10-9 must be made.

Staff suggested motions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

Chair asked if anyone would like to speak concerning the application.

Elizabeth Collina, 869 Thornton Place stated her property was a difficult lot to build on from the start. This was a challenging place to build a house. She would now like to add a deck to the rear.

Daniel Heyman, Staff Attorney asked Ms. Collina if she was a member of the Board of Adjustment and if she had recused herself from consideration of this application because she was the applicant. Ms. Collina stated she was a member and she had recused herself. The Board agreed that Ms. Collina had been recused.

Mr. Mowell stated the variance is peculiar to the lot as this is an oddly shaped lot.

Ms. Watkins asked about the shrubs in the rear of the property. Ms. Collina stated she planted those and they would stay.

Mr. Mowell made the following motion: *With regard to the request by Elizabeth Collina for a variance from Section 5-3-3 Dimensional Requirements in accordance with Section 12-2-2: Definition of Terms – "Rear Yard" to: Reduce the rear setback requirement from 12' to 7' for the addition of an 8' x 20' rear deck. I move the Board to find that: 1. An unnecessary hardship would result from the strict application of the ordinance. 2. The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. 3. The hardship did not result from actions taken by the applicant or the property owner. 4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.*

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

Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. Flores	Yes
Ms. Oliver	Yes
Ms. Watkins	Yes
Mr. Whiting	Yes

The vote was unanimous. Motion approved.

Meeting adjourned at 2:15 p.m.

Melinda Lowrance, Chair

Terri Swann, Secretary