

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, July 9, 2024
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held their regular meeting on July 9, 2024, at 1:30 p.m. in the Council Chambers in City Hall, 160 6th Avenue East, Hendersonville, North Carolina. Those present were: Ernest Mowell, Vice-Chair, Charles Webb, Reid Barwick, Libby Collina, Laura Flores, Sam Hayes, Planner II, Tyler Morrow, Current Planning Manager, Daniel Heyman, Staff Attorney.

Absent: Kathy Watkins, Mark Russell, Steve Saalfeld, Chauncey Whiting, Lynette Oliver

Chair called the meeting to order at 1:30 p.m.

Approval of the Agenda: A motion was made by Mr. Barwick to approve the agenda. The motion was seconded by Ms. Collina and passed unanimously.

Approval of the minutes of the December 5, 2023 meeting. A motion was made by Mr. Barwick to approve the minutes as written. The motion was seconded by Mr. Webb and passed unanimously.

Election of Chair and Vice-Chair. Mr. Mowell was elected Chair with a unanimous vote. The Board decided to elect a Vice-Chair at this hearing. Mr. Barwick was elected Vice-Chair with a unanimous vote.

Variance – 911 Tebeau Drive – (B24-038-VAR). Chair stated today we have one public hearing to consider. A variance from Linda Carter of WCCA, Inc. for the property located on 9th Avenue West (PIN 9569-40-8533). 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 these applications should disclose it now.

Chair swore in all persons to give testimony. Linda Carter, Margot Nelson, David White, Tyler Morrow and Sam Hayes were sworn in.

Chair opened the public hearing.

Sam Hayes, Planner stated his name and title for the record. He formally entered the staff report and presentation into the record. He stated the City is in receipt of an application from Linda Carter, Children's Services Director at WNC Source for an application for authorization to construct a 14' by 20' storage building on their property. The subject property possess a PIN 9569-40-8533 and is zoned R-15 Medium Density Residential, which does not allow Childcare services as a usage within the district. On May 12, 2021, the Board of Adjustments voted to grant the applicant's request to alter a structure that houses a nonconforming use, thereby allowing the applicant to establish their childcare center. The current application for authorization is to extend the nonconforming use by authorizing the construction of a 14' x 20' storage building for the storage of playground equipment.

Mr. Hayes gave the project background:

The subject property is located at 911 Tebeau Drive and is flanked to the north by Thornton Place and to the south by 9th Avenue West. The property is broken into two separate parcels, the left parcel is the subject parcel where the storage building will be constructed. The left parcel is approximately 1 acre or 43,560 square feet. The subject parcels contains a portion of the childcare center as well as a fenced in play area.

Site photos were shown and are included in the staff report.

The proposed site plan was shown and is included in the staff report. Mr. Hayes stated aside from the nonconforming use, the applicants site plan complies with all requirements in the R-15 zoning district which is shown on the right of the slide.

Mr. Hayes gave a recap and stated R-15 Medium Density Residential which makes the childcare a nonconforming use. With the applicants request to place a 14' x 20' storage building on the property, they are requesting to extend the nonconforming use. Section 6-2-1 (b) of the zoning ordinance is applicable for this project.

Mr. Hayes stated as mentioned before, this request for authorization is dealing with a nonconforming use in a residential district. Per the ordinance, no nonconforming use shall be enlarged, extended, reconstructed, moved or structurally altered unless such building or structure thereafter is devoted to a conforming use. However, the Board of Adjustment may authorize enlargement or extension if the following findings of fact are met: 1. The proposed enlargement or extension shall be de minimis in relation to the existing building or structure. 2. The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use. 3. The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances. 4. The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

Staff suggested motions were presented to the Board.

Mr. Hayes stated the applicant is present.

Mr. Hayes stated he will answer any questions the Board may have.

Chair asked if the property already is already nonconforming. Mr. Hayes stated yes.

Mr. Barwick asked if all neighbors were notified. Mr. Hayes stated yes they were notified by mail and could attend the hearing. Mr. Barwick asked if there were any calls from the neighbors. Mr. Hayes stated no.

There were no further questions for staff.

Chair asked the applicant to address the Board.

Linda Carter, Children's Services Director 220 King Creek Boulevard stated they had been before the Board before and took the Hendersonville School for Little Folks and did a major renovation and expanded a little bit to maximize all of the internal space of the two buildings so they could be licensed for up to 95 children. The back building will house about 54 children and the front building will house the remaining children. They maximized the internal space as much as they could to get as many children as they could. When they bought the property it did not have any external storage and that has

been a problem. They really do not have anywhere to put the small bicycles or tricycles and they cost anywhere from six to eight hundred dollars each and are very expensive. They have other equipment on the playground that they need to store. Some of that is for their developmental day for children with special needs. A lot of that equipment is very expensive and it is sitting outside and is exposed to the weather and could easily be stolen. They are looking to put the 14' x 20' storage building on the site and it visibly blends in with the other buildings. It is not obtrusive. It will help them store all the playground equipment that they need to store.

There were no questions for the applicant.

Chair asked if there was anyone that would like to speak in favor of the application. No one spoke. Chair asked if there was anyone that would like to speak against the application. No one spoke.

Chair closed the public hearing for Board discussion.

Ms. Collina asked about the location. It was stated it is close to Thornton Place. She asked if there was a rendering. Mr. Hayes stated there was not. Images of the property were shown. The Board had other discussion pertaining to the need for the storage building.

Ms. Flores made the following motion: ***With regard to the request by Linda Carter (Western Carolina Community Action, Inc.) for the Board of Adjustment to authorize the extension of a structure that contains a nonconforming use located on parcel 911 Tebeau Drive (PIN 9569408533), under Section 6-2-1 – Nonconforming Uses to: Construct a 14' x 20' storage building on the rear corner of the property to be used for nonconforming use. I move the Board to find that: 1. The proposed enlargement or extension shall be de minimis in relation to the existing building. 2. The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in gross floor area for a nonresidential use. 3. The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances. 4. The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare. Mr. Barwick seconded the motion.***

Chair stated this is not a variance and therefore does not require seven members.

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

Mr. Mowell	Yes
Mr. Webb	Yes
Mr. Barwick	Yes
Ms. Flores	Yes
Ms. Collina	Yes

The vote was unanimous. Motion approved.

Meeting adjourned at 1:56 p.m.

Ernest Mowell, Chair

Terri Swann, Secretary