



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
JANUARY 25, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday January 25, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Enyonam Williams, Chuck Truby, Sarah Wood and Mark Cummings. Planning Department staff were: Loray Averett and Nicole Smith; and Jennifer Schneier, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the November Board of Adjustment minutes, as submitted, seconded by Mr. Truby. The Board members voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Loray Averett and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there were no Continuances or Withdrawals.

OLD BUSINESS

None

NEW BUSINESS**VARIANCE**

- (a) BOA-16-01: **815 ROLLINGWOOD DRIVE** Austin and Erin Hill request a variance from a minimum front setback requirement. **Variance:** A recently constructed covered porch encroaches 5.2 feet into a 50.75 foot average front setback. Section 30-7-1.4, Present Zoning-R-3, (Residential Single-family), Cross Street-Kemp Road, West. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a recently constructed front porch to an existing single-family dwelling which encroaches approximately 5.2 feet into a required average front setback of approximately 50.75 feet. The porch is setback approximately 45.5 feet from the front property line. The lot is located on the north side of Rollingwood Drive east of Kemp Road, West. Tax records reflect the lot size is approximately 15246 square feet. The house was originally built in 1969. The existing house is located approximately 56 feet from the front property line. The house had an uncovered front entry area that measures approximately 11 feet by 11 feet. The applicant recently covered the front entry area with a new roofed structure. The newly covered front porch is required to meet the average setback of the other houses as described in the above referenced ordinance. There were a total of four houses that were used to calculate the average front setback for the subject property. Two of the houses are located east of the subject site and two were located west of the subject site. They are addressed as 809, 811, 817 and 819 Rollingwood Drive. Their combined setbacks averaged 50.75 feet. In 2014, Council adopted infill standards for residential single family homes and effective April 4, 2014 infill standards for residential front setbacks were implemented. The applicant is requesting to be allowed to maintain the front porch which will be approximately 45.5 feet from the front property line instead of the averaged setback of 50.75 feet. The applicant was approved to complete the garage construction as this permit was not in conflict with the front porch construction. Upon learning they needed a variance to be able to be granted a building permit for the front porch construction, the applicant immediately stopped construction and filed the variance request. The applicant is aware that if the variance is not approved, they will be required to remove the front porch construction or appeal the Board's decision to superior court. The R-5 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Austin Hill, the applicant, was sworn in and stated that they feel that they need a covering over the porch to protect the home from the weather, the excessive heat sweating the paint and making the door handle too hot to touch. They have had a number of issues with water seeping under the door and some rotting on the rim joists and some moisture inside the house. A roof covering over the front porch was the best way to address these issues. In response to

questions, Mr. Hill stated that there was an existing porch on the home but, it was previously not covered. There are other covered porches throughout the neighborhood.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

All Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Eckard moved that in regard to BOA-16-01, 815 Rollingwood Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardship will result to the property by applying strict application of the Ordinance because the applicant would not be able to keep the proposed cover for the front porch due to the setback, which is larger. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the owners were not aware of the new Ordinance when they purchased the house and assumed it was a 25' setback for RS-3 zoning on residential property and their general contractor did not inform them about the need for a permit. The hardship is not the result of the applicant's own actions because the porch is existing and does have the raised roofing and it is original and built in 1969 and the applicant is not changing the footprint of the house and they are basically trying to improve and preserve the exterior of the house and to reduce damages from weather related issues. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the porch roof is similar to other porches nearby the porch is harmony with the neighborhood. The covered porch will add value to their property and hopefully strengthen the value of their neighborhood, seconded by Ms. Blackstock. The Board voted unanimously in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Cummings. Nays: None.)

- (b) BOA-16-02: **2109 MEDFORD LANE** William E. Bowman requests a variance from a minimum side setback requirement. **Variance:** A proposed carport addition attached to an existing house will encroach 7 feet into a 10-foot required side setback. Section 30-7-3.2, Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street-West Cornwallis Drive. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed carport which will encroach approximately 7 feet into a required 10-foot side setback. The lot is located on the western side of Medford Lane north of West Cornwallis Drive. Tax records reflect the lot size is approximately 37,026 square feet. The lot is rectangular shaped and contains approximately 3 time the depth of the lot width. The existing house was originally built in 1975. The applicant is proposing to construct an attached carport to the house. The carport is proposed to be constructed 19 feet wide by 22 feet deep for a total of 418 square feet. The existing house was constructed centered to the lot. The area for the carport is proposed on the north side of the

house. The rear portion of the property contains a water feature (pond/lake) and the elevations slope downward away from the existing house grade. The property area located adjacent to the proposed carport location does contain established landscaping consisting of trees and vegetative growth. The applicant has mentioned the proposed location and design of the carport will complement the existing architectural style of the house. The R-3 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

William Bowman, the applicant, was sworn in and stated that he appreciates the help that was provided by the Planning Department staff. He wishes to build a carport on his house which would be in harmony with the community as there are several houses in the immediate area that have covered carports. There is already an existing slab where the cars are parked and this would not in any way interfere with public safety. He has not modified that portion of the house during the time he has lived there, since 1986. This seems like a very reasonable addition. He has discussed this with the neighbors that would be most affected, directly across the street and directly north of his property and they have no objections to the proposed covered carport on the property. If he has to make the carport any smaller, it would not accommodate two vehicles.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

All Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Mr. Truby moved that in regard to BOA-16-02, 2109 Medford Lane, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardship will result to the property by applying strict application of the Ordinance because the applicant would not be able to construct the proposed carport. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the pond at the rear of the property prevents expansion to the rear. The carport would be placed over the existing driveway and slab and works with the current entrance to the house. The hardship is not the result of the applicant's own actions because the house and driveway have been in existence since 1987 and this is the logical placement for the proposed carport. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the closest house to the carport is 35' and the carport will add value to the house, possibly increasing property values in the neighborhood, seconded by Ms. Eckard. The Board voted unanimously in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Cummings. Nays: None.)

- (c) BOA-16-03: **3609 KIRBY DRIVE** Carol London requests a variance from a minimum side setback requirement. **Variance:** A proposed addition will encroach approximately 3.3 feet into a 10-foot required side setback. Sections 30-7-3.2 & 30-2-4.1, Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street-Wedgedale Avenue. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed bathroom/laundry addition. The addition will encroach 3.3 feet into a 10-foot side setback. The property is located on the south side of Kirby Drive, east of Wedgedale Avenue and is zoned R-3. The property contains a single family dwelling. The applicant is requesting to add a 12 foot by 6 foot bathroom/closet addition. The addition is proposed at the rear of the existing house. It will encroach about the same as the existing line of the house on the eastern side lot line, which is 3.3 feet. The property report indicated the house was constructed in 1948. The house is nonconforming in setbacks on both sides. The existing house is setback 8.5 feet on the western side line and 6.7 feet on the eastern side lot line. The lot is also nonconforming as it is required to have 12,000 square feet in lot area. The lot has approximately 11,325 square feet in area. The 1959-1987 zoning ordinance for single-family residential properties which were zoned RES 120S in regards to setbacks stated: Minimum side yards occupied by one or two-story structures shall be 10 percent of the plot width but no less than five (5) feet except that any side yard abutting a street shall be at least fifteen (15) feet. The sum of two side yards shall be no less than twenty-five (25) percent of the plot width but not less than ten (10) feet; Either way the side setbacks were not met with this requirement. The house was built before this ordinance and staff did not have any zoning records for houses built in 1948. The same ordinance required lots that were zoned RES 120S to provide 12,000 square feet in area and 75 feet of minimum lot width. The subject lot contains 11,325 square feet and only has 70 feet of lot width, thus it is a non-conforming lot. Staff reviewed the area of some of the other lots on the same side of the street as this lot. The lot addresses and sizes are shown on Exhibit 6. In summary, out of the 8 additional lots that were included on the same side of the street as the subject lot, only 2 of them have sufficient lot area to meet the zoning requirements. Once again, lot these requirements were not found to be in place when the Plat was recorded in 1946. The Unified Development Ordinance was adopted July 1, 1992. The zoning district for the subject site was then renamed from RES 120S to RS-12. Lot area and width requirements remained the same. The setbacks were changed from 10 percent of the lot width to a minimum of 10 feet on each side. Moving forward on July 1, 2010 the Land Development Ordinance was adopted. The zoning district for the subject site was renamed from RS-12 to R-3 zoning. There was no change in side setbacks, lot width or lot area for the district, only a re-naming of the district. The lot is rectangular shaped with slight to moderate angles on each side lot line. The house was built center of the lot and 60 feet from the front property line. The Plat does show a 60-foot minimum front setback requirement. In summary, the structure and the lot are both non-conforming. The structure is nonconforming on both side setbacks and the lot is nonconforming in lot area and lot width. The R-3, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Ms. Eckard wanted to know where the violation is, because the property should have been grandfathered in.

Loray Averett stated that if any part of the structure is increased, the portion that is increasing, covering more ground area, is required to have a variance. Mr. Truby stated that he does not feel this restriction is fair to the property owner because of the Ordinance that was in place in 1959. He asked if the owner should go and get a re-zoning on the property so it would be in compliance. Loray Averett stated the house does not comply because it is too close to the side setbacks. The addition still needs a variance to be granted to allow it to encroach into that same setback.

Counsel Schneier stated that in regard to the zoning of the property, the owner has considered asking for a re-zoning of the property. The City does not actively go out and look for re-zoning cases, they are brought to the City by the residents and they are welcome to take that avenue if they wish. It is likely the entire block would have to be involved in a re-zoning request.

Chair Hayworth pointed out that because there were no zoning regulations in place when the house was built, it has been grandfathered in, and because it is non-conforming, that would not come into play with any financing. The only reason this case is before the Board is because they're changing the footprint of the original house with this proposed addition. Everything that was original is okay and has been grandfathered in, but because they are changing the footprint, that causes the need for the variance.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Carol London, the applicant, and Kevin Reeves with J&K Builders were sworn in. He stated that based on the previous conversation, the applicant currently has a single bathroom on the first floor of the two-story house that is very small. This bathroom serves the applicant and any visitors she might have and it is accessed through the bedroom. The only way to add an additional bathroom is to use a variance to do so. They tried to stay within the lines of the property so they don't exceed the existing nonconformity and keep it uniform with the way the house looks. The other part of the process is when they went for a permit for the bathroom, and at that time the bathroom was only 12' x 6' and they learned they would have to ask for a variance anyway. They then decided to encompass a 12' x 11' bathroom. They will also put a laundry room in the bathroom area because the existing laundry room is in a makeshift basement crawl area. It is felt that this addition would increase property values to this house and the neighborhood as a whole. They will change the roof line so that it is all uniform and will follow the existing roof line.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

All Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Williams moved that in regard to BOA-16-03, 3609 Kirby Drive, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardship will result to the property by applying strict application of the Ordinance because the applicant would not be able to build the additional bathroom and laundry room. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the home was built in 1948, long before existing current setbacks and the house was built at a slight angle within the lot. The hardship is not the result of the applicant's own actions because the owner bought the property in 2001, and was not the original owner. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the owner will be able to use the property to its highest and best use and the encroachment area is the same line as the existing house, seconded by Mr. Truby. The Board voted unanimously in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Cummings. Nays: None.)

- (d) BOA-16-04: **604 WOOD LANE** Michael Sinnott requests a variance from a minimum side setback requirement. **Variance:** A proposed addition will encroach 5 feet into a 10-foot required side setback. Section 30-7-3.2 & Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street-Dogwood Drive. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a proposed attached master bath/closet addition which will encroach 5 feet into a 10-foot side setback. The property is located on the Eastern side of Wood Lane north of Kemp Road, East and is zoned R-3. The applicant is proposing to construct an attached bathroom/closet addition. The addition will encroach 5 feet into a 10-foot side setback. There are two other front and rear projects proposed as shown on the site plan that will be in compliance with setbacks. The applicant's property is one of three houses within this block on this side of the street. The house to the north located at 4205 Dogwood Drive fronts on Dogwood Drive. The lot line shared by the adjoining property is his rear lot line, while it is the side lot line of the subject site. The house to the south fronts on Kemp Road East. Guilford County records reflect the house was constructed in 1964. The lot is rectangular shaped with a rear angled lot line because the side lot lines are not equal lengths. The lot contains approximately 14,374 square feet. The property is developed with the house, a detached building and other infrastructure. If the variance is approved, the detached building will be removed. There is a 10-foot portion of a 20-foot easement on most of the lot. The area for the side addition only contains a 5-foot easement, thus the addition will not be in any portion of the easement. The house was originally built to be mostly centered on the lot. The R-3, Residential Single-Family District is primarily intended to accommodate low-density single-family detached residential developments. The overall gross density in R-3 will typically be 3.0 units per acre or less

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Michael Sinnott, the applicant, was sworn in and stated that he is requesting a variance as part of a home expansion due to his growing family. He has a 2 year old and one on the way and they want to make the house more accommodating. They are invested in this neighborhood and do not wish to move anywhere else. They have tried to come up with several plans to figure out which would work best and be most cost effective and keep with the character of the neighborhood. The way the house is built, it is on a sloped lot so there is a full walk-out basement which makes it difficult to build off the back of the existing house. They are trying to use a plan that uses space on the side of the house, which encroaches that setback area, but it is to the back of their neighbor's house. He has had no objection from his neighbors and they are familiar with this project. It will also enable them to move a master bathroom upstairs and allow them to have a laundry room upstairs, which is more logical for the flow of the house.

Mitchell Parsons, 20 Dutchman's Pike Cove, was sworn in and stated that he is the architect for this project and is available to answer any questions from Board members.

Loray Averett asked for clarification if the detached building on the rear of the site would be removed. Mr. Sinnott stated that the building would be removed.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

All Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Wood moved that in regard to BOA-16-04, 604 Wood Lane, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardship will result to the property by applying strict application of the Ordinance because the applicant would not be able to construct the addition without the variance. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the unique site topography and easements at the rear of the property creates a hardship to enlarge the house on the property without the variance. The hardship is not the result of the applicant's own actions because the house and subdivision were built before the current owner purchased the property. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the result of granting the variance will not detract or change the character of the neighborhood and no harm will come to the public in granting the variance and there is no impact to the neighborhood, seconded by Ms. Williams. The Board voted unanimously in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Bowers. Nays: None.)

- (e) BOA-16-05: **2313 FORTUNE LANE** David Schwartz request variances from the minimum side and rear setback requirement and from a size and proportion standard. **Variance #1:** A proposed second story addition to an existing detached garage will encroach 4.9 feet into a 10-foot side setback and 6 feet into a 10-foot rear setback. **Variance #2:** An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects. The applicant is proposing to construct a second story on an existing detached building which will increase the height of the building from 13 feet to 21 feet in height, while the house is a one-story structure approximately 16 feet tall. Section 30-8-11.1(A) & (C), Present Zoning-R-5, (Residential Single-family), Cross Street-Battleground Avenue. **(DENIED)**

Loray Averett stated that the applicant is requesting variances from the minimum side and rear setback requirement and from a size and proportion standard. Variance #1: A proposed second story addition to an existing detached garage will encroach 4.9 feet into a 10-foot side setback and 6 feet into a 10-foot rear setback. Variance #2: An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects. The applicant is proposing to construct a second story on an existing detached building which will increase the height of the building from 13 feet to 21 feet in height, while the house is a one-story structure approximately 16 feet tall. The applicant's lot is rectangular shaped, except for a rear angled lot line due to side lot lines being unequal in length. The depth of the lot is approximately twice the length the width. The lot is developed with existing infrastructure consisting of the dwelling, driveway, landscape features, fencing, and a one-story detached garage. The one-story building is currently in compliance with size, setbacks and dimensional aspects. The applicant is requesting to construct a 2nd story on the existing detached garage. This will change the minimum required setbacks from the side and rear lots from 3 feet to 10 feet. The existing house is a one-story house approximately 16 feet tall. The proposed second story increases the building height from 13 feet to 21 feet, thus the building will be 5 feet taller than the house. Based on the Land Development Ordinance one-story buildings less than fifteen feet tall may be constructed within 3 feet of the side and rear lot lines. Buildings taller than 15 feet must be 10 feet from the side and rear lot lines. Also Section 30-8-11.1 (A)2 states: An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects. The building heights are considered to be part of the dimensional aspects. The building is located behind the house. The footprint of the building on the ground is shown on the survey at 14 feet by 29.9 feet for a total foot- print on the ground of approximately 718 square feet. The R-5 Residential Single-Family District is primarily intended to accommodate low-density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

David Schwartz, the applicant, was sworn in and stated in response to questions by the Board members, that he does not plan to keep the bottom floor of the garage. He thinks it would be best to demolish the existing garage and rebuild it in the existing footprint. He has considered shifting the garage, but a lot of the cost is going to be the concrete pad that is already in place, so that is why he intended to use the existing pad. He plans to bundle the electricity from the

main house. He would not be requesting separate meters for the building in relation to water services or electrical services.

Ms. Eckard stated that she thought that an accessory structure could not be higher than the main house and it appears that this garage will be higher than the main house. Mr. Schwartz stated that in looking at the photographs provided, because of the slope of the driveway, the garage would not appear to be higher than the house from the street.

In response to a question by Chair Hayworth, Mr. Schwartz stated that he would probably be planting large trees at the rear of the lot to provide a buffer between his property and the rear neighbor. He pointed out that there is a 6' privacy fence around his house, but they go into both sides of the garage, so it does not go around the garage.

Mr. Cummings stated that he does not see how this request is a hardship and he would have a difficult time supporting the request. He is also concerned that this area could be used for someone to live in it and that frustrates what the Ordinance allows. Mr. Schwartz explained that the children would still have toys in their room, but the proposed game room and office would offer them a place to play larger video games, and his office would be there also. Currently, there is a play room in the main house and they need to make a second bedroom there. This would mean that they would lose the existing playroom for the children, that's why he felt that putting it in the upper story of the garage would alleviate this problem. Mr. Schwartz stated that currently he has his 4 year old sleeping in his room, in a chair because he won't sleep in his brother's room. That's why he wants to turn the existing playroom into a bedroom and move the playroom into the garage area, along with his office. He only wants the bathroom facilities in the proposed garage structure for convenience. His office is currently in the sun room and they would be able to, again, use that area as a sun room of the house. He would not have any clients coming to this office area, located in the proposed garage. He is really not sure whether access to the upstairs would be inside the garage or outside. There would be no windows on the side of the garage that faces the neighbor's property. Mr. Schwartz pointed out that there is another house in his neighborhood that has a two-story, 3-car garage with a carport and a one-story house.

Chair Hayworth asked if there was anyone else wishing to speak on this matter.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

Board members indicated that they would not support this request as it does not appear to be supportive of the spirit of the Ordinance. They could not support a hardship that would require making a secondary building bigger than the primary house. Ms. Williams stated that she recognizes needing more room for a growing family is a hardship, but the height of the proposed garage is troublesome to her. Ms. Eckard stated that having a site plan for the proposed construction would have been helpful and she is concerned about the height, as well as other Board members. Ms. Wood stated that she would support the request although the existing

garage needs to be torn down and a new structure put in its place. Chair Hayworth stated that the Board could approve the request with conditions added, i.e. the current structure is torn down; the stairs to the second floor would be inside the garage; no windows facing toward the neighbors; and tall plantings at the rear of the property as a buffer and sight restriction. She understands his need for more space.

The public hearing was re-opened to allow the applicant an opportunity to respond to the Board members' concerns.

Mr. Schwartz stated that he would begin the construction within 12 months. Chair Hayworth asked if it was his intention to have the building built by a contractor. Mr. Schwartz stated that he would consult with a foundation specialist and address the foundation issues and re-do the foundation, if necessary. He would have someone frame the building and he plans to do the electrical himself, by taking the appropriate test and he would hire a plumber to do the bathroom. He would do the insulation and would hire out the drywall. He is willing to tear down the original structure if that is what the contractor says needs to be done. He wants this structure to last because he plans to be at the property for a long time.

There being no further questions by the Board, the public hearing was closed.

Ms. Blackstock moved that in regard to BOA-16-06, 2313 Fortune Lane, that the findings of fact be incorporated into the record and the Enforcement Officer be upheld and the variance denied based on the following: The variance is not in harmony with the general purpose and intent of the Ordinance and does not preserve its spirit and does not assure the public safety and welfare because a proposed second story addition to an existing home will encroach 4.9 feet into a 10.0 foot side setback and 6 feet into a 10.0 rear setback, and the applicant is proposing to construct a second story on an existing detached building which will increase the height of the building from 13 feet to 21 feet, while the house is a one-story structure, approximately 16 feet in height, seconded by Ms. Eckard. The Board voted 6-1 in favor of the motion to deny the variance. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Cummings. Nays: Wood.)

ACKNOWLEDGEMENT OF ABSENCES

None

OTHER BUSINESS

Counsel Schneier stated that at the February meeting there will be two appeals. She will send out a PowerPoint training for the new members to review on appeal processes. if Board members should have any questions, they may contact her at her office.

After a brief discussion, Counsel Schneier invited Members to contact her for more discussion.

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There being no further business before the Board, the meeting adjourned at 7:38 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



GREENSBORO
NORTH CAROLINA

PLANNING

MEETING OF THE GREENSBORO BOARD OF ADJUSTMENT FEBRUARY 22, 2016

The regular meeting of the Greensboro Board of Adjustment was held on Monday February 22, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Enyonam Williams, Chuck Truby, Sarah Wood and Mark Cummings; and Deborah Bowers, Alternate. Planning Department staff were: Loray Averett and Nicole Smith; and Jennifer Schneier and Terri Jones, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

Chair Hayworth welcomed Vance Grady from Grimsley High School who is attending today's Board of Adjustment meeting as part of his school project.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the January 25th Board of Adjustment minutes, as submitted, seconded by Ms. Williams. The Board members voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Loray Averett, Nicole Smith, Mike Kirkman, Ron Fields and Don Sheffield were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that BOA-16-10, 135 Drewsbury Drive has been withdrawn by the applicant. No action is needed by the Board.

Mr. Truby asked to be recused for discussion of the following matter.

In regard to BOA-16-08, 602 Westminster Drive, the attorney representing the case asked for a Continuance. Marsh Prause, representing nearby property owners, stated that they wish to continue this matter to the March 28th Board of Adjustment meeting.

Counsel Jones stated that the City Legal Department has no objection to the continuance.

Ms. Eckard moved that the case involving BOA-16-08, 602 Westminster Drive, be continued to the March meeting, seconded by Ms. Blackstock. The members voted unanimously in favor of the motion to continue.

Mr. Truby returned to the dais for other matters on the agenda.

NEW BUSINESS

VARIANCE

- (a) BOA-16-06: 1725 McKnight Mill Road **Heron Maldonado** requests a variance from a minimum rear setback requirement. **Variance:** A proposed two-story room addition will encroach 7.5 feet into a 20-foot rear setback. Present Zoning – R-5 (Residential Single family), Cross Street – Trent Street. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a proposed addition to a single-family dwelling which will encroach 7.5 feet into a 20-foot rear setback. The property is located on the North side of McKnight Mill Road west Trent Street and is zoned R-5, (Residential Single-family). The property contains a one-story single family dwelling. Property records reflect the house was originally built in 1920. The lot contains approximately 14,810 square feet. There is also a detached building containing 80 square located west of the house. The lot is rectangular shaped. The house was constructed in 1920 and the Plat was recorded in 1984. The plat shows the house was in its existing location on the lot when it was platted in 1984. The addition is proposed to be in-line with the rear portion of the existing house. The addition will also continue up the eastern side of the house. Only the rear portion encroaches into a required setback. The applicant has mentioned the rear portion will be 2-story and the side portion expansion will be one-story in height. s renovations for the house are planned. The R-5, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

An interpreter, Karin Vicaro, and the applicant, Heron Maldonado, were sworn in. Through the interpreter, the applicant relayed that he wishes to build a two-story addition onto the existing residence. The house was built many years ago and is very small and it is difficult to accommodate his family. The proposed addition would provide much needed bedrooms for his children. Jacenia Maldonado, the applicant's daughter, was sworn in and gave additional information and clarification of the planned addition to the property.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Mr. Truby moved that in regard to BOA-16-06, 1725 McKnight Mill Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardship will result to the property by applying strict application of the Ordinance because the applicant would not be able to build the proposed addition. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the house was built in 1920 and the setback was very deep on the lot. The hardship is not the result of the applicant's own actions because the owner did not build the house, which was purchased in 2011 and he did not have any control of where the existing house is located. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because no hard will come to the public and the addition should increase the value of the house, seconded by Mr. Cummings. The Board voted unanimously in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Cummings. Nays: None.)

Mr. Cummings left for the remainder of the meeting and Ms. Bowers was seated for other matters coming before the Board of Adjustment.

APPEAL OF NOTICE OF VIOLATION AND AN INTERPRETATION OF ZONING ADMINISTRATIVE DECISION

- (b) **BOA-16-07: 3521 – 17 McCuiston Road** Adam Linett, Attorney for Wildwood Park, LLC and Luis Alberto Sandoval appeal a Notice of Violation and expansion of a non-conforming use concerning construction of a room addition to an existing manufactured home. Section 30-5-1.1 and 30-2-3.2, Present Zoning – RM-12 (Residential Multi-family), Cross Street – South Holden Road. **(APPEAL OVERTURNED)**

Counsel Schneier stated that Adam Linett, attorney representing the applicants; Terri Jones, Counsel for the City; Inspectors Don Sheffield and Ron Fields; and Mike Kirkman, Zoning Administrator for the City of Greensboro. All participants were sworn in at this time.

Loray Averett stated that the applicant appeals a Notice of Violation and expansion of a non-conforming use concerning construction of a room addition to a manufactured dwelling unit. The manufactured home park is located south and west of South Holden Road and north of I-85 Business South and Preddy Boulevard. The specific location of the manufactured home is located at the southern portion of the tract on the western side of McCuiston Road. The tract contains 15.677 acres and is zoned RM-12. On November 20, 2015, the owner was issued a

Notice of Violation for constructing a room addition without a permit. The mail receipt concerning the Notice of Violation was accepted by the applicant on December 1, 2015. The applicant, through his attorney filed appeal on Dec 23, 2015. The manufactured home park is nonconforming. The 1992 ordinance and the current LDO ordinance require manufactured home parks to have overlay zoning or obtain special use permits. In the RM-12 zoning district, manufactured home parks are required to obtain special use permits and comply with standards as shown in Exhibit 6. The subject manufactured home park does not have a special use permit. The site appears to have approximately 72 spaces for manufactured homes. The homes are required to have 30 feet of separation between them. For purposes of the separation requirement the foundation of the manufactured home may be deemed equivalent to a stand. The RM-12, Residential Multi-Family District is primarily intended to accommodate multi-family and similar residential uses at a density of 12.0 units per acre or less.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Adam Linett, representing the owners of Wildwood Mobile Home Park, Patrick Hodgkin, and the individual homeowner, Luis Sandoval. It is their position that this is not a nonconforming use and that as a matter of equity, this is an unequal application toward Mr. Sandoval of the standard, considering that there are other manufactured homes with additions in this particular mobile home park. It is also their position that this may be a violation of state and federal fair housing laws.

An interpreter, Karin Vicaro, and the applicant, Luis Sandavol, were previously sworn in. Through the interpreter, the applicant relayed that he had made an addition to the single-wide manufactured structure to allow for more room and bedrooms for his five children.

In response to questions from both attorneys, Ron Fields, City Inspector, clarified that a complaint had been received concerning 3521-17 McCuiston Road concerning an addition that had been built at the rear of the structure. The addition had been constructed without a building permit and the addition was not part of the original manufactured home. Photos of the property were shown for the Board members' review. He verified that the addition had been in place for about five years.

Steven Patrick Hodgkin, the property owner, was sworn in and verified that he was aware of the homeowner making the enlargement to the structure, but he was unaware that a permit was necessary.

Larry Turbeyville, 268 Laurel Court, Winston-Salem, NC, was sworn in and stated that he is a licensed general contractor and helped the applicant build the addition. He has had a lot of experience building homes and also in building additions to home and mobile homes for many years. He has also done a lot of work in historic districts in Greensboro and Winston-Salem. When he inspected the subject property, it is his determination that there were a few violations, but nothing that was extraordinary or considered dangerous. He pointed these out to the property owner who assured him that he would make these corrections and bring the property up to Code.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

All Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Williams moved that in regard to BOA-16-07, 3521-17 McCuiston Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the Appeal be overturned based on the following: That the addition was built in violation of the LDO's restriction against it as being a non-conforming use; the owner may keep the addition but must obtain the required permits within sixty (60) days. In support of the motion to overturn, the Board finds that: at the time the Notice of Violation was issued along with the interpretation, the property was occupied by the appellants; Section 30-5-1.1 Development without Permit of the City of Greensboro Land Development Ordinances applies to the property; the greater weight of the evidence presented does not show that the appellant violated Section 30-2-3.2 concerning expansion of a non-conforming use by enlarging a greater area of land or floor area. The Board accepts the following testimony and evidence as true; the owner built the addition without obtaining a permit; the addition is to a mobile home located in a mobile home park; all mobile home parks in the City of Greensboro are non-conforming as of the 1992 Ordinance; this mobile home park can apply for a Special Use Permit and the owner of the individual mobile home can apply for a building permit, seconded by Mr. Truby. The Board voted unanimously in favor of the motion to overturn the zoning administrator's decision. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Bowers. Nays: None.)

APPEAL OF ZONING ADMINISTRATIVE DECISION

- (c) BOA-16-08: 602 Westminster Drive D. Marsh Prause, Attorney for adjacent and nearby property owners (collectively "Appellants" appeals the decision of a technical plan approval for the subject property as a principal use religious assembly. Section 30-4-27, Present Zoning – R-3 (Residential Single-family) Cross Street – West Friendly Avenue.
(CONTINUED TO MARCH 2016 MEETING)

SPECIAL EXCEPTION

- (a) BOA-16-09: 5600 Topsail Court Athena and Daniel Easterling requests a Special Exception as authorized by Section 30-8-10.1(B) to allow a family care home separation encroachment from the current one-half mile development spacing standard. The family care home, (6 or less persons) is proposed to be 1.544 feet from another family care home, (6 or less persons) located at 5700 Waterpoint Drive when 2.640 feet is required. Present Zoning
– R-3 (Residential Single-family), Cross Street – Yanceyville Road.
(GRANTED)

Nicole Smith stated that the applicant is proposing to locate a family care home which is too close to an existing family care home. The family care home is proposed to be 1,544 feet from another family care home, (6 or less persons) located at 5709 Waterpoint Drive. The lot is located on the south side of Topsail court west of Yanceyville Street and is zoned R-3. The applicant is proposing to locate a family care home (6 or less persons) at this location and it is too close to an existing family care home located at 5709 Waterpoint Drive. The homes will 1,544 feet apart when 2,640 feet is required. City records reflect the location at 5709 Waterpoint Drive is reserved and approved by zoning to operate a family care home at this location. The subject site is located east of the existing site at the end of a cul-de-sac right-of-way. There are numerous homes separating the locations. The area is heavily developed with single family homes. The applicant made mention in her application that they are asking for one client at this location. The R-3, Residential Single Family District is primarily intended to accommodate low density single family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Athena Easterling and Daniel Easterling, the applicants, were sworn in and stated that she and her family have become very close to a 15 year old young man and would like to offer him the opportunity to live in their home. He does not have any behavioral or violence problems and would not cause a disturbance to the nearby neighbors. He was abandoned by his birth parents when he was a baby and has spent many years in the Social Services organization. In response to questions by Board members, Ms. Easterling stated that they have 5 children of their own in their home, and there is room for the addition of one more child. Mr. Easterling stated that he feels they could provide a stable and loving environment for this young man.

Crystal Nickerson, was sworn in and stated that she is the Director of Choice Behavioral Health. She has co-applied with the homeowners for funding and licensing to be able to convert their home to a family care home, just for this one client. Complete background checks are done on their clients and nothing has shown up as negative for this young man.

Renney Scroggins, Guilford County Department of Health and Human Services, was sworn in and stated that she has worked with this young man since 2003 and they hope to be able to place him with the Easterlings in their home. He has some developmental delays and has never been in any trouble. They are very excited that this young man is being given this opportunity to have a family and a steady and supportive home life.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

All Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular request. They did agree that a condition be placed on this request and that it be for one (1) client only in the home.

Ms. Blackstock moved that in regard to BOA-16-09, 5600 Topsail Court, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the Special Exception granted with a condition, based on the following: The Special Exception is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because this is a young man that has been abandoned by his natural mother and has been in the custody of the DSS since 2003 and they have not been able to find housing for him. His criminal background has been checked with no findings being made. Also, there have been no behavior problems reported that would endanger the neighbors. The granting of the Special Exception assures the public safety and welfare and does substantial justice because an abandoned child would lose an opportunity to have a home without approval of this request. There is a condition that this is for this one (1) child to be kept in this home with one (1) bed, seconded by Ms. Eckard. The Board voted unanimously in favor of the motion to grant the Special Exception. (Ayes: Hayworth, Blackstock, Williams, Truby, Eckard, Wood and Bowers. Nays: None.)

- (e) BOA-16-10: **135 Drewsbury Drive Jonathan Carter** request Special Exception as authorized by Section 30-8-10.1(B) to allow family care home separation encroachments from the current ne-half mile development spacing standard. **Special Exception Request #1:** The family care home is proposed to be 2.133 feet from another family care home, (6 or less persons) located at 6005 White Chapel Way when 2,640 feet is required. **Special Exception Request #2:** The family care home will also be 2,169 feet from another family care home, (6 or less persons) located at 7 Wimbledon Lane when 2,640 feet is required. Present Zoning – R-3, (Residential Single-family) Cross Street – North Church Street. **(WITHDRAWN)**

ACKNOWLEDGEMENT OF ABSENCES

None

OTHER BUSINESS

* * * * *

There being no further business before the Board, the meeting adjourned at 9:15 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
MARCH 28, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday March 28, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Enyonam Williams, Adam Marshall, Sarah Wood and Mark Cummings. Planning Department staff were: Loray Averett and Nicole Smith; and Terri Jones, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Williams moved approval of the February 22, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Eckard. The Board members voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Loray Averett and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Counsel Teri Jones, City Attorney's Office, stated that at last month's meeting, she was representing City staff with respect to 602 Westminster Drive and the appellants had asked for a continuance and there were no objections raised to that request. Counsels Schneier and Carruthers are unable to attend today's meeting and Counsel Jones is now asking that this case be continued to the April meeting. The appellants have agreed to this continuance request. Interested parties have also been notified of the request.

Ms. Williams moved that the case involving BOA-16-08, 602 Westminster Drive, be continued to the April meeting, seconded by Mr. Marshall. The members voted unanimously in favor of the motion to continue.

NEW BUSINESS**VARIANCE**

- (a) BOA-16-11: 1704 St. Andrews Road **Eric and Mary Calhoun** requests a variance from a front and rear street setback requirement. **Variance:** A proposed attached carport will encroach 4 feet into a 20-foot front street setback adjacent to St. Andrews Road and will encroach 5 feet into a 20-foot rear street setback adjacent to County Club Drive. Present Zoning – R-5 (Residential Single family), Section 30-7-3.2 – Table 7-2, Cross Street – Country Club Drive. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for proposed variances from two street setbacks. A proposed attached carport will encroach 4 feet into a 20-foot setback adjacent to St. Andrews Road and 5 feet into a street setback adjacent to Country Club Drive. The property is located on the northeastern side of St. Andrews Road and south of Country Club Drive. The subject lot is zoned R-5 (Residential Single-family). The property contains a single family dwelling. Property records reflect the house was originally built in 1992. The lot contains approximately 13,938 square feet or equivalent to 0.32 acres. The subject site is located between two streets which are Country Club Drive and St. Andrews Road. Any structures are required to meet both street setbacks. The lot is unique in shape as it is considered a through lot. The applicant has proposed to attach a carport to the house. The area for the carport has minimal or less depth than the remaining portion of the property where the house is located. Exhibit 4 is a copy of the approved easement release which was approved on June 13, 1988. Exhibit 6 contains a summary sheet with summary minutes concerning two previous variance requests on this subject site. Those requests were concerning fence/wall height and a playhouse structure encroachment. This request is a new request. Guilford County tax records reflect the current owners, Eric and Mary Calhoun purchased the property in 1996. The property is established with the principal structure, existing driveway, heavy landscaping and a brick/fence wall. Based on the Plat labeled as Exhibit 3, the subject lot has less depth than the other three 3 lots located immediately east. Required setbacks for any structure other than the existing principal structure will be difficult to achieve based on the current R-5 zoning street setback requirements. This lot is required to meet two street setbacks instead of a front and typical rear setback. The standard rear setback in R-5 is 15 feet, unless you are adjacent to a street which increases the setback to 20-feet. The R-5, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Mary Calhoun, the applicant, was sworn in and stated that she especially wished to thank the staff for their hard work trying to figure this very difficult lot out. She had no idea how difficult this request was going to be. Their lot is a very unusual configuration as well as the entire block

bounded by Wentworth, County Club Drive and St. Andrews Drive. There is the need for a simple 20' x 20' carport on the property and there is no need for any additional storage shed on the property. They only want a covered space for their vehicles at the driveway. Drawings of the proposed carport were distributed for the Board members' review. They have spoken with their neighbors and no one is opposed to the plans for this proposed carport.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

Board members indicated their support of this request for a variance as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Eckard moved that in regard to BOA-16-11, 1704 St. Andrews Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardship will result to the property by applying strict application of the Ordinance because with strict compliance they would be unable to build the proposed carport. There are many other carports in the immediate area. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because due to the unique shape of the lot, a large portion of the property is unable to be used for this purpose. The hardship is not the result of the applicant's own actions because the house was built in 1992 in compliance with the then current ordinances and was more restrictive than today's setbacks. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the property has very nicely structured walls and shrubs and there is a lot of screening of the yard from the road and the carport design is complimentary to others in the neighborhood and should increase the value of the house and the neighborhood, seconded by Ms. Blackstock. The Board voted unanimously in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Williams, Marshall, Eckard, Wood and Cummings. Nays: None.)

BOA-16-12: 4003 – 4016-Y Battleground Avenue CPGCCM

Battleground, LLC, requests variances from ordinance standards regulating sign height and sign area. **Variance #1:** A proposed freestanding sign will exceed the maximum height of 15 feet by 15 feet for a total height of 30 feet.

Variance #2: The sign area will exceed the allowable size of 62 square feet by 137.8 square feet for a total sign area of 199.8 square feet. Present Zoning – PUD (Planned Unit Development) , Section 30-7-7.2€12 and Table 1402, Cross Street – Old Battleground Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed freestanding identification signs to be 30 feet tall instead of 15 feet tall, exceeding the allowable height of 15 feet by 15 feet; and for the area to exceed the allowable 62 square feet by 137.8 square feet for a total sign area of 199.8 square feet. The property is located on the east side of Battleground Avenue north of Old Battleground Avenue and is zoned PUD (Planned Unit Development). This is

a special district with specific development standards which allow for multiples uses. Properties that develop with the PUD standards are required to include master sign plans as part of their development plan. This portion of the land was phased and developed as commercial properties. They were identified as Lots 2 through 6 and the signs are limited to the signage standards for the C-L (Commercial Low) zoning district. The applicant has filed variances in regards to sign height and sign area. In their application, there is mention the existing 15-foot tall identification sign has limited visibility. The existing as well as the proposed replacement freestanding sign does allow for multiple tenants that are located on Land Condominium Unit #1 and Land Condominium Unit #2. Tax records reflect these properties are two separate parcels. The record also reflects both properties are under the same ownership. Based on the Land Development Ordinance definition of a Zone Lot, the sign may serve both properties. If either property is sold or conveyed and the properties come under different owners, the sign will be required to meet current ordinance standards. Sign Height: The sign is allowed to be 15 feet tall based on the C-L (Commercial Low zoning district). Sign Area: The sign area allowed is 62 square feet. The permitted sign area is calculated based on the amount of lot frontage. As shown on Exhibit 5, this lot has 124.78 feet of frontage. The C-L district allows the area of the sign to be 50 square feet. If the sign area is proposed for more than 50 square feet, the allowable area is calculated at the rate of 0.5 feet per linear foot of lot frontage, up to 100 square feet max. The PUD, Planned Unit Development districts are intended to allow a diverse mixture of residential and/or nonresidential uses and structures that function as cohesive and unified projects. The districts encourage innovation by allowing flexibility in permitted use, design, and layout requirements in accordance with a Unified Development Plan.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Kevin Crutchfield, Casco Signs, Concord, NC, representing the applicant, was sworn in and stated that this request is for extension in sign height for this particular sign. The property was purchase by his client in 2007 and everything that existed prior to that date, was done by other persons and not the applicant. Maps were shown that identified the original sign site plan. None of the original signs exist today as there have been changes through the years to the signs. The location and topography of this property makes it difficult for these identification signs to be viewed when passing along the road in front of the property. They are trying to make the identification signs easier to read, as passers-by reach the property, be able to identify the retail facilities on the property in a much safer manner. It is felt that the proposed new signs will meet and exceed safety guidelines for this property.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

After some discussion all Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Williams moved that in regard to BOA-16-12, 4002 – 4016-Y Battleground Avenue, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variances request be granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because there is not enough advertising space for all tenants and some tenants have vacated their space and the current sign height is not tall enough to be visible to all traffic and the public in a safe manner. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the topography and large site of the shopping center hinder visibility of the existing sign and there is limited road frontage for this parcel of land. The hardship is not the result of the applicant's own actions because the applicant was not involved in the original construction of the identification signs placed on the property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and justice because greater visibility of businesses on the subject property may be achieved and may increase revenue and jobs in this location as well as providing greater safety for drivers in the area, seconded by Ms. Eckard. The findings are to be applied to variance #1 and variance #2. The Board voted unanimously in favor of the motion to grant the variances. (Ayes: Hayworth, Blackstock, Williams, Marshall, Eckard, Wood and Cummings. Nays: None.)

SPECIAL EXCEPTION

- (a) BOA-16-13: 2305 Walker Avenue John and Frances Sandridge request a Special Exception as authorized by Section 30-8-10.1(B) to allow family care home separation encroachment from the current one-half mile development spacing standard. Special Exception Request #1: The family care home is proposed to be 652 feet from another family care home (6 or less persons) is located at 412 Northridge Street when 2,640 feet is required. Special Exception #2: The family care home will also be 1,727 feet from another family care home (6 or less persons) located at 303 Westdale Place when 2,640 feet is required. Special Exception Request #3: The family care home will also be 1,055 feet from another family care home (6 or less persons) located at 2307 Sherwood Street when 2,640 feet is required. Present Zoning – R-5 (Residential Single-family), Cross Street – Northridge Street. **(DENIED)**

Nicole Smith stated that the applicant is proposing to locate a family care home which is too close to an existing family care home. The applicant is proposing to locate a family care home which is too close to three existing family care homes. Special Exception Request #1: A family care home is proposed to be 652 feet from another family care home, (6 or less persons) located at 412 Northridge Street when 2,640 feet is required. Special Exception Request #2: The family care home will also be 1,727 feet from another family care home, (6 or less persons) located at 303 Westdale Place when 2,640 feet is required. Special Exception Request #3: The family care home will also be 1,055 feet from another family care home, (6 or less persons) located at 2307 Sherwood Street when 2,640 feet is required. The lot is located on the south side of Walker Avenue west of Scott Avenue Street and is zoned R-5. The applicant is proposing to locate a family care home (6 or less persons) at this location and it is too close to three other existing family care homes which have been described in the requested action section. Privilege license

records, along with telephone communications and field visits reflect the three existing family care homes are in operation and required renewals are in compliance. Two of the existing homes are located north and west of the subject site and one of the homes is located south of the existing site. The homes are separated by a network of collector streets and other residential homes. The R-5, Residential Single Family District is primarily intended to accommodate low density single family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

In response to a question posed by Mr. Cummings, Counsel Jones stated that normally, the Special Exception would run with the land, however, the Board may place conditions on the Special Exception for this particular property.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Fran Sandridge, the applicant, was sworn in and stated that she and her husband have operated an "Alternative Family Living" facility since 2012 to provide a residence for a person with developmental disability so that they can live in a community that meets their needs. As long as they are providing support to only one resident, they did not have to be licensed, but about two years ago, another resident wanted to come and live in their home. They had to get approval through the managed care organization, Sand Hill Center and they were approved as long as she and her husband do not provide any support to the 2nd resident. For the past two years, the original resident has had agency staff that comes in and takes care of his needs through periodic support on a very strict schedule. There are complications with staff being unable to attend to these needs at their scheduled times. The only licensensing that is available is that of a family care home and that is why they are making this request. Being able to provide these services to these particular residents would provide normalcy to their lives.

Chair Hayworth asked if there were speakers in opposition to the request.

Adam Spivey, 2406 Springwood Drive, was sworn in and stated that he is a resident of Lindley Park and also serves on that Board. He asked that the Board of Adjustment consider a continuance in this matter as they would like an opportunity to speak with the applicants and gain more information. It is important that they gain insight on the residents of this home and the impact they might have to the neighborhood as a whole. If not continued, he asked that this application be denied because they do not have a clear understanding of the type of residents in this facility. Parking is one of their major issues in this already stressed neighborhood street, as well as the close proximity of the elementary school. He also suggested that the Board make conditions that would be pertinent to this particular property for this use as well as a specific time duration subject to the ownership of the individuals that currently own the home.

Chair Hayworth asked for feedback from the Board members on the suggestions made by Mr. Spivey.

Kate Campbell, 609 Scott Avenue, was sworn in and stated that she has concerns but she would allow Ms. Collins to address those with the Board.

Laura Collins, 224 Walker Avenue, was sworn in and stated that she lives across the street from this property. She feels that the neighborhood is very diverse and accepting of a number of different people and the idea of a continuance is in the best interest of all parties. They would really like to understand more about this request. They feel that the applicant has good intentions, but there are still several questions they would like to discuss with them.

Chair Hayworth asked that Ms. Sandridge return to the podium for rebuttal comments.

Ms. Sandridge stated that she does not agree to a continuance of the request as it only prolongs any problems or misunderstandings between her and the immediate area residents. She pointed out that the two young men have resided at the property for the past two years and there have been no problems with them that she is aware of. She would also be agreeable to a condition being placed on the request that it would only be in place as long as they own the home and not transferred to any new homeowner.

Chair Hayworth stated that she would be inclined to put these suggestions to a vote by the Board members. She pointed out that the applicant has not asked for a continuance, only those in opposition have asked for a continuance.

Mr. Cummings moved that there be a continuance to the April meeting to give the involved parties an opportunity to gain more information about the proposal, seconded by Ms. Blackstock. The Board voted 3-4 and the motion did not move forward for a continuance. (Ayes: Cummings, Blackstock and Marshall. Nays: Eckard, Hayworth, Wood and Williams.)

Chair Hayworth stated that there will now be discussions about the case and granting or denying the Special Exception.

Adam Spivey, previously sworn in, stated that he is speaking on behalf of the Lindley Park Neighborhood Association and reiterated that he has proposed that the application be denied. He also asked that the duration of the Special Exception be tied to the existing owners and the number of individuals be limited to two (2).

Laura Collins was previously sworn in and stated that part of the concern about this Special Exception has to do with the fact that there are a number of group homes already within the immediate vicinity and in very close range of the proposed home. She feels that this is a business endeavor and causes other problems for the neighborhood. She also feels that it is good to limit the number of individuals served to two (2).

Mr. Cummings questioned the validity of Ms. Eckard's participation in this case because she does live in the neighborhood. He felt this might be considered a conflict of interest on her part. Ms. Eckard stated that does not feel there is a need to recuse herself because she has no gain, other than speaking out as someone who lives in the neighborhood and questioning why the applicant did not approach anyone in the neighborhood. She felt that she could be very open-minded in any decisions made regarding this matter. Mr. Cummings stated that he formally objects to Ms. Eckard's participation in this case. After some discussion, Ms. Eckard was recused from the

matter on a vote of 5-2. (Ayes: Blackstock, Wood, Marshall, Williams and Cummings. Nays: Eckard and Hayworth)

Ms. Eckard left the dais for further discussions on this matter.

At this time Mr. Cummings moved to continue this case to the April meeting. The motion died for lack of a second.

There being no further speakers, the public hearing was closed.

Board Discussion

Ms. Wood stated that she would support the request with the condition that the applicants remain on-site and it be limited to the two residents already in residence. Mr. Marshall stated that he would not be able to support the request because of the number of family care homes already located within this immediate area. Ms. Williams stated that she generally would not support cloistering of family care homes within neighborhoods. Ms. Hayworth stated that she would not be able to support the request because of the cloistering issues. Usually there is some kind of major barrier that would separate this home from the rest of the homes in the neighborhood. Mr. Cummings stated that he would support the request Ms. Blackstock stated that she would not support the request.

Ms. Blackstock moved that in regard to BOA-16-13, 2305 Walker Avenue, that the findings of fact be incorporated into the record and the Enforcement Officer be upheld and the Special Exception be denied, based on the following: The Special Exception is not in harmony with the general purpose and intent of the Ordinance and does not preserve its spirit because the ordinance states that no family care home may be located within ½ mile of an existing family care home and three (3) family care homes exist already. This could cause possible clustering of family care homes in this immediate area and promote the residents to cloister themselves and not interact with others in the community. The granting of the Special Exception does not assure the public safety and welfare and does not assure substantial justice because of the reasons previously stated, seconded by Mr. Marshall. The Board voted 4-2-1 in favor of the motion to deny the Special Exception. (Ayes: Hayworth, Blackstock, Williams and Marshall. Nays: Cummings and Wood. Abstained: Eckard.)

ACKNOWLEDGEMENT OF ABSENCES

The absence of Chuck Truby was excused.

OTHER BUSINESS

None.

* * * * *

There being no further business before the Board, the meeting adjourned at 8:15 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
APRIL 25, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday April 25, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Deborah Bowers, Sarah Wood, Chuck Truby and Mark Cummings. Planning Department staff were: Loray Averett, Nicole Smith, Mike Kirkman and Mike Cowhig; Jennifer Schneier and Terri Jones, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Mr. Cummings moved approval of the March 28, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Eckard. The Board members voted 6-0-1 in favor of the motion. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Wood and Cummings. Nays: None. Abstained: Truby.)

SWEARING IN OF STAFF

Loray Averett, Mike Kirkman and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been a request for BOA-16-08, 602 Westminster Drive to be continued.

Mr. Truby asked that he be recused from this matter because he did the plans for the proposed addition and he is also a member of the church. Board members recused Mr. Truby by acclamation.

Marc Isaacson, attorney representing the church, stated that they are asking that this matter be continued to the May meeting. At the last meeting, the staff requested a continuance, which they had no problem with. There is some good dialog between the parties about the issues in this

matter and they will continue to have those conversations and make productive use of the next 30 days. He feels that if all parties agree on a continuance, and that there would be no harm to the other parties and would not be prejudicial to their position. He hopes that the Board will recognize that more dialog is better and more productive than having a contentious hearing before the Board and forcing a final decision.

Marsh Prause, Counsel for the neighborhood, stated that they fully support the request for a continuance. He does not want to disrupt the potential for an amicable resolution.

Terri Jones, Counsel for the Board, stated that they are supportive of the continuance request and feel that if the parties come to an amicable solution that it would be best for the City, as well. They are prepared to go forward with the case, but are supportive of the request to continue.

In response to a question by Chair Hayworth, Counsel Prause stated that what the Board is seeing in the appeal of the Zoning Administrative decision, is actually a relatively small part of a bigger set of issues between the parties, so there is a lot of baggage that would be discussed during the testimony of the parties. There was a meeting of several members of the Church Building Committee last week and there was an issue that the parties may consider sensitive and confidential and a new level of candor and trust was established in that meeting. He is optimistic that the continuance would be well worth the time and effort for all parties. Everyone wants to get things worked out, but continuing to pay both attorneys and possibly the investment of the City's resources in defending whatever decision is made in the Courts is not a prudent use of resources at this point, based on the tenor of their last meeting between their clients.

Mr. Isaacson stated that they are trying, in good faith, to come to a resolution of the issues at hand and would encourage the Board to provide an opportunity for them to come to a conclusion of the issues. He added that this is a unique situation because it involves a church with spiritual leadership and lay leadership that needs to come together within their own framework, and once those committees and individuals have met and agreed upon a course of action, then there is a group of property owners in the area whose opinions deserve an open ear and respect and it has taken some time to pull all that together to reach this point. He is asking that the Board allow them to continue that dialog, which they feel has some momentum at this point in time.

Chair Hayworth stated that the Board struggles with the matter being continued so many times. The counsel for the parties all stated that they are prepared to move forward, but they strongly and respectfully ask that a continuance be granted and hope they will be allowed that opportunity.

There was no one speaking in opposition to the request to continue.

Board Discussion:

Ms. Bowers stated that this is a quasi-judicial body and any time they can avoid having to weigh in on a matter, she would allow the parties time to continue their discussions and seek an equitable resolution. Ms. Wood stated that she would vote against a continuance as she thinks the Board has given enough continuances for this case. She feels the applicants need to go ahead and move forward with the case. Another continuance would inconvenience the Board members and the public. Ms. Eckard stated that she would vote against a continuance.

Chair Hayworth stated that the Board would go ahead and take a vote on a continuance of the matter at hand. All those in favor of granting a continuance were Ms. Bowers and Ms. Blackstock. Those voting in opposition to granting a continuance were: Mr. Cummings, Ms. Wood,

Ms. Eckard, and Ms. Hayworth. The request for a continuance was denied and the case would move forward and be heard today. Chair Hayworth asked that Counsel Schneier introduce the parties involved in the case to be heard.

Counsel Schneier stated that there are three parties presenting the case to the Board. The City is represented by Counsel Terri Jones, the church is represented by Counsel Marc Isaacson, and the residents are represented by Counsel Marsh Prause. The Board has received information concerning the hearing of the appeal, provided by staff.

Chair Hayworth stated that she has received a note asking that the Board hear other cases first, because this case will be rather lengthy.

Counsel Schneier stated that the Board has the discretion to change the order of cases to be heard by the Board. After some discussion, it was determined that the Board would move to other matters on the agenda, before hearing this particular case.

Mr. Truby returned to the podium to participate in other cases on the agenda.

OLD BUSINESS

APPEAL OF ZONING ADMINISTRATIVE DECISION

- (a) BOA-16-08: 602 Westminster Drive D. Marsh Prause, Attorney for D. Marsh Prause of Allman Spry, P.A., Attorneys At Law on behalf of collective appellants known as Linda and James Mahoney, Richard and Tricia Fisher and Bryan and Kandi Sykes D. Marsh Prause, Attorney for adjacent and nearby property owners (collectively "Appellants") appeals the decision of a technical plan approval for the subject property as a principal religious assembly use. This case was continued from the February 22, and March 28, 2016 meetings. **(WITHDRAWN)**

NEW BUSINESS

VARIANCE

BOA-16-14: 5040 Bass Chapel Road Lake Jeanette Recreation Association, Inc., requests a variance from a minimum ordinance standards regulating sign height and sign area. **Variance #1:** A proposed freestanding sign will exceed the maximum height of 15 feet by 15 feet for a total height of 30 feet. **Variance #2:** The sign area will exceed the allowable size of 62 square feet by 137.8 square feet for a total sign area of 199.8 square feet. Present Zoning – PUD (Planned Unit Development) , Section 30-7-7.2€12 and Table 1402, Cross Street – Old Battleground Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed expansion of the existing pool decking which will encroach 15 feet into a 15-foot rear setback. The property is

located on the eastern side of Bass Chapel Road south of Northern Shores Drive and is zoned PUD (Planned Unit Development). The property is described as Lake Jeanette Swim & Tennis Club, Plat Book 120-071. The records reflect the lot contains 5.44 acres. The applicant is proposing to add raised pool decking to the existing deck. The additional decking will be adjacent to the rear lot line. The deck addition is proposed to be 100 feet in length and 11 feet wide for a total of 1,100 square feet. The rear setback is regulated by the Plat as shown in Exhibit 5. The required rear setbacks are highlighted in yellow, which are shown as 25 feet from the rear, along with a footnote that allows further reduction to 15 feet if the lot line is adjacent to common space. Exhibit 5-A shows the entire rear lot line of the subject property is adjacent to common area. The rear lot line for the entirety of this lot is angled, jagged by design and uniquely shaped. The design for the rear lot line was based on protecting the water quality conservation easement and that within that easement are three zones of protection. Zone 1 protects the lake at normal water elevations, Zone 2 protects an additional 25 feet beyond the edge of the water, Zone 3 protects the strip of land adjacent to all rear property lines, including limiting the change of the impervious surface calculations. These areas were dedicated to serve as common/open space for the entire community. No portion of the rear pool decking will encroach into these areas and the decking is proposed to remain on the applicant's property. The property located directly behind the subject's rear lot line is defined as common area and open space. Those areas may be maintained with landscaping, walking trails, vegetative growth. Structures are not permitted in the dedicated common/open space areas. PUD-Planned Unit Development, is primarily intended to allow a diverse mixture of residential and/or nonresidential uses and structures that function as cohesive and unified projects.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Keith Black, 5007 Lancaster Road, was sworn in and stated that he does not have a lot to add other than the form that was filled out by the applicant. This request is fairly straight forward and they feel that they meet the requirements for the variance request. He stated that the Lake Jeanette Association that owns the common land behind this property does not have any objection to the request. The Swim & Tennis Club serves not just Lake Jeanette, but also the surrounding community and about 50% of the members do not live in Lake Jeanette. It is an opportunity to provide a service in this area and would be an asset to the community as a whole and promote the safety and welfare of the people of this area. In response to a question posed by Mr. Cummings, he stated that the proposed deck will be a raised area and the slope of the land will remain the same. The drawings included in the request accurately show the areas involved.

Debra Roskelly, 5001 Angler Lane, was sworn in and also responded that the area will be fenced in. She pointed out that one of the photographs, Exhibit E, shows an area with pine needles and the deck would go in that particular area. There will be one step from the cement area to the deck.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

After some discussion all Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Mr. Truby moved that in regard to BOA-16-14, 5040 – 4050 Bass Chapel Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance request be granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because Lake Jeanette will not be able to improve this facility and programs to provide better assets and services for its membership. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because Lake Jeanette properties is adjacent to the 50' buffer around Lake Jeanette which limits the area of the potential deck expansion. The hardship is not the result of the applicant's own actions because it is an existing property and the buffer is limited where an expansion could occur. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and justice because the area adjacent to the expansion is adjacent to common area and open space and would have no impact on adjacent property owners and will benefit the membership, seconded by Ms. Eckard. The Board voted unanimously, 7-0 in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Truby, Bowers, Eckard, Wood and Cummings. Nays: None.)

(b) BOA-16-15: 206 Leftwich Avenue Hillary and Ashley Meredith requests a variance from a standard that prohibits re-establishment of a nonconforming use if destruction exceeds 50% of its pre-damaged tax value. **Variance:** The applicant is requesting a variance to re-establish an existing nonconforming duplex, located in a single-family zoning district, which has fire damage that exceeds 50% of its pre-damage tax value. Section 30-2-3.6, Present Zoning – R-7 (Residential Single Family – Fisher Park Historic District), Cross Street – Magnolia Street. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance to re-establish an existing duplex which is located in a single family zoning district and has fire damage that exceeds 50% of its pre-damage tax value. The property is located on the eastern side of Magnolia Street north of East Fisher Avenue. The property contains a duplex dwelling structure. Tax records indicate the original structure was built in 1915. The property is located within the Fisher Park Historic overlay district and is considered a contributing structure to the Historic District. City records reflect the structure was a duplex for many years. Listed below is list of zonings for the subject site based on previous zoning records. a) 1970 - The property was zoned Residential 60 which allowed for single family, duplex and multi-family uses based on the lot widths and lot area of a property. b) 1992 - Property was "down-zoned" with the adoption of the Unified Development Ordinance to RS-9 which permitted single family residential uses and excluded duplex or multifamily uses c) 2010 - The zoning was renamed to R-7, with the adoption of the Land Development Ordinance which also permitted single family residential use and excluded duplex or multifamily uses. Fire records reflect that a fire occurred on this property on December 31, 2015. The fire appears to

have caused more than 50 percent damage to the structure based on tax value, thus the applicant is required to gain a variance to re-establish the duplex use of the structure. The applicant has mentioned that the footprint of the structure will not change and no enlargement of the use, which was established as a duplex is planned. The R-7, Residential Single-Family District is primarily intended to accommodate low to moderate density single-family detached residential developments. The overall gross density in R-7 will typically be 7.0 units per acre or less. She pointed out that Mike Cowhig, City Historic Planner, was present to answer any questions the Board members may have.

Chair Hayworth asked if there was anyone present wishing to speak to this matter.

Frankie Jones, attorney representing the applicants, presented a handout for the Board members' review. He stated that it is felt that the applicants would not be able to use the property as a duplex, which has been the property use for more than 30 years. The property is located in a portion of Fisher Park that is predominantly multifamily, consisting of duplexes and high density dwellings. The fire on the property is a particularly peculiar incident as the applicants were the victims of a crime. The ordinance does not allow a pre-existing nonconforming use to be re-established subsequent to a casualty of the extent involved in this matter, without the issuance of a variance. The applicants were not responsible for the fire to the property. The use of the home as a duplex was established prior to the applicant's purchase of the home and the ability to use the property as a duplex was a critical factor in the applicant's purchase of the property. The variance is only needed now because the applicants were a victim of an arson. The use of the property as a duplex is consistent with other uses on Leftwich Street. The granting of a variance would allow the property to be used for the same purpose for which it was used for over that past 30 years. Letters of support of the neighboring properties were shown for information. Several neighbors were present to indicate their support of this variance.

In response to questions posed by Mr. Cummings, Mr. Kirkman stated that in speaking with several people in regard to the next step for this matter, there is no proof of financial breakdown in terms of tax value, but based upon the severity of the fire, it was determined that it would be over 50% of the tax value of the house because of discussions with the property owners and Mike Cowhig. Ms. Eckard asked how long the 50% rule had been in effect. Mr. Kirkman responded that it has been in place for a number of years and is a standard that was part of the Unified Development Ordinance that preceded the current Development Ordinance.

Hillary Meredith, 451 N. Eugene Street, was sworn in and stated that their plans are to keep the same layout of the duplex as it previously was. There is an apartment upstairs and an apartment downstairs. The exterior of the structure would also remain the same as the original and the footprint of the house would also remain the same. There are other multifamily units in the immediate area and this property would not be considered an intrusion in the neighborhood.

James Moorefield, 208 Leftwich Street, was sworn in and stated that he supports this request. He has lived in the neighborhood for 18 years and they are great neighbors. There are only 3 single family homes on the street and about 9 multifamily homes.

Cass Katlett, 610 Magnolia Street, was sworn in and stated that her house is 2 doors down from this property and the residents enjoy the diversity of the neighborhood. She hopes the Board will grant the request as it would be in keeping with the character of the neighborhood.

Mike Cowhig, City Historic Planner, was sworn in and stated that he shares an alley with this property. He pointed out that the outward appearance of this house looks to be a single family residence. The applicants take great pride in their home and they are in a local historic district, the exterior of the building will have to be restored back to the previously existing look and they will be eligible for some historic tax credits, which will mean they will have to spend some extra money to put things back the way it was for a certain degree of quality. In response to questions by Chair Hayworth regarding the placement of the stair to the upstairs unit, Mr. Cowhig stated that staff would work with the applicants to make sure that any improvements that are feasible would be addressed.

Chair Hayworth asked if there were speakers in opposition to the request. There being no further speakers, the public hearing was closed.

Board Discussion

After some discussion all Board members indicated their support of this request as it appears to be straight forward and a very reasonable request for this particular property.

Ms. Eckard moved that in regard to BOA-16-15, 206 Leftwich Street, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance be granted, based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because, if granted, the variance will allow the property to be re-established back to its use as a duplex, which has been in use for more than 30 years. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because this part of Fisher Park has a lot of older duplexes or apartment complexes and has a higher density than some other areas of the neighborhood. The hardship is not the result of the applicant's own actions because the property was purchased as a duplex and has remained a duplex for over 30 years, a fire did occur, which was not of the applicant's doing and at this point it is an eyesore. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the property needs to be rebuilt back to a duplex and it allows it to be built for the purpose it was intended for over 30 years and there will be no harm to the public and safety of the neighborhood, seconded by Ms. Blackstock. The Board voted unanimously, 7-0 in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Truby, Bowers, Eckard, Wood and Cummings. Nays: None.)

The Board returned to the matters involving BOA-16-08, 602 Westminster Drive.

Mr. Truby was recused from the matter.

Marsh Prause, Counsel for the neighborhood, stated that they would like to withdraw the Appeal.

ACKNOWLEDGEMENT OF ABSENCES

The absence of Ms. Williams was excused.

OTHER BUSINESS

None.

* * * * *

There being no further business before the Board, the meeting adjourned at 6:55 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
MAY 23, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday May 23, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Sarah Wood, Enyonam Williams, Chuck Truby and Mark Cummings. Planning Department staff were: Loray Averett, Mike Kirkman and Nicole Smith; and Jennifer Schneier and Teri Jones, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Mr. Cummings moved approval of the April 25, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Eckard. The Board members voted 7-0 in favor of the motion. (Ayes: Hayworth, Eckard, Blackstock, Truby, Wood and Cummings. Nays: None.)

SWEARING IN OF STAFF

Loray Averett, Mike Kirkman and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been no requests for items to be continued.

NEW BUSINESS

RE-HEARING

Ms. Eckard was recused from the following matter.

- (a) **BOA-16-16: 2305 Walker Avenue** John and Francis Sandridge request a re-hearing concerning family care home spacing requirements. The special

exception was originally heard and denied at the March 28, 2016 meeting. Re-Hearing: One re-hearing request may be considered based on a determination of new evidence which was not available or able to be discovered at the time of the original hearing. Present Zoning – R-5 (Residential Single-family). Cross Street – Northridge Street. **Note:** *This item is only to determine if there is sufficient new evidence to grant a re-hearing. Any new hearing will be scheduled at a future date.* **(GRANTED WITH CONDITIONS)**

Loray Averett stated that John J. Frances and John Sandridge request a re-hearing concerning family care home spacing requirements. The special exception request was originally heard and denied at the March 28, 2016 meeting. Re-Hearing: One re-hearing request may be considered based on a determination of new evidence which was not available or able to be discovered at the time of the original hearing. Present Zoning-R-5 (Residential Single-family), Cross Street-Northridge Street. Note: This item is only to determine if there is sufficient new evidence to grant a rehearing. Any new hearing will be scheduled at a future date. Within ninety (90) days of the Board's original decision an applicant may request one re-hearing on any matter upon the filing of a request for re-hearing and paying a fee as set by City Council.

A re-hearing may be allowed by the Board if the Board finds the applicant has presented new evidence which was not available or able to be discovered at the time of the original hearing. Such re-hearings will then be held at the next meeting of the Board of Adjustment. It is the policy of the Board to require a substantial showing of new evidence prior to granting such a re-hearing. Only one re-hearing may be had by an applicant on the same question. An application for a re-hearing does not extend the time for filing an appeal of the decision of the Board of Adjustment to the Courts. The R-5, Residential Single Family District is primarily intended to accommodate low density single family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Fran Sandridge, the applicant at 2305 Walker Ave., was sworn in and stated that she had new evidence to contradict last meeting's concern about neighborhood approval about having her home licensed as a family care home. Since the last meeting Ms. Sandridge went to the homeowner's association meeting on April 4th, and plead her case at that meeting to a large group of people, some of which were there at current meeting that night. At the April 4th, homeowner's association meeting she claimed to have gained the approval of the Lindley Park Homeowners association. Ms. Sandridge has a letter from her neighbor as well. Ms. Sandridge stated that she knows that it doesn't change the fact that the home proximity to one another are very close; the closest home to hers have people who are older. She stated she never interacted with the other homes nor knew that they existed. The two young men that live in her home do not have any association with the other homes. Ms. Sandridge stated that she does understand the concern of a lot of home clustering together there would be a good chance that the people would not form a community. She is happy that there may be an acceptance and that the neighborhood of Lindley Park is very "vibrant." It is almost impossible to become secluded from your community and that's the beauty of

this home and why the two young men want to stay there. The two young men are already in Ms. Sandridge's home she's asking to support them herself and not having somebody else support them.

Ms. Sandridge then stated the conditions of the approval which she is in favor of. 1) There would be no more than two beds/two residents in Ms. Sandridge's home. 2) Her husband and herself only would be running the home. If Ms. Sandridge would move from the neighborhood, the Special Exception would not transfer to any other person.

Kay Calmone, 609 Scott Avenue stated that it is uncanny that in the previous meeting that she was against Ms. Sandridge, but in the meantime she has gotten to know Ms. Sandridge and now understands her plan and is very much in favor.

Brian Kurtizer, 2307 Sherwood Street, he currently has an adult family service home and has 19 years experience as a foster parent. He stated to the council to look at the evidence that has been addressed about the distance between the two homes. Mr. Kuritzer states that his home and Ms. Sandridge's home are too far away from each other that no interaction has ever occurred and Mr. Kuritzer was not aware of another adult service home in the area. Mr. Kuritzer is in favor of Ms. Sandridge's request with the conditions.

Chair Hayworth asked if there was any opposition to the condition. There being none, the public hearing was closed.

Board Discussion:

Mr. Cummings stated that he was in support of a rehearing. There is new evidence that has been presented that the Board should look at. Ms. Wood stated that she is agreement and supports a rehearing. Ms. Blackstock stated that she is in favor of a rehearing because of the new evidence. Mr. Truby stated support for new hearing. Ms. Williams is also in favor of a new hearing.

Ms. Williams moved for approval of a new hearing based on the following: The applicant has followed the guidelines for a rehearing request within 90 days, a rehearing will be considered because the original request was heard at the March 28, 2016 meeting, thus this meets the 90 day requirement. It has been granted so the council can hear new evidence, the applicant presented new evidence from the homeowners association and evidence a letter from a neighbor, and the council heard two neighbors speak on behalf of the applicant. The rehearing will be granted and heard at the next meeting. Ms. Williams made a motion and was seconded by Mr. Truby in favor of the motion to grant the re-hearing request. The motion was passed on a vote of 6-0-1. (Ayes: Hayworth, Cummings, Wood, Blackstock, Truby, Williams. Nays: None. Abstained: Eckard).

Ms. Eckard returned to the dais for the other items on the agenda.

VARIANCE**BOA-16-17: 2231 Fleming Road Soley DG, LLC and Duluth Inc., LLC**

Tom C. James, Manager request a variance from the minimum number of stacking spaces required for a restaurant with drive through facilities.

Variance: The applicant is proposed to provide 8 stacking spaces while the Ordinance requires 11 stacking spaces, therefore a variance of 3 stacking spaces is requested. Present Zoning – C-H (Commercial-Heavy) and SCOD 1 (Scenic Overlay District 1), Section 30-8-10.4(4)(b), Cross Street – Inman Road. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a reduction in the number of required stacking spaces for a proposed restaurant (bagel shop) with drive-through facilities . Amanda Hodierna, Attorney on behalf of Soley DG, LLC and Duluth Inv., Tom C. James, Manager LDO Section 30-8-10.4(I) Drive-Through Facilities Stacking Lane Standards States : Restaurant with single drive-through lane 11 total spaces, with at least 5 spaces at or before order station. The property is located on the south side of Fleming Road east of Inman Road and is zoned C-H (Commercial-High). The entire tract contains approximately 6.85 acres and is developed with restaurants and retail services. The property was developed in Guilford County Jurisdiction in 1989 and annexation records reflect the property was annexed into the City in 2008. The existing development is described as Cardinal Crossing Shopping Center.

The applicant is proposing to construct a restaurant with drive-through services on a portion of the property which is adjacent to McDonalds Restaurant. The applicant has made mention that if the variance is granted, the sketched area will be formally proposed as a new plat showing this area to be recorded as an outparcel. It is proposed to be 0.46 acres and will have frontage along Fleming Road. The proposed shape of the proposed outparcel is defined based on existing site access, existing buildings, existing parking area and established travel flow drive aisles which serve the site in its entirety. If the variance is granted, the applicant will be required to obtain TRC (Technical Review Committee) plan approvals with building permits, prior to beginning any construction activity. Scenic Corridor Overlay District 1 - The SCOD-1 district requirements are included as Exhibit 2 and this proposed project will be reviewed using SCOD-1 development standards as applicable. The C-H, Commercial – High District is primarily intended to accommodate a wide range of high intensity retail and service developments meeting the shopping and distributive needs of the community and the region, and some residential uses. The district is established on large sites which are typically located along thoroughfares to provide locations for major developments which contain multiple uses, shared parking and drives, and coordinated signs and landscaping.

Chair Hayworth asked if there was anyone wishing to speak to this matter.

Amanda Hodierno, representing the applicants for the variance, was sworn in and stated that this shopping center is commonly known as Cardinal Crossing. The request is for a drive-through lane stacking requirement variance. Cardinal Crossing is approximately 60,000 square feet and a typical shopping center with a grocery store anchor and several in-line tenants. It was developed in the 1980s under Guilford County jurisdiction. In the late 1990s, two outparcels were developed as a Taco Bell and McDonalds, still under the County jurisdiction. In 2007, the Greensboro City Council approved the Cardinal River Hills annexation that brought this property in the City, effective June 2008. In 2010, Greensboro adopted the new Land Development Ordinance (LDO) which is currently in place. That LDO created a change in the retail shopping center parking requirements for shopping centers less than 400,000 square feet in size. The ratio has been decreased to one space per 300 square feet of retail area, creating a parking lot access that they are now hoping to improve upon the unused and unneeded space. She referred to an aerial photograph included in the booklet given to the Board members for their review. After her explanations, she asked that the Board consider granting the request for this variance.

There was no one speaking in opposition to the request and the public hearing was closed.

Board Discussion

After some discussion all Board members indicated their support of this request as it appears to be straight forward and a reasonable request for this particular property.

Mr. Truby moved that in regard to BOA-16-17, 2231 Fleming Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance request be granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because without the variance they would not be able to construct the required drive-through. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because of the shape and available size of space to the building. The hardship is not the result of the applicant's own actions because the shopping center has existed in this location and available space is limited. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and justice because the size of the proposed building limits the production ability which in-turn lessens the higher number of required stacking spaces, thus allows the applicant to maximize the use of their property, seconded by Ms. Eckard. The Board voted unanimously, 7-0 in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Truby, Bowers, Eckard, Wood and Cummings. Nays: None.)

(b) BOA-16-18: 501 N. Elam Avenue Moses H. Cone Memorial Hospital for Wesley Long Hospital, request variances from the maximum sign height requirement and, if approved, to allow the duration of the variance to be extended by 12 additional months beyond the permitted 12 month time frame. Variance #1: Two proposed freestanding identification signs will exceed the maximum height (which is 6 feet), for a total height of 12 feet for each sign. Variance #2: If the height variances are granted, the applicant is also requesting the Board to allow up to 24 months to begin construction or installation of the signs. Section 30-14-7.3 – Table 14-2, Present Zoning – PI (Public Institutional). Cross Street – Benjamin Parkway. **(GRANTED)**

Nicole Smith stated that Moses H. Cone Memorial Hospital is requesting a variance for two proposed freestanding identification signs to be 12 feet tall, exceeding the allowable height of 6 feet by 6 feet. The property is located north of West Friendly Avenue, south of Benjamin Parkway on the western side of North Elam Avenue and is zoned PI (Public Institutional). The applicant is proposing to replace two freestanding identification signs, which will exceed the maximum height of 6 feet by 6 feet for a total height of 12 feet. This variance request was originally heard and approved at the January 28, 2013 meeting. If the variance is granted, the applicant is also requesting to extend the variance time from 12 months to 24 months. The PI (Public Institutional) zoning district permits freestanding signs for each zoned lot to be 6 feet tall. This zoning district also only allows one freestanding sign per lot frontage. The applicant has submitted a drawing, identified as Exhibit C that shows the proposed locations for the two signs. The property has two lot frontages. One sign is proposed to be replaced and oriented along the West Friendly Avenue frontage and the other sign will be replaced and oriented to the North Elam Avenue frontage. The two existing signs are proposed to be removed. The applicant has been made aware of the additional sign requirements relative to square footage, design, and verifying that signs are not located in sight easements. These items are reviewed for compliance when the applicant submits a request for the sign permit(s) through the City's sign permit application process. The applicant also plans to address an off-premise sign which does not meet current ordinance standards. The PI, Public and Institutional District is intended to accommodate mid and large-sized public, quasi-public, and institutional uses which have a substantial land use impact or traffic generation potential. It is not intended for smaller public and institutional uses customarily found within residential areas.

Mark Cummings asked was there another variance granted at an earlier time period. Jennifer Schneier stated that the attorney Frankie Jones would speak on this at this time.

Loray Averett stated that the variance is good for twelve months and if construction is not commenced within 12 months, the variance becomes null and void.

Chair Hayworth asked if there was anyone wishing to speak to this matter.

Frankie Jones, 300 North Green Street, Suite 301, presented an informational packet. Mr. Jones discussed a merger with Cone Health and Alamance Medical, later in the year there were leadership changes. The signs were part of construction projects that got delayed. This is the reason for a 24-month time period instead of a 12-month period. The standards changed from 2013 and now they have to show other reasonable uses for the property, and the height and the font size for the proposed signs. He stated the informational packet explained the plans to be admitted in evidence.

Ms. Eckard asked Mr. Jones if they plan to take out any of the shrubbery or trees around the signs? Will it decrease visibility on the road? Mr. Jones stated that there will not be increased traffic and no obstruction of visibility on the street.

Mandy Branham, GSI sign consultant, 7 Lockheed Court, stated it is felt there is the need for a bigger sign for better visibility and with a bigger font size, a 12-foot sign is better for visibility.

Landscaping would not be an issue unless there was a tree that was going to be in front of the proposed sign.

Mark Cummings asked Frankie Jones to elaborate on the time issue. Frankie Jones referred to the informational booklet for all the data concerning the time for the sign project.

Chair Hayworth asked if there were speakers in opposition to the request. There being no further speakers, the public hearing was closed.

Board Discussion

After some discussion all Board members indicated their support of this request as it appears to be straight forward and a reasonable request for this particular property.

Mr. Cummings moved that in regard to BOA-16-18, 501 N. Elam Avenue, that the stated findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance be granted, based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because, the current signs do not accurately identify the location of the hospital. There is a need for quick identity for emergency facilities and the current sign frustrates this need. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the height limitations prohibit the proper information necessary to ensure quick and safe access for emergency services. The hardship is not the result of the applicant's own actions because the hardship was the result of the height limitation contained in the LDO related to identification signs. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and ensures public safety, welfare and substantial justice because the intent of the taller signs to make it more visible for the community to access the hospital facility in a safe manner.

With respect to the time limit variance, based on the stated finding of fact he moved that the Zoning Officer be overruled and the variance granted based on the following: If the applicant complies with the provision of the ordinance, unnecessary hardships will result by applying the strict letter of the ordinance, because there is a need for two signs, Based on timing for the implementation of the signs, the ordinance would require the applicant to come before the Board more than two times, which is a waste of resources and it would be more feasible to just grant the additional 12 months at this time. The hardship of which the applicant complains results from conditions that are peculiar to the property and related to the applicant's property because the installation time frame for the signs require more time to ensure that both of the signs are completed, as requested. The hardship is not the result of the applicant's own actions because of other timely projects and construction occurring on the site impacts the time frame that the signs can be installed and the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and ensures the public safety, welfare and substantial justice because given the extra time, both signs would be created which will increase the visibility of those patrons needing to use the emergency facilities of the hospital, seconded by Chuck Truby.

The Board voted unanimously, 7-0 in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Truby, Williams, Eckard, Wood and Cummings. Nays: None.)

BOA-16-10: 300 Woodbine Court: Stephen Gibson requests variances from the minimum side and rear setback requirements. Variance #1: A proposed detached garage will encroach 8.25 feet into a 10-foot side setback and 8.25 feet into a 10-foot rear setback. Section 30-7-3.2 and Table 7-1. Variance #2: The proposed garage will have eaves that will overhang an additional 6 inches which will encroach 1.85 feet into a 3-foot side and rear setback requirement. Section 30-7-1.4(C)6. Present Zoning – R-5, Cross Street – West Friendly Avenue. **(GRANTED)**

Loray Averett stated that the applicant is requesting variances for a proposed two-story detached garage. The applicant is proposing to remove an existing detached garage and replace it with a slightly larger garage. Variance #1: The detached building will encroach 8.25 feet into a 10-foot side setback and 8.25 feet into a 10-foot rear setback. Variance #2: The eaves will overhang an additional six inches thus encroaching 1.85 feet into a 3-foot side and rear setback. The property is located at the northeastern intersection of Woodbine Court and Rolling Road and is zoned R-5 (Residential Single Family). The property is located in Sunset Hills Section One as recorded in Plat Book 9, Page 85. The applicant's lot is a corner lot and is rectangular shaped, approximately 50 feet wide by 140 feet deep. The lot is developed with existing infrastructure consisting of a two-story dwelling, driveway, landscape features, fencing, and vegetative growth. There is an existing detached building located in the northeast area of the lot behind the house. The applicant is proposing to tear down the existing building and build a new detached garage. The existing garage is 17.3 feet by 20.7 feet and contains 358 square feet. The proposed garage will be 24 feet by 24 feet for a total of 576 square feet. The garage square footage will increase by 218 square feet. The new garage will not encroach any closer than what already exists in relation to the rear and side lot lines. The R-5 Residential Single-Family District is primarily intended to accommodate low-density single-family detached residential

Chair Hayworth asked if there was anyone wishing to speak to this matter.

Stephen Gibson, 300 Woodbine Court, stated he would like to replace the existing garage with a more modern and suitable garage, which will park 2 cars. The existing garage is currently too small. Mr. Gibson is requesting a slightly higher pitched roof to keep in the context of his house roof and allow him more additional storage. Mr. Gibson also has letters of support from next door neighbors.

Chair Hayworth asked how close to the property line the eaves will be? Stephen Gibson stated that the eaves will be further away because they are replacing the garage all together in the same position. In fact the eaves will be further away, and no further encroachment will occur.

Chuck Truby asked if the proposed space above would be for habitable space. Stephen Gibson stated the space would only be storage.

Chair Hayworth asked if there were speakers in opposition to the request. There being no further speakers, the public hearing was closed.

Board Discussion:

After some discussion all Board members indicated their support of this request as it appears to be straight forward and a reasonable request for this particular property.

Ms. Eckard moved that in regard to BOA-16-10: 300 Woodbine Court, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the variance be granted, based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because, if following strict letter of the zoning ordinance they will not be able to build the garage due to the current regulations. The hardship of which the applicant complaints result from a condition peculiar to the property and unique circumstances related to the applicant's property due to the corner lot, the size of the lot, and setbacks required. The hardship was not a result of the applicant's actions because he purchased the property in its current condition with the existing detached garage. The lot has existing house, driveway and fencing. Based on the current location, a new garage constructed in the same foot-print will not increase any impacts to the adjacent land. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because there is nothing in the design that would impact any concern for the public safety or welfare. The new garage will add value to the property and the neighborhood. Motioned Eckard and seconded by Mr. Cummings. The Board voted unanimously, 7-0 in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Truby, Williams, Eckard, Wood and Cummings. Nays: None.)

BOA-16-20 8300 Capital Drive Alexander Elkan, Attorney for Ecolab, Inc. requests variances from a maximum height requirement and side setback requirements for property that is zoned HI, Heavy Industrial and is adjacent to R-3, Residential Single-family zoning. **Variance #1A:** A proposed process tower will exceed the maximum height in the HI (Heavy Industrial) zoning district of 80 feet by 40 feet for a total height of 120 feet. **Variance #2:** A proposed attached building addition to the existing building will encroach 12 feet into a 50-foot side setback. **Variance #3:** Two other proposed silo structures will encroach 37 feet into an 80-foot side setback. Section 30-7-6.1, Present Zoning – HI (Heavy Industrial, Cross Street – Standard Drive) **(GRANTED)**

Loray Averett stated that Alexander Elkan, is Counsel on behalf of Ecolab, Incorporated (via merger with Kay Chemical Company). The applicant requests variances from a maximum height requirement and side setback requirements for a property that is zoned HI, Heavy Industrial and is adjacent to R-3, Residential Single-family zoning. **Variance #1A:** A proposed process tower will exceed the maximum height in the HI (Heavy Industrial) zoning district of 80 feet by 40 for a total height of 120 feet. **Variance #1B:** The tower will also encroach 20 feet into a required 80-foot side setback. **Variance #2:** A proposed attached building addition to the existing building will encroach 12 feet into a 50-foot side setback. **Variance #3:** Two other proposed silo structures will encroach

37 feet into an 80-foot side setback. The property is located on the north side of Capital Drive, east of Little Santee Road and south of West Market Street and is zoned HI (Heavy Industrial). The subject site contains a chemical processing/mixing business. City records reflect the business was established in 1996. The property contains approximately 23.84 acres. The applicant is requesting to expand the facility on the eastern side of the property which is adjacent to residentially zoned property. The setbacks and height limitations, as described in the above ordinance reference section are applicable to the subject site. Staff's Exhibit Item 2 is a copy of the Western Area Land Use Plan. The adjacent residential property that is located immediately east of the northern portion of the subject's site is planned to be developed as an Employment Area. The majority of the portions of land uses in the immediate vicinity of the subject site are established as industrial uses. There are other areas further north of the subject site which is planned for mixed and residential uses, but not in the closer proximity areas of the subject site. The applicant has mentioned that their business growth is site specific to the existing infrastructure on the site. As shown on Exhibit 4, the proposed project is supported by the City's Economic Development Team and Greensboro's City Council. Staff will note that based on the design of the lot and the design of the existing infrastructure further expansion into other areas of the lot could be limited. Also, if the adjacent property was not zoned residential, there would not be any setback or height limitations for the subject site. The adjacent residential property is undeveloped. The HI, Heavy Industrial District is primarily intended to accommodate wide range of assembling, fabricating, and manufacturing activities. The district is established for the purpose of providing appropriate locations and development regulations for uses which may have significant environmental impacts or require special measures to ensure compatibility with adjoining properties.

Chair Hayworth asked if there was anyone wishing to speak to this matter.

Alex Elkan, Attorney with Brook-Pierce law firm, 332 North Elm Street, represents Ecolab, Inc., stated that he created a booklet with a powerpoint presentation and distributed to the Board members. Mr. Elkan presented a quick history of the property, Ecolab, was previously Kay Chemical and the property was purchased in 1986 and was identified as Triad Industrial Park. The property was zoned in 1986 and had no restrictions at that time. The Ecolab representatives stated they will clearly convey that if the applicant complies with the provisions or ordinance, unnecessary hardship will not be avoided, and today's testimony will describe the height of the proposed manufacturing processes and the location of the proposed project on the property. The hardship is the result of conditions to the property, location, size and topography. That hardship is not the result of the applicant's own actions. Ecolab has complied with all requirements related to obtaining a variance. The hardship is concerned with the adjacent property currently zoned residential in an established industrial area.

Kendall Smith, 8300 Capital Drive, stated that community relations is very important to Ecolab. Ecolab has reached out to all of the neighbors to discuss what Ecolab is going to do with the property. The owner of the adjacent residential property, Mr. Rice expressed no concerns to Mr. Smith; Mr. Rice was not present because he was currently on vacation, but gave Mr. Smith his support for the project. Mr. Smith then asked if there were any questions for him.

Ms. Eckard asked what the contents of the silo were and could it be a possible target for a violent crime? Mr. Smith responded that there are chemicals in that silo, and that Ecolab's business is also regulated by the EPA.

Sharon Ruppel, 8300 Capital Drive, also stated an overview of the company history. In 1994, Ecolab had over 200 employees and then they acquired Kay Chemical and currently they have over 900 employees and still have room for growth. They manufacture dry powders and liquids and make safe food products for numbers of grocery stores and fast food restaurants. They have donated \$600,000 back into the community via the United Way, Teacher Grants and the American Heart Association. Project Apex, is a cleaning product rallying around food; it is a powder bar form of use as an aseptic (example, coating around aspirin and or a chocolate shell around candy). A further explanation of what is in the Ecolab's silo is a base form of Sodium Carbonate. The need for the expansion is the less chance of product integrity and degradation of the product. This expansion project is critical to Ecolab and is worth \$22.5 million dollars to undertake and will generate 80 new positions.

Ms. Wood asked if the chemicals were going to remain the same or was Ecolab investing in different chemicals later? Sharon Ruppel stated that most of the chemicals are the same ones they have now, with the exception of the main powder.

Alex Elkan stated the hardship is relative to the property and by reason of the ordinance; their concern is to protect the value of the adjacent residential property. He stated the residential property is categorized by the City to be developed for uses other than residential and Ecolab's land use will not interfere, but instead supports industrial development and asked for approval of the variance.

Chair Hayworth asked if there were speakers in opposition to the request. There being no further speakers, the public hearing was closed.

Board Discussion:

Ms. Williams stated that she was on the fence at first but now supports the situation because the neighbors are on board. Mr. Truby stated that he also supports it as an engineer/landscaper and surveyor he is very familiar with the area, and he stated, based on the Planning for the area, it is likely to be developed with uses compatible to the existing industrial use. Nobody would want to build homes there. Ms. Eckard stated that she thanked the applicant for their clear and understandable presentation of what Ecolab wants to accomplish. She is also in support. Ms. Wood stated that she would support the request. Mr. Cummings stated that initially his problem was that in the statute, as it stands, needs to have all four conditions to be met. He thanked the applicants for presenting booklets and he understands the intentions financially and the impact on the residents. He would support the request. Chair Hayworth stated that she appreciates they have already embraced and communicated openly with its surrounding community. Ms. Blackstock stated that she also supports the request.

Ms. Blackstock moved that in regard to BOA-16-20, 8300 Capital Drive, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and all variances be granted, based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because a strategic new production process will not be allowed with the loss somewhere between 35 to 45 or more jobs to the City of Greensboro. The hardship of which the applicant complains result from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the proposed renovations and additions are located adjacent to property that is zoned residential but will likely never be developed for residential use. The subject property is located within an industrial park that is already predominantly zoned Industrial. The hardship is not the result of the applicant's own actions because the City of Greensboro's jurisdictional area expanded during the time of the facilities operations. The hardship would result due to the LDO provision to the subject property and the peculiar circumstances. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because there is nothing in the design of the proposed renovation or the requested variance that would cause concern for the public safety or welfare, seconded by Ms. Eckard. The Board voted unanimously, 7-0, in favor of the motion to grant the variance. (Ayes: Hayworth, Blackstock, Truby, Williams, Eckard, Wood and Cummings. Nays: None.)

At this time there was a short break in the proceedings from 7:42 until 7:53 p.m.

APPEAL OF A ZONING ADMINISTRATIVE DECISION

BOA-16-21: 357 Summit Avenue David Wharton appeals a decision concerning screening requirements for junk motor vehicles determined to be accessory use in the CM (Commercial – Medium) zoning district. The applicant asserts development standards for Junk Motor Vehicles (accessory use in the Land Development Ordinance) apply in addition to standards for towing & storage (principal use). Applicant also asserts junk motor vehicles cannot be fully screened from view of any street and therefore are prohibited at this location. Section 30-8-11.7, Present Zoning C-M, (Commercial – Medium), Cross Street – Murrow Boulevard. **ADMINISTRATIVE DECISION UPHELD)**

Nicole Smith stated that David Wharton, owner and resident of 667 Percy Street. The applicant appeals a decision concerning screening requirements for junk motor vehicles determined to be accessory use in the C-M (Commercial-Medium) zoning district. The applicant asserts development standards for Junk Motor Vehicles (accessory use in the Land Development Ordinance) apply in addition to standards for Automobile Towing & Storage (principal use at 357 Summit Avenue). Applicant also asserts junk motor vehicles cannot be fully screened from view of any street and therefore are prohibited at this location. The property is located on the north side of Summit Avenue, south of Murrow Boulevard, is zoned C-M (Commercial-Medium) and contains approximately 1.35 acres. The Fisher Avenue/Murrow Boulevard ramp is located immediately north

of the subject site and the ramp is estimated to be elevated at least 20 feet higher than the subject site. On April 14, 2016, the applicant filed appeal of the zoning administrator's decision concerning the screening requirements for vehicles located at 357 Summit Avenue. Past and present history concerning 357 and 351 Summit Avenue - The properties are contiguous to one another and are under the same ownership of the Hugh Sarvis Family, LLC; however, the properties are separate tax parcels. The front portion of the property, located at 351 Summit Avenue, contains a used vehicle sales lot. This use has been in continual existence for many years and is not subject to current LDO standards for outdoor display. The rear lot located at 357 Summit Avenue contains a separate principal use for auto storage that is subject to current LDO standards. There is also a cellular tower compound established on the north end of the subject site. Staff determined that auto towing and storage is the principal use of the property at 357 Summit Avenue and is a permitted use in the C-M zoning district; subject to several development standards. These standards include limiting the use to a maximum of 20 vehicles, the enclosure of the storage yard by a 6 ft. opaque fence or wall and the prohibition of outdoor disassembly and salvage operations. Staff also determined that any junked motor vehicles located on this site were considered accessory to the principal auto towing and storage use. As such any standards related to junked motor vehicles were not applicable beyond the development standards already applied to the principal auto towing and storage use. Staff investigations of the site determined the tenant had more than 20 vehicles for the towing and storage use; that outdoor disassembly and salvage operations were taking place at this location; and the existing fence surrounding the storage use, though 6 feet in height, was not opaque and thus did not provide the required screening for the property. As such a Notice of Violation was issued to both the property owner and tenant to address these violations. The applicant has asserted that the presence of any junked motor vehicles at 357 Summit requires the site to be fully screened from Fisher Avenue/Murrow Boulevard located north of the site. Based on the significant difference in elevation of the subject property and this roadway, it is not reasonably possible to screen the outdoor area from this street and thus junked motor vehicles should be prohibited from this site. The C-M, Commercial – Medium District is primarily intended to accommodate a wide range of retail, service and office uses. The district is typically located along thoroughfares in areas which have developed with minimal front setbacks.

Mr. Cummings asked questions for clarity concerning the interpretation. Mike Kirkman responded that he made a ruling to an issue raised by a concerned citizen. Mike Kirkman answered that a concerned citizen is appealing a decision about what is going on with a particular property and the citizen seeks clarification on what the development standards would be associated with this property. The property is zoned Commercial Medium so the use is allowed from the Developmental Standards. So the question was, what kind of standards were applicable to the property. The property is non-compliant in some of the development standards for a towing space; would other standards apply with the junk motor vehicles. The property is non-conforming right now for the auto development towing standards.

Jennifer Schneier clarified this is an appeal from Mr. Kirkman's position. In distributed pamphlets there is all the information given to uphold or overturn the ruling.

Counsel Teri Jones, City Attorney's Office, stated that there is a pending Notice of Violation, but that has not been appealed by the property owner or the tenant. Tonight's meeting is about the Appeal of decisions made by the Zoning Administrator.

Counsel Jones posed several questions concerning Mr. Kirkman's tenure with the City. Mike Kirkman said that he has been the City Zoning Administrator for several years. His position is responsible for the effective implementation and administration of the Land Development Ordinance which contains the City's Zoning Ordinances regarding use of property and its various configurations.

Counsel Jones asked what were the uses of 351 and 357 Summit Avenue and if they complied with the LDO at this time? Mike Kirkman replied that both properties are currently zoned Commercial Medium, C-M. The C-M district allows a variety of moderate to higher intensity uses and can include general retail, restaurants, both with and without drive-through, offices uses, personal and professional service uses, convenience items and stores with and without fuel pumps, as well as a variety of vehicle sales and service uses. 351 Summit Avenue is a used car lot and has been that way prior to the year 2000. 351 Summit Ave has been in operation prior to the Land Development Ordinance, that would be and included no Unified Development Ordinance. 357 Summit Avenue is being used as a car towing and storage. According to Mr. Kirkman there is no exact date when 357 Summit Ave began the car towing and storage use. "Lusa Auto" sales is the current merchant owner at 352 Summit Ave and Gotcha Towing and Recovery is at 357 Summit Avenue, both of which are owned by Hugh Sarvis, LLC.

Counsel Jones asked what the difference is between a principal and accessory use? Mike Kirkman stated that the vehicle sales and service use is designed for the sale of vehicles, could be new or used and could provide some basic service on the property, including car washing and other minor repair. The rear portion used for the auto towing and storage is principally the use for storage of vehicles and those may or may not be accessible to the general public.

Counsel Jones asked if there were any violations given to 351 Summit Avenue? Mike Kirkman said that they issued a Notice of Violation in early April, the current use did not live up to current development standard for the auto towing use. The use itself was allowed in the commercial medium but it wasn't meeting development standards. They would be limited to only 20 junked vehicles on site, a six foot opaque wall should surround the area (fully screened from the streets), and that there would be not outdoor disassembly or salvage operations going on outside. In response to other questions, Mr. Kirkman stated that junked motor vehicles are simply defined on the permitted use table as an accessory use from the vehicle sales and service uses and towing and storage, and those junk motor vehicles do also have development standards that speak to screening from adjacent residential property, Public and Institutional properties and public streets.

David Wharton, 667 Percy Street, asked if the current primary use for towing facilities include junk vehicles? Mike Kirkman stated there is nothing in the current ordinance that states anything about "storing" junk motor vehicles. Mr. Wharton, asked about the outside storage standards for junk motor vehicle storage. Mike Kirkman stated that the outside storage standards were anything in a

CM must be screened from ground level view from adjacent properties and eye level, there is nothing specific about the heights of the screen.

David Wharton asked if these rules would apply if the primary use would be for a salvage and junk yard rather than a towing and storage facility? Mike Kirkman said they would apply to a salvage yard but not a towing operation in which towing vehicles is its primary use. They noticed more disassembly than repair in their investigations; so it violates the standard for that property as a primary use towing yard.

Chair Hayworth asked for any rebuttal from the speakers.

Counsel Jones stated that to be clear, the outdoor storage applies to vehicle storage yards in addition to junk and or salvage yards? That includes screening of a six foot fence. Mr. Kirkman repeated what he said and that towing and storage have to be screened.

Mr. Cummings asked if there are real "junked" cars at the location of 357 Summit Avenue? Mike Kirkman said that there are vehicles that are non-operating and/or dismantled cars.

Mr. Cummings asked if there are problems with 351 Summit Avenue? Mike Kirkman stated that 351 does not meet some standards in the current LDO, because the use has been implemented before the newer standards, therefore, those do not apply. If this was a business that started currently, the standards would have to be followed.

Mr. Cummings stated that Mr. Wharton's argument is that there is an accessory use at 357 Summit Avenue. The clarification needed is the degree of compliance you need, in order to be in compliance with the ordinance. Mike Kirkman stated the following conditions: 1) As long as there are only 20 vehicles. 2) If there is a six-foot opaque fence. 3) If there is no salvage or disassembly operations going on outside. If all three were met they would be in compliance with all three of the ordinance standards.

Chuck Truby asked if they are letting people go onto the site and selling parts like a traditional junkyard? Mike Kirkman stated he doesn't think that's the case. He would not be able to speak on that because they have not monitored the yard.

Chair Hayworth stated that there is an aerial photograph from 2014 of the Salvage yard and there are 61 vehicles in the back and in the front lot there are 43 vehicles, for a total of 104 vehicles. How many vehicles can be on the front part of the lot or the sales lot at a given time? Mike Kirkman stated that there was not a specific number. The standards themselves would not give a limited standard for the sale items, but blockage of driving lanes has a clear standard.

Mr. Cummings stated the issue is what is the property used for more; is it a towing and storage yard or is it used to store junk vehicles? Mike Kirkman agreed that the question is what is the principal use of the property? If there are junk vehicles on the premises, other standards apply.

Counsel Jones asked Mr. Kirkman if there was any advertising on the property or signage of 357 Summit Avenue? Mike Kirkman stated that there is some signage on the gate of the fence. The sign indicates a towing business there.

David Wharton, 667 Percy Street, stated he has lived near the adjacent property for over 22 years. He has spoke to the neighboring home owner association and believes that 351 and 357 Summit Avenue are in violation of the City ordinance. He feels that this is detrimental to the neighborhood and property values. Mr. Wharton presented a letter to the Board of Adjustment. The traffic patterns around Summit Ave makes the towing yard very visible. He advised that the owners/tenants follow the rules and build an opaque screen. He read from the ordinance and emphasized that "Any junked vehicle needs to be screened from the street."

Counsel Jones stated to Mr. Wharton that if junk motor vehicles are an accessory use to the property what would you characterize the primary use? David Wharton responded that it should be only auto towing and storage and that the standards for auto towing and storage doesn't include anything about junk motor vehicles.

Counsel Jones asked if a towing yard had to store a junk motor vehicle there had to be a specific place where the vehicles had to be screened? Mr. Wharton stated as long as the junk motor vehicle is not visible from the street. He pointed out that an auto repair facility is different than junk motor vehicle storage.

Counsel Jones wanted to clarify that this property according to Mike Kirkman has working, sellable vehicles and non-operational vehicles. By Mr. Wharton's assessment, Ms. Jones asked that the junk motor vehicles should be stored on a different parcel of land, with different fencing, depending on the visibility of any street or avenue.

David Wharton corrected Counsel Jones by saying that in the ordinance language that junk motor vehicles cannot be visible from the street.

Mr. Cummings asked Mr. Wharton if he believes the primary use of this property should be for towing and storage? Mr. Wharton agreed. Mr. Cummings stated would be impractical for the City to determine which vehicles are towing/storage related and which cars are not. The problem would be the "eye-sore" issue regardless of towed or junk vehicles. Mr. Wharton stated he has no objection to parking lots. If the property would be storing usable vehicles, that is not a problem; the fact they are storing junk vehicles, vehicles that are missing doors, parts, tires and are horrible to look at, he feels that it an Enforcement issue that has let this situation escalate to where it is.

Mr. Cummings suggested that maybe an official should go to the property and determine which vehicles are useable and which are junk vehicles and, at that point make a clear determination of what the primary use of the property is and strictly enforce the policy, if a towing and storage facility cannot have more than 20 vehicles on the property.

Mr. Truby stated that if the junk cars were removed from the site and/or fully screened, Mr. Wharton would not be at the meeting. Mr. Wharton agreed.

Chair Hayworth stated that the problem is the fact there are three different kind of cars: 1) Cars for Sale, 2) Cars that were towed, 3) Cars that are inoperable. There are different requirements for junk vehicles which are not permitted as a principal use on that property. At the current time, there appears to be junk vehicles on the property which may or may not be accessory use.

Ms. Blackstock stated to Mr. Wharton that she has seen the property and that junk cars have taken over larger portions of the property; so much so that there are an excess of cars on the street. She is concerned that traffic accidents may occur because of the placement of the excess vehicles. Mr. Wharton agreed with Ms. Blackstock and said that there have been complaints from neighbors because of the excess of cars on the street. It's not a pleasant thing for the neighborhood.

Mr. Cummings stated it permissible for that property to sell cars and stated that it is an eye-sore, but it's not the Board's job to deem what is not pretty and how it looks. You can't tell what cars are in need of repair and which are towed for repair.

Chair Hayworth disagreed and stated the job of the Board's focus should be on either upholding or overruling the Zoning Administrator. The Board's job is to determine the appeal/interpretation of which the applicant seek relief and the City's job is to enforce any violation concerns.

Ms. Eckard feels the City needs to enforce the law and there has to be clear communication concerning which vehicle service is needed and why was it put on the lot based on sales, towing, or storage.

Chair Hayworth asked if there was any opposition to the request.

Umad Marusa, 351 Summit Ave, is the owner and proprietor of the business. His defense of the junk vehicles is that he obtains the vehicles, keeps them for a week and then ships them overseas for a profit.

Chair Hayworth asked if someone were to investigate to property right now, would there be any junk cars? Mr. Marusa said there would be no junk cars.

Ms. Eckard asked Mr. Marusa how long he has been operating the towing business on that property and did he run the car sale lot? Mr. Marusa stated 8 years and, yes, he ran the car sale lot.

Chair Hayworth asked how many vehicles on Mr. Marusa's lot are movable under their own power(can you drive them) and useable? Mr. Marusa said that all his vehicles are movable.

Ms. Williams stated that according to the photograph it looked as if some of the vehicles were moved because of the hearing today.

Chair Hayworth asked how many cars presently did he have behind the fence? Mr. Marusa said that he had 28 cars.

Ms. Willams asked if Mr. Marusa has made any changes to his fence currently. Mr. Marusa replied that he has not made changes to the fence yet.

Loray Averett asked Mr. Marusa, according to a recent photograph dated May 6, 2016, were there more than 20 cars at 357 Summit Avenue and had he moved them since that date?

Mr. Marusa stated that he moved the cars two weeks ago. Mr. Marusa also stated that they try not to put junk cars in the storage lot, but they may stay for one or two weeks. They either go to another place to be repaired or to be disposed of. The junk cars usually get transported overseas to West Africa.

Ms. Eckard asked if the City's case is upheld, will Mr. Marusa, under the City's direction be willing to make the necessary changes? Mr. Marusa agreed to the terms if the City's case was upheld.

Counsel Jones asked Mr. Marusa if he does any salvage or removing of parts from the vehicles? Mr. Marusa said he does not sell any parts off the cars. They use other parts from vehicles and fix the cars with new parts. If junk cars have parts that fall off, they junk the parts too.

Counsel Jones asked Mr. Marusa if he had ever applied for a privilege license so he can repair cars as well? Mr. Marusa said that he had applied for a license and he had received a license.

Mike Kirkman stated that the license was for selling motor vehicles at 351 Summit Ave, there is no record for a "repair license".

Counsel Jones asked Mr. Kirkman if there is a license to repair cars and to remove car parts for a storage motor vehicle lot. Mike Kirkman stated that license would have to be obtained from the department of motor vehicles. But a privileged license should have been recorded for any of the uses.

Chair Hayworth asked if there were any more questions for Mr. Marusa. There were none and she asked for closing arguments from the City.

Counsel Jones stated there is no clear definition for vehicle storage, vehicle sale and storage, and there are many businesses that encompass the primary use and accessory use. It makes no sense for the city say that a storage and salvage yard has to follow the same standards as a junkyard with an 8 foot fence. In the case the principal use is fine and can encompass a secondary use of being a storage/salvage operation. Also when you look at outdoor standards for covering junk motor vehicles the language only states eye-level not above level, from an overpass for example. With this logic, the operation would have to be domed or have a fence which exceeds zoning limits. Her argument is that City Council did different screening requirements for different types of uses for junk motor vehicles and set a separate standard for junk motor vehicles which were not a part of the principal use. She requests that the ruling be upheld by the Board of Adjustment, because the principle use for storage is being followed and can encompass short-term storage. Therefore the business does not have to adhere to the accessory business standards and can keep their six foot fence.

David Wharton stated that the neighborhood has the right to have the law upheld as the language indicates in the ordinance.

Chair Hayworth asked if there were any more questions. There were none and she closed the public hearing.

Chair Hayworth asked if there was anyone wishing to speak to this matter.

Chair Hayworth asked if there were speakers in opposition to the request. There being no further speakers, the public hearing was closed.

Board Discussion:

Mr. Cummings stated that the Board's task is not to scrutinize Umad Marusa's operation but to examine the zoning situation. They have to investigate Mike Kirkman's decision of how the statute is written. He thinks it was written correctly because the businesses functions at its primary purpose and it wouldn't make sense for the City Council to have two different standards for a junkyard and junk motor vehicle storage area. He will uphold the Zoning Administrator's decision. Ms. Eckard stated that she understands Mr. Wharton's problem with the junk motor vehicles being an eye-sore. She stated that Mr. Marusa is making an effort to get rid of the vehicles faster and that he is trying to change. She suggested to Mr. Kirkman to fix the language in the ordinance. She will uphold. Ms. Blackstock stated she would uphold the ruling. She suggested Mr. Wharton to contact the City Council. Mr. Truby stated will uphold the ruling. He feels Mr. Wharton didn't have exact confidence of how many junk vehicles were there. Ms. Williams stated that she will vote to overturn. She believes that all junk vehicles need to be hidden from eye-level view. She feels that the ordinance has been abused and not enforced. Ms. Wood also stated to overturn the ruling as well. There is a clear definition of what a junk car is and there is a limit to how many cars that should be on that property. She suggests a change to some of the ordinances.

Ms. Wood moved that in regard to BOA-16-21, 357 Summit Avenue, that the Board should overturn the decision of the Zoning Administrator. The Board finds the following facts: The property is located at 357 Summit Avenue and is within the corporate limits of the City of Greensboro and is subject to its jurisdiction and the application of its ordinances. At the time the Zoning Administrator determined how the site functions in compliance with the ordinance, based on the permitted land use and the screening standards. Such determination did not meet the requirements as regulated and defined by the City's LDO. The Board accepts the following testimony and evidence as related to the request: There are junk cars on the property and they need to either be removed or screened, seconded by Ms. Eckard.

Chair Hayworth stated that the motion is to overturn the decision of the Zoning Administrator, Chair Hayworth asked for a vote by show of hands to overturn the decision. The motion did not carry and the Board vote was 4 to 3 to uphold the decision made by the Zoning Administrator. (Ayes: Cummings, Blackstock, Truby, Hayworth. Nays: Wood, Williams, and Eckard)

ACKNOWLEDGEMENT OF ABSENCES

None.

OTHER BUSINESS

The Board will be asked to make considerations for a Chair and Vice Chair at next month's meeting.

Loray Averett stated that Ms. Sarah Wood will not be filing for re-appointment on the Board and will not be present at the June 27 meeting.

* * * * *

There being no further business before the Board, the meeting adjourned at 9:50 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
JUNE 27, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday June 27, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Mike Cooke, Enyonam Williams, Chuck Truby and Mary Skenes. Representing the Planning Department staff was Loray Averett; and Jennifer Schneier, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the May 23, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Williams. The Board members voted 7-0 in favor of the motion. (Ayes: Hayworth, Eckard, Blackstock, Truby, Cooke, Williams and Skenes. Nays: None.)

SWEARING IN OF STAFF

Loray Averett was sworn in as to her testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been no requests for items to be continued.

NEW BUSINESS

SPECIAL EXCEPTION

Ms. Eckard was recused from the following matter.

- (a) **BOA-16-22: 2305 Walker Avenue** John and Francis Sandridge request a Special Exception as authorized by Section 30-8-20.2(B) to allow family care home separation encroachments from the current one-half mile development

spacing standard, A Re-hearing request was granted at the May 23, 2016 meeting. **Special Exception Request #1:** The family care home is proposed to be 652 feet from another family care home (6 or less persons) located at 412 Northridge Street when 2,640 feet is required. **Special Exception Request #2:** The family care home will also be 1,727 feet from another family care home (6 or less persons) located at 303 Westdale Place when 2,640 feet is required. **Special Exception Request #3:** The family care home will also be 1,055 feet from another family care home (6 or less persons) located at 2307 Sherwood Street when 2,640 feet is required. Present Zoning – R-5, (Residential Single-family) Cross Street – Northridge Street. **(GRANTED WITH CONDITIONS)**

Loray Averett stated that Frances and John Sandridge are asking for a Special Exception with two conditions as attached in Exhibit A-1. The conditions which the applicant has proposed limits the home to two clients and prohibits transfer of the Special Exception at this location. The applicant is proposing to locate a family care home which is too close to three existing family care homes. Special Exception Request #1: A family care home is proposed to be 652 feet from another family care home, (6 or less persons) located at 412 Northridge Street when 2,640 feet is required. Special Exception Request #2: The family care home will also be 1,727 feet from another family care home, (6 or less persons) located at 303 Westdale Place when 2,640 feet is required. Special Exception Request #3: The family care home will also be 1,055 feet from another family care home, (6 or less persons) located at 2307 Sherwood Street when 2,640 feet is required. The lot is located on the south side of Walker Avenue west of Scott Avenue Street and is zoned R-5. The original request was heard at the March 28, 2016 meeting and was denied. A Re-hearing request with new evidence was heard and approved at the May 23, 2016 meeting. The applicant is proposing to locate a family care home (6 or less persons) at this location and it is too close to three other existing family care homes which have been described in the requested action section. Privilege license records, along with telephone communications and field visits reflect the three existing family care homes are in operation and required renewals are in compliance. Two of the existing homes are located north and west of the subject site and one of the homes is located south of the existing site. The homes are separated by a network of collector streets and other residential homes. The R-5, Residential Single Family District is primarily intended to accommodate low density single family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Fran Sandridge, the applicant at 2305 Walker Avenue, was sworn in and stated that she and her husband have been with an agency that provides alternative family living to people with intellectual or developmental disabilities. A second young man moved into the home in 2013, but there was another agency that comes in to attend to his daily needs. In order to reduce the in-and-out traffic at the house, it would be better to attend to their needs themselves and eliminate the other agency that was coming in each day to do his laundry, shaving and bathing needs. They are pursuing this matter with stringent conditions for this particular property. She has attended the Neighborhood Association meeting and explained the situation and addressed the concerns that they had.

This neighborhood is very lively and there are interactions with other people in the area. The Neighborhood Association has stated that they support this request and there are representatives that will speak later.

Ms. Sandridge then stated the conditions of the request: 1) There would be no more than two beds/two residents in Ms. Sandridge's home. 2) She and her husband only, would be running the home. If Ms. Sandridge should move from the neighborhood, the Special Exception would not transfer to any other person.

Brian Kurtizer, 2307 Sherwood Street, was sworn in and stated that he currently has an adult family service home in the area and has 19 years experience as a foster parent. He asked that the Commission look at the evidence that has been addressed about the distance between the two homes and stated that his home and Ms. Sandridge's home are too far away from each other and that no interaction has ever occurred. Mr. Kurtizer supports Ms. Sandridge's request with the conditions.

Laura Collins, 2224 Walker Avenue, was sworn in and stated that in March she has asked for a continuance to this matter and has since spoken with Ms. Sandridge and now has a much better understanding of her plans for the adult family home in this location. She also pointed out that the other homes, already in use, do not have capacity of 6 or more persons in each of the homes, so she does not feel that having only 2 more people in this home would cause a problem for the neighborhood and surrounding area. She fully supports the request.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

Ms. Blackstock stated that she is in favor of the request. Mr. Truby stated support of the request. Ms. Williams is also in favor of the request.

Mr. Truby moved that in regard to BOA-16-22, 2305 Walker Avenue, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a Special Exception be granted, based on the following conditions: No more than two (2) beds will be allowed and if either Mr. or Mrs. Sandridge no longer reside in the home, the Special Exception will be null and void and cannot be transferred. The Special Exception is in harmony with the general purpose and intent of the ordinance and preserves its spirit because the applicant is limited to a home with no more than two (2) beds and the owners must reside in the home. The granting of the Special Exception assures the public safety and welfare and does substantial justice because the applicant has met with the Lindley Pak Neighborhood Association and they support the request, seconded by Ms. Williams. The Board voted 6-0-1 in favor of granting the Special Exception. (Ayes: Hayworth, Blackstock, Truby, Williams, Cooke and Skenes. Nays: None. Abstained: Eckard)

Ms. Eckard returned to the dais for other items on the agenda.

ACKNOWLEDGEMENT OF ABSENCES

The absence of Mr. Cummings was acknowledged.

OTHER BUSINESS

NOMINATIONS FOR CHAIR AND VICE CHAIR

The Board is asked to consider nominations for Chair and Vice Chair at today's meeting.

Ms. Eckard nominated Ms. Hayworth to continue as Chair, seconded by Mr. Truby. The Board voted unanimously in favor of the nomination.

Ms. Hayworth nominated Ms. Williams to serve as Vice Chair, seconded by Ms. Blackstock. The Board voted unanimously in favor of the nomination.

Chair Hayworth welcomed Mike Cooke as the newest alternate member and Mary Skenes as a regular appointed member.

Loray Averett stated that she would not be present for the July meeting. Nicole Smith will be present for the July meeting.

Ms. Blackstock asked for an update on the Summit Avenue car lot and storage facility. Counsel Jennifer Schneier stated that Code Enforcement has been notified of this situation and the property remains under enforcement proceedings.

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There being no further business before the Board, the meeting adjourned at 6:05 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
JULY 25, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday July 25, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Enyonam Williams, Debra Bowers, Mark Cummings and Mary Skenes. Representing the Planning Department staff was Nicole Smith; and Jennifer Schneier, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Willilams moved approval of the June 27, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Eckard. The Board members voted 7-0 in favor of the motion. (Ayes: Hayworth, Eckard, Blackstock, Cummings, Bowers, Williams and Skenes. Nays: None.)

SWEARING IN OF STAFF

Nicole Smith was sworn in as to her testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Nicole Smith stated that there has been no requests for items to be continued.

NEW BUSINESS

VARIANCE

- (a) **BOA-16-23: 2709 Kilbourne Drive** C. Grady Patton requests a variance from the maximum square footage allowed for detached buildings in residential districts. **Variance:** The combination of an existing detached accessory building (400 square feet) and a proposed detached accessory building (1,440 square feet) will exceed the maximum square footage allowed of 874 square feet by 966 square feet. Section 30-8-11.1(A), Present Zoning – R-3, Cross Street – Pinecroft Road. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance from the maximum square footage allowed for detached buildings in residential districts. The combination of an existing detached accessory building (400 square feet) and a proposed detached accessory building (1,440 square feet) will exceed the maximum square footage allowed of 874 square feet by 966 square feet. • The property is located on the south side of Kilbourne Drive east of Pinecroft Road and is currently zoned R-3 (Residential Single Family). The applicant is proposing to construct a one-story detached garage (48 feet x 30 feet) which will contain 1,440 square feet. There is an existing detached storage building that contains 400 square feet. The existing and proposed detached accessory structures will total 1,840 square feet. Based on the drawing submitted by the applicant, the dwelling footprint on the ground contains approximately 1,748 square feet. Based on Section 30-8-11.1, the applicant is allowed to have a total of 874 square feet of detached accessory building(s). The proposed building will exceed that total by 966 square feet. The lot is rectangular in shape. It contains approximately 36,154 square feet in area. A lot which is zoned R-3 is required to provide a minimum of 12,000 square feet; thus this lot exceeds the minimum lot area by 24,154 square feet. The existing storage building is located behind the existing house and the proposed detached garage will be behind the house as well. The proposed building will not be visible from the front of the property. The applicant also owns the adjacent lot (2711 Kilbourne Drive) located east of the subject site. The proposed building will not be visible from the front of the property. The applicant is aware the building must be used for his personal accessory use. The R-3 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

C. Grady Patton, previously sworn, stated that the accessory building that sits behind the principal structure is a recreation room that has been completely finished with air and heat. They use this area for working out. The log cabin has 2,300 square feet and his oldest son lives in that building. This house was built in the early 1900s and burned in 2003 and he bought it and restored it. The proposed garage is designed to match the existing properties in the neighborhood. It would not be a metal structure, but will be framed just like the house and will look like the house with a shingle roof, siding to match, and the back of the house will all match. He will be storing classic vehicles in the structure as well as a boat and some jet skis and yard equipment. In response to questions, Mr. Patton stated that there will not be any plumbing or heat in the proposed garage.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Ms. Williams moved that in regard to BOA-16-23, 709 Kilbourne Drive that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary

hardships will result to the property by applying the strict application of the ordinance because the applicant will not be able to construct the proposed garage. The hardship of which the applicant complains results from conditions that are unique to the property related to the property because the lot is exceedingly larger than the zoning district requirement. The hardship is not the result of the applicant's own actions because the lot is shaped as a long, narrow rectangle. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, public safety and welfare and substantial justice that the applicant will be able to use the property to its highest and best use, seconded by Ms. Skenes. The Board voted 7-0 in favor of granting the Special Exception. (Ayes: Hayworth, Blackstock, Cummings, Eckard, Williams, Bowers and Skenes. Nays: None.)

SPECIAL EXCEPTION

BOA-16-24: 810 Olive Street Christopher and Michele Reisdorf request a Special Exception as authorized by Section 30-4-12.4(l). A proposed attached rear porch will encroach 0.5 feet into a 5-foot side setback requirement. Present Zoning – R-5, (Residential Single-family) Fisher Park Historic District Overlay, Cross Street – Isabel Street. **(GRANTED)**

Nicole Smith stated that the applicant requests a Special Exception for a proposed attached rear porch addition to a single family dwelling that will encroach 0.5 feet into a 5-foot side setback requirement. The property is located on the east side of Olive Street north of Isabel Street. The lot is zoned R-5 (Residential Single-family) and is located in the Fisher Park Historic District Overlay. The property contains a single family dwelling with a detached garage. The original house was built in 1919 and was constructed close to the western side lot line. The house is angled along that side of the property. The applicant is proposing to add a rear porch to the house. The porch is proposed to be in line with the existing house. The porch will be 20 feet long by 18 feet wide and will contain approximately 360 square feet. The setback requirement is 5 feet from the side lot line and the porch will be 4.5 feet from the side lot line, thus encroaching 0.5 feet into the 5 foot side setback. The front portion of the existing house encroaches 3.3 feet along the same interior side line. The proposed rear porch will encroach less than the existing dwelling. The applicant has submitted elevations with his request. At their June 29, 2016 meeting, the Historic Preservation Commission approved recommendation for a Special Exception due to the proposed porch addition meeting the historic district design guidelines. The R-5, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Michele Reisdorf, 810 Olive Street, was sworn in and stated that they only want to add a porch to the rear of the house. The house has been completely gutted and remodeled two years ago by an architect that flips houses, but the rear porch was not addressed during that time. The front corner of the proposed porch encroaches about 4-6 inches in the side setback. The house is angled along the property line. She has talked with the neighbors and they have written a letter showing their

support of the request. She also has support from the Historic Preservation Commission for the construction of this rear porch.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Ms. Bowers moved that in regard to BOA-16-23, 810 Olive Street, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a Special Exception be granted, based on the following, the Special Exception is in harmony with the general purpose and intent of the ordinance and preserves its spirit because the back porch is a desirable addition and only encroaches about 6 inches into the side setback. The Historic Preservation Commission supports the request. The granting of the Special Exception assures the public safety and welfare and does substantial justice because it allows the property owner to build the requested rear porch and use the property as she wishes and it adds value to the house, which should be encouraged, seconded by Ms. Eckard. The Board voted 7-0 in favor of granting the Special Exception. (Ayes: Hayworth, Blackstock, Cummings, Eckard, Williams, Bowers and Skenes. Nays: None.)

ACKNOWLEDGEMENT OF ABSENCES

The absence of Mr. Truby was acknowledged.

OTHER BUSINESS

None.

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There being no further business before the Board, the meeting adjourned at 6:06 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
AUGUST 22, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday August 22, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Enyonam Williams, Mike Cooke and Mary Skenes. Representing the Planning Department staff was Nicole Smith; and Jennifer Schneier, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the July 25, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Williams. The Board members voted 6-0 in favor of the motion. (Ayes: Hayworth, Eckard, Blackstock, Cooke, Williams and Skenes. Nays: None.)

SWEARING IN OF STAFF

Loray Averett and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been no requests for items to be withdrawn.

Chair Hayworth explained that applicants have the opportunity to ask for a continuance for their case since there are only 6 members seated for today's meeting. No one asked for a continuance.

NEW BUSINESS

VARIANCE

- (a) **BOA-16-25: 5011 Ellenwood Drive** Kathryn Langolf requests a variance from a required average front setback and required minimum side setbacks. *Variance #1:* A proposed expansion of a front porch will encroach approximately 19.74 feet into

a required average front setback of approximately 47.3 feet. The proposed porch addition will be set back 27.56 feet from the front property line. Section 30-7-1.4. *Variance #2*: A proposed attached carport will encroach 10 feet into a 10-foot side setback. Section 30-7-3.2 and Table 7-1. *Variance #3*: An existing detached storage building encroaches 2 feet into a 3-foot side setback. Section 30-8-11.1(C). Present Zoning – R-3 (Residential Single Family), Cross Street-Westland Drive. **(ALL VARIANCES GRANTED)**

Nicole Smith stated that a proposed expansion of a front porch will encroach approximately 19.74 feet into a required average front setback of approximately 47.3 feet. The proposed porch addition will be setback 27.56 feet from the front property line. #2: A proposed attached carport which will encroach 10 feet into a 10-foot side setback. #3: An existing detached storage building which encroaches 2 feet into a 3-foot side setback. The property is located on the south side of Ellenwood Drive east of Westland Drive and is zoned R-3 (Residential Single-family). The applicant applied for an easement release for a certain portion of easement along the western lot line. On March 16, 2016, the Planning Board approved the easement release request. The applicant's request is to construct an attached carport in that area. At the time of plan review it was noted that a proposed front porch expansion along with an existing detached building would also need variances for setback compliance. Guilford County tax records indicate the house was originally built in 1973 and the lot contains approximately 12,632 square feet. The lot is rectangular shaped with slight angles on the rear and side lot line. The property contains an existing house, two detached buildings, along with other infrastructure such as the driveway and landscaping. *Variance #1: Front Porch Expansion*: The existing porch was a 5-foot by 5-foot entrance and is proposed to be enlarged to 7 feet by 12 feet for a total of 84 square feet. The front porch expansion is required to meet the average front setback of the two houses nearest the subject site on the same block face. Council adopted an average front setback for all single family districts effective on April 4, 2014. Prior to that adoption, the original house and porch met the R-3 front setback requirement. With the adoption of the average front setback, this house became nonconforming. Any enlargement to the front of this structure will need variance approval. *Variance #2: Attach Carport to Side of House*: The applicant is requesting to add a 12-foot by 18-foot carport to the side of the house over the existing driveway. The carport will contain 216 square feet of area. The carport will touch the property line at the south eastern corner of the proposed location. The required side setback is 10 feet and the applicant is requesting for the carport to encroach into the entire setback requirement. *Variance #3: Existing Detached Accessory Building*: The property contains a 10-foot by 12-foot detached accessory building. The applicant made mention the building was there at the time of purchase. Tax records reflect the applicant purchased this property in January 2013. The building is located approximately 1-foot from the side lot line and is required to be 3 feet from the side and out of any easement. As noted above, this portion of the easement has been released. There is also a 5-foot by 8-foot detached building on the site located at the southwestern corner of the lot. This building meets the minimum 3 foot setback from the rear lot line. The R-3, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Kathryn Langolf, the property owner, was sworn in and provided a photograph of her vehicle in the driveway to her home. The photograph indicated that there is the possibility of severe damages to the paint on the vehicle because of the pine needles and sap dropping from the neighbor's trees onto her vehicle. She stated that if a carport is constructed, it would give substantial coverage and safety for her vehicle. The neighbors that own the trees are in support of her request and have no objections to this construction. In regard to the proposed front porch step reconstruction, she explained that the footprint of the front porch will not be changed, only the configuration of the steps to remove the tripping hazard created by the bottom step. Close-up photographs of the front porch indicated the very short bottom step that she was concerned about. She also proposes to add a cover to the front porch which will provide some protection from the weather at the front door and front porch.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

After some discussion of the Board members, they had no further questions and all Board members stated their support of the request.

Ms. Williams moved that in regard to BOA-16-25, 5011 Ellenwood Drive that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: Variance #1 related to the front porch - If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying the strict application of the ordinance because the applicant will not be allowed to make alterations to the front porch and repair a step that causes entrants' to trip. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because the house was built in 1973 and situated toward the front of the lot. The hardship is not the result of the applicant's own actions because she bought the house in 2012 and did not construct the porch. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it will allow the homeowner to use her property to its highest and best use, seconded by Ms. Eckard. The Board voted 6-1 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Cooke, Williams and Skenes. Nays: (Absent Member)

Variance #2: Ms. Williams moved that the Board grant this variance, to be able to construct the proposed carport to protect her vehicle. The hardship of which the applicant complains results from conditions that are unique to the property because she will not be able to build the proposed carport to prevent leaves and tree matter from falling on her vehicle parked in the driveway. The hardship is not the result of the applicant's own actions because the applicant bought the property in 2012 and did not construct the driveway and does not own the offending trees. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, assures public safety and welfare and does substantial justice because it will allow the homeowner to build

a carport and use her property to its highest and best use, seconded by Ms. Blackstock. The Board voted 6-1 in favor of granting the Variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: (Absent Member)

Variance #3: Ms. Williams moved that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: - If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying the strict application of the ordinance because the applicant will be required to remove or relocate the storage building that existed when she purchased the property. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because the lot has an unusual shape and is narrower on the side where the storage building exists. The hardship is not the result of the applicant's own actions because the applicant did not place the storage building in the current location, it was in place when she bought the property in 2012. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, assures public safety and welfare and does substantial justice because it will allow the homeowner to keep the existing storage building in its current location which allows her to use her property to its highest and best use, seconded by Ms. Eckard. The Board voted 6-1 in favor of granting the Variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: (Absent Member)

BOA-16-26: 27 Elm Ridge Lane Gail Haney request a variance from a rear street setback requirement. *Variance:* A proposed addition to a detached garage will encroach 9.3 feet into a 25-foot rear street setback adjacent to Provincetown Court. Present Zoning – R-3 (Residential Single-family) Section 30-7-3.2 – Table 7.1 and Section 30-8-11.1(B), Cross Street – North Elm. **(GRANTED)**

Loray Averett stated that the applicant requests a variance for a proposed addition to a detached garage which will encroach 9.3 feet into a 25-foot rear street setback adjacent to Provincetown Court. The property is located on the east side of North Elm Street south of Provincetown Court and is zoned R-3 (Residential Single-family). The property contains a single family dwelling and a detached accessory garage. Property records reflect the house was built in 1989. The lot contains approximately 30,056 square feet or equivalent to 0.69 acres. The subject site is located between two streets which are Elm Ridge Lane and Provincetown Court. Detached structures are required to meet street setbacks. The lot is unique in shape as it is considered a through lot. The applicant has proposed to attach a 14-foot by 20-foot addition to the existing detached garage. The existing garage is 16 feet by 24 feet containing 384 square feet. The addition will contain 280 square feet. The total square footage of both portions will be 664 square feet. Exhibit 4 is a copy of the approved easement release which was approved at the July 20, 2016 Planning Board meeting. A triangular portion of the easement area containing approximately 4.3 square feet as shown on Exhibit B was released. It is the area that will accommodate the northwestern corner of the proposed garage addition. This easement was for utilities as well as an area to provide a privacy wall. There is a wall established along the Provincetown Court frontage. Visibility onto this portion of the property is limited due to the location and height of the wall. Exhibit 6 contains summary

minutes concerning a previous Board of Adjustment request for this property. The request was for a detached meter for the detached garage. It was approved at the August 22, 2011 meeting. The property is established with the principal structure, detached garage, existing driveway, heavy landscaping and a privacy brick/fence wall. The lot is uniquely shaped resembling a triangular shape. It also abuts two street frontages. The wider larger portion of the lot is the portion located nearest Provincetown Court, which serves as the rear portion of the lot. The R-3, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Gail Haney, the applicant, was sworn in and stated that the garage was built 5 years ago and she hopes to construct an addition to this garage.

Harley Easter, 9033 W. Market Street, Colfax, NC, was sworn in and stated that the applicant wishes to add an accessory structure to the existing garage. It is a very odd shaped lot and does have street frontage from two sides, therefore, there are several setback requirements to be met. The area is very heavily landscaped and several of the bushes will have to be relocated. The proposed addition is not visible from the nearby residential properties. There is an existing wall that goes through the lot.

Sarah Clark, 6 Elmridge Lane, was sworn in and stated that this property is the most meticulously maintained property on the street and the proposed addition to the garage will only enhance the property and is in harmony with what is already in place.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Ms. Blackstock moved that in regard to BOA-16-26, 27 Elm Ridge Lane, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted, based on the following, the variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit because the proposed garage addition is a desirable addition preserves the ordinance and supports the character of the neighborhood. All materials will match the current structures on the property. The granting of the variance assures the public safety and welfare and does substantial justice because of the unique shape of the owner's property and it allows the property owner to build the requested garage addition and use the property as she wishes and it adds value to the house, which should be encouraged, seconded by Ms. Eckard. The Board voted 6-1 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: (Absent Member)

BOA-16-27: 2111 Medford Lane Laura and Alan Irvin requests variances from a required average front setback and a required minimum side setback. *Variance #1: A*

proposed attached carport will encroach approximately 33.5 feet into a required average front setback of approximately 51.5 feet. The proposed attached carport will be set back 18 feet from the front property line. Section 30-7-1.4. *Variance #2*: The carport will also encroach 6 feet into a 10-foot side setback. Section 30-7-3.2 and Table 7-1. Present Zoning – R-e (Residential Single-Family), Cross Street – West Cornwallis Drive (GRANTED)

Nicole Smith stated that the applicant requests variances for: *Variance #1*: A proposed attached carport will encroach approximately 33.5 feet into a required average front setback of approximately 51.5 feet. The proposed attached carport will be set back 18 feet from the front property line. *Variance #2*: The carport will also encroach 6 feet into a 10-foot side setback. The lot is located on the western side of Medford Lane north of West Cornwallis Drive. Tax records reflect the lot size is approximately 38,438 square feet. The lot is rectangular shaped and contains approximately 3 times the depth of the lot width. The existing house was originally built in 1975. The applicant is proposing to construct an attached carport to the house. The carport is proposed to be constructed 25 feet wide by 22 feet deep for a total of 550 square feet. The existing house was constructed centered and angled on the lot. The area for the carport is proposed on the south side of the house. The rear portion of the property contains a water feature (pond/lake) and the elevations slope downward away from the existing house grade. The property area located adjacent to the proposed carport location does contain established landscaping consisting of trees and vegetative growth. The applicant has mentioned the proposed location and design of the carport will complement the existing architectural style of the house. The subject site is located at the dead end of Medford Lane. There is an undeveloped heavily wooded 21 acre tract of land located north of the applicant's property. There is an existing detached accessory building that is too close to a side lot line and encroaches onto the adjacent property. The applicant has agreed to remove the building from the property. The R-3 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Alan Irvin, the applicant, 106 Elmwood Drive, was sworn in and stated that they recently purchased this house and they want to construct a carport on the property to fit into the existing wooded area, detached from the house but close enough to provide some protection for the vehicle in this heavily wooded area. The house is angled on the property because of the existing pond at the rear of the property. There are few options for locating the proposed carport on the lot. The angle of the driveway will be changed to go with the angle of the existing house.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Ms. Eckard moved that in regard to BOA-16-27, 2111 Medford Lane, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted, based on the following, if the applicant complies with the provisions of the ordinance unnecessary hardships will result to the property by applying strict application of the ordinance because they applicant will be unable to build the proposed carport. The lot is a very unusual shape and the pond in the back of the property limits the area where a carport could be built. The house was built on an angle taking up usable space. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to this property because of the peculiar shape of the lot as well as the pond to the rear. The hardship is not the result of the applicant's own actions because the current owners bought the house in its current configuration of the lot. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the proposed location of the carport will allow for safer access to the home and could add value to the house and support values in the neighborhood, seconded by Mr. Cooke. The Board voted 6-1 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: (Absent Member)

BOA-16-28: 5120 Burlington Road Mount Pleasant United Methodist Church (represented by counsel), requests a variance from a maximum sign height requirement. *Variance:* A proposed replacement freestanding identification sign will exceed the maximum height of 6 feet by 1.8 feet for a total height of 7.8 feet. Section 30-14-7.3 – Table 14-2, Present Zoning – R-3 (Residential Single-Family). Cross Street – Mt. Hope Church Road. **(GRANTED)**

Loray Averett stated that the applicant requests a variance for a replacement freestanding identification sign which will exceed the maximum height of 6 feet by 1.8 feet for a total height of 7.8 feet. The property is located at the south western intersection of Burlington Road and Mt. Hope Church Road and is zoned R-3 (Residential Single-family). The property was annexed into the City on June 30, 2001. The site contains approximately 8.20 acres. The sign was located on the property at the time of annexation. The applicant is proposing to replace a freestanding identification signs, which will exceed the maximum height of 6 feet by 1.8 feet for a total height of 7.8 feet. The sign will be visible from the Burlington Road right of way which is classified as a major thoroughfare. The R-3 (Residential Single-family) zoning district permits freestanding signs for each zoned lot to be 6 feet tall. In addition, this zoning district also allows one information Board per building. The Church has used this option for their daycare sign. The applicant has submitted two drawings of the sign. Exhibit B shows what the existing sign was which contained a reader board with removable letters. Exhibit C shows the replacement sign which will be the same size and height but will be designed with electronic display in the area where the reader was located. Due to the removal of the sign, any new sign is required to obtain a sign permit. The applicant is aware the sign will be reviewed for compliance based on electronic message display requirements. The proposed sign will be fabricated to fit the same poles in the same location as the previous sign. The sign height will remain the same as the previous sign. The R-3 Residential Single-Family

District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Peter Izenkoff, Higgins-Benjamin Law Firm, Attorney representing Mt. Pleasant United Methodist Church, stated that this application is for a height variance in connection with updating their outdoor advertising sign from the plastic reader-board to an electronic LED display. The original sign was built about 16 years ago and the property was in County jurisdiction at that time. There were no height requirements at that time. The current sign is approximately 7' 10" tall and the property has since been annexed into the City in 2001 and they were not aware of the 6 foot sign height requirement at that time. They only found out about the requirement when they applied for a sign permit for the LED display sign. They do not plan to change the height or width of the sign and propose to use the existing dimensions of the sign that is currently in place. It is felt that having the new LED sign will allow better vision of their services, church news, etc. to the passing public.

Brian Cagle, 1068 Bloomfield Road, Gibsonville, NC, was sworn in and stated that there are 965 enrolled members in their congregation. Photographs of the existing sign indicated the problems seeing the messages on the sign. The congregation feels that having the LED sign is going to help the community.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Ms. Skenes moved that in regard to BOA-16-28, 5120 Burlington Road, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted, based on the following, if the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because the property was annexed into the City in 2001 and made them subject to a different criteria in terms of the sign size. The proposed new sign, if they adhere to the ordinance, would be smaller than the sign they have used for the past 16 years. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because annexation into the City requires adherence to City land development ordinances which have a different sign height requirement. The hardship is not the result of the applicant's own actions because the property was annexed which required the applicant to adhere to a different set of sign regulations. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the sign placement will not change, the width and height of the sign will not change, they are only adding electronic message board to the sign. The granting of the variance assures the public safety and welfare and does substantial justice because it allows the property owner to construct the proposed LED sign as outlined in the application, seconded by Ms. Blackstock. The

Board voted 6-1 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: (Absent Member)

SPECIAL EXCEPTION:

BOA-16=29 2501 Four Seasons Boulevard Rosalie Zaiasset Williams requests Special Exceptions as authorized by Section 30-8-10.1(B) to allow family care home separation encroachments from the current one-half mile development spacing standard. *Special Exception Request #1:* The family care home is proposed to be 1,605 feet from another family care home (6 or less persons) located at 2204 Oakmont Court when 2,540 feet is required. *Special Exception Request #2:* The family care home will also be 1,294 feet from another family care home (6 or less persons) located at 3012 Branderwood Drive when 2,640 feet is required. Present Zooning – R-5 (Residential Single-Family- Cross Street – Denise Drive **(DENIED)**

Nicole Smith stated that the applicant is proposing to locate a family care home which is too close to two existing family care homes. *Special Exception Request #1:* A family care home is proposed to be 1,605 feet from another family care home, (6 or less persons) located at 2204 Oakmont Street when 2,640 feet is required. *Special Exception Request #2:* The family care home will also be 1,294 feet from another family care home, (6 or less persons) located at 3012 Branderwood Drive when 2,640 feet is required. The lot is located at the northeastern corner of Four Seasons Boulevard and Denise Drive and is zoned R-5. The applicant is proposing to locate a family care home (6 or less persons) at this location and it is too close to two other existing family care homes which have been described in the requested action section. Privilege license records, along with telephone communications and Staff records reflect the two existing family care homes are in operation. The existing homes are located northeast and southeast of the proposed family care home. The homes are separated by a network of collector streets and other single-family and multi-family residential homes. The R-5, Residential Single Family District is primarily intended to accommodate low density single family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Tiffany Fox, 4004 Coltrane Road, representing the applicant, was sworn in and stated that she also represents CareLink Solutions which will be the business of the family care home. They propose a Special Exception even though the maximum occupancy is six (6) clients, they will only have three (3) clients, which will be adults. There will be no clustering of other homes in the area. There will be a two-party staff, 24 hours supervision so the clients will not be able to leave the home without supervision. In response to questions posed by Board members, Ms. Fox stated that the age of the clients will be between 40 and 70 years old. This will be their first home of this type in this area. They also have a day program located on Grove Street. Ms. Williams owns the house and will actually work for CareLink Solutions in running the home as a family care facility. The clients will be developmentally disabled adults who cannot live on their own without assistance and supervision. The clients will all be females.

Ms. Blackstock pointed out that she is familiar with another facility run by CareLink on Kay Street that just recently opened. Ms. Fox stated that is not a family care home and is not under CareLink Solutions, to her knowledge.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

The Board members stated their concerns related to the request, such as the property owner not being available to answer questions; Ms. Fox is not up-to-date on how many homes are being managed; even being limited to three (3) clients, there could be the possibility of clustering; unknown age and disabilities of other homes in the area; the closeness of this proposed family care home to an already-existing family care home in the immediate area.

Ms. Williams moved that in regard to BOA-16-29, 2501 Four Seasons Boulevard, the findings of fact be incorporated into the record and the Enforcement Officer be upheld and the Special Exception be denied, based on the following, the Special Exception is not in harmony with the general purpose and intent of the ordinance and does not preserve its spirit because the home is too close to an existing family care home in violation of the distance requirement and the granting of a Special Exception does not assure the public safety and welfare and does not do substantial justice because it may cause clustering of residents in just one neighborhood with too many family care homes, seconded by Ms. Skenes. The Board voted 7-0 in favor of denying the Special Exception. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes and (Absent Member)

ACKNOWLEDGEMENT OF ABSENCES

The absence of Mr. Truby and Mr. Cummings was acknowledged.

OTHER BUSINESS

None.

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There being no further business before the Board, the meeting adjourned at 7:40 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
SEPTEMBER 26, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday September 26, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Mark Cummings, Enyonam Williams, Mary Skenes, Deborah Bowers and Mike Cooke. Representing the Planning Department staff was Loray Averett, Nicole Smith and Mike Kirkman; and Jennifer Schneier and Andrew Kelly, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the August 22, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Williams. The Board members voted 7-0 in favor of the motion. (Ayes: Hayworth, Eckard, Blackstock, Cummings, Williams, Bowers and Skenes. Nays: None.)

SWEARING IN OF STAFF

Loray Averett, Mike Kirkman and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been no requests for items to be withdrawn.

NEW BUSINESS

VARIANCE

- (a) **BOA-16-30: 108 Kemp Road East** John Faulkner and Russel Stoneburg request a variance from a separation requirement between a proposed rear porch and an existing swimming pool and for an existing detached garage which encroaches into a side and rear setback.

Variance #1: A proposed rear porch will encroach 6 feet into a 10-foot separation requirement from an existing in-ground swimming pool, which is greater than 600 square feet in surface area. Section 30-8-11.1(E).

Variance #2: An existing detached garage which exceeds 15 feet in height encroaches 7.3 feet into a 10-foot rear setback; 5.5 feet into a 10-foot side setback and 2 feet into a required 10-foot separation requirement from the house. Section 30-8-11.1 (C)2.

Present Zoning-R-3 (Residential Single Family, Cross Street- Dogwood Drive.
(BOTH VARIANCES GRANTED)

Loray Averett stated that the applicants request variances for: #1: A proposed rear porch which will encroach 6 feet into a 10-foot separation requirement from an existing in-ground swimming pool which is greater than 600 square feet in surface area, #2: An existing detached garage taller than 15 feet in height encroaches 7.3 feet into a 10-foot rear setback; 5.5 feet into a 10-foot side setback and 2 feet into a 10-foot separation requirement from the house. The property is located on the east side of Kemp Road East west of Dogwood Drive and is zoned R-3 (Residential Single-family). Guilford County tax records indicate the house was originally built in 1965 and the lot contains approximately 21,780 square feet. The lot is rectangular shaped with slight angles on the side lot lines and a slightly irregular rear lot line. The deed record reflects the applicant purchased the property in May 2015. The property contains an existing house, a detached garage, and a swimming pool along with other infrastructure, such as the driveway, walkways and landscaping.

Variance #1: Rear Porch Addition: The applicant is proposing to add a rear porch addition that will be approximately 4 feet from the water level of the pool/Jacuzzi area. The water surface of the pool/Jacuzzi area is greater than 600 square feet. The structures are required to be separated a minimum of 10 feet. The area proposed for the porch is in the center portion at the rear of the house. The majority of the porch will be 13 to 17 feet deep by 31.2 feet wide. The porch will contain approximately 438 square feet.

Variance#2: Existing Detached Accessory Garage: The property contains a 2-story detached garage which is taller than 15 feet. The building was on the property when the applicant purchased the subject lot. The building is located approximately 2.7 feet from the rear lot line; 4.5 feet from the side lot line and 8 feet from the house. The adjacent properties located to the west and a small portion located to the north of the applicant's rear and side lot lines were platted and established as a walkway area. It is recorded in Plat Book 31 Page 85 as part of the original Plat for Section 5 - Starmount Forest. This exhibit is identified as Exhibit #6. No structures will be permitted or constructed in these areas based on the existing Plat.

The R-3, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

John Faulkner, the property owner, 108 Kemp Road East, was sworn in and stated that they would like to build a rear screened porch attached to the rear of the house. At two points the proposed screened porch would come within 4 feet of the Jacuzzi part of the pool area. A variance is needed to be able to encroach into that 10-foot space. When they purchased the

property they did not know of the garage being out of code. There is an unfinished room in the area above the garage, there is electricity installed in that area, but no plumbing and they do not plan to ever have anyone residing in that area.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

After some discussion of the Board members, they had no further questions and all Board members stated their support of the request.

Ms. Eckard moved that in regard to BOA-16-30, 108 Kemp Road East that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: Variance #1 related to the screened porch - If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying the strict application of the ordinance because the applicant will not be allowed to make alterations to the rear of the property and add the rear screened porch. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because this the most logical and reasonable location to build a porch, based on the testimony of the applicant. The hardship is not the result of the applicant's own actions because it is not possible to construct the screened porch in another location based on how the property has been developed. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it is the intent to preserve the integrity of the property and add value to the house and the neighborhood, seconded by Mr. Cummings. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Cummings, Williams and Skenes. Nays: None)

Variance #2: Ms. Eckard moved that the Board grant this variance. If the applicant complies with the provisions of the ordinance unnecessary hardship will result to the property by applying strict application of the ordinance because the garage would have to be removed and/or moved several feet. The hardship of which the applicant complains results from conditions that are unique to the property because it is the most logical place to keep the garage. The hardship is not the result of the applicant's own actions because the garage was already in place when the applicants bought the property and was constructed prior to the current owner purchasing the property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit, assures public safety and welfare and does substantial justice because it is in harmony with the neighborhood and adds value to the property and the neighborhood, seconded by Ms. Blackstock. The Board voted 7-0 in favor of granting the Variance. (Ayes: Hayworth, Blackstock, Cummings, Eckard, Bowers, Williams and Skenes. Nays: None)

BOA-16-31: 204 Woodbourne Road Cathryne Schmitz requests a variance from a required average front setback requirement. *Variance:* A proposed front porch will encroach approximately 2.28 feet into a required average front setback of approximately 48.76 feet. The proposed attached porch will be set back 46.48 feet from the front property line. Present Zoning-R-3 (Residential Single Family). Section 30-7-1.4, Cross Street-Erskine Drive West. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a proposed front porch to an existing single-family dwelling which will encroach approximately 2.28 feet into a required

average front setback of approximately 48.76 feet. The porch will be setback approximately 46.48 feet from the front property line. The lot is located on the east side of Woodbourne Road south of Erskine Drive West. Tax records reflect the lot size is approximately 13,503 square feet. The lot is rectangular in shape. The house was originally built in 1954. The existing house is located approximately 52.42 feet from the front property line. The applicant is proposing to add a front porch which will be 46.48 feet from the front property line. On August 4, 2016, the applicant applied for 3 additions to the house. The two other additions met the setbacks. The front porch did not comply with the average front setback requirement. The applicant was allowed to move forth with the other two additions but is required to obtain a variance for the front porch encroachment. The porch is proposed to be a covered porch and will be 6 feet x 19.10 feet and will contain 114 square feet. There were a total of two houses that were used to calculate the average front setback for the subject property. Both of the houses are located south of the subject site. They are addressed as 200 and 202 Woodbourne Road. Their combined setbacks averaged 48.76 feet. In 2014, Council adopted infill standards for residential single family homes and effective April 4, 2014 infill standards for residential front setbacks were implemented. The applicant is requesting to be allowed to construct the front porch which will be approximately 46.48 feet from the front property line instead of the averaged setback of 48.76 feet. The R-3 Residential Single-family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Cathryne Schmitz, the applicant, 5503 White Blossom Drive, was sworn in and stated that she wishes to expand the front on one side and create a useful porch that was large enough to be used and architecturally pleasing. This would keep the character of what the ordinance was meant to do and would improve the appearance of the neighborhood.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Mr. Cummings moved that in regard to BOA-16-31, 204 Woodbourne Road, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance granted based on the following: The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit because under the standards the applicant will be unable to build the proposed front porch addition. The hardship of which the applicant complains result from conditions that are peculiar to the property and unique circumstances related to the property because the standards were set by the two houses that are south of the subject property. Because of the shape of the lot, it makes the construction difficult without encroaching in the setbacks. The hardship is not the result of the applicant's own actions because the other properties on the street determined the setbacks for this property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety and welfare and substantial justice because the small encroachment does not harm the uniformity of the homes surrounding this property, seconded by Ms. Eckard. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Bowers, Cummings, Eckard, Williams and Skenes. Nays: None)

At this time Mr. Cummings left for the remainder of the meeting and Mr. Cooke was seated on the Board.

BOA-16-32: 433 Spring Garden Street Amanda Hodierno, Attorney on behalf of HJHN, LLC requests variances from required standards concerning the amount of projection allowed for projecting signs and the spacing between the projected signs.. *Variance #1:* Three of five proposed projecting signs will exceed the maximum permitted 4-foot wall projection by 3.5 feet for a total of 7.5 feet from the wall surface. *Variance #2:* Two of five proposed projecting signs will be spaced 20.5 feet apart when a minimum of 25 feet is required between each sign. Present Zoning-CB (Central Business), Section 30-14-7.4(D), Cross Street – S. Edgeworth Street. **(GRANTED)**

Loray Averett stated that the applicant requests variances for 3 signs to exceed the permitted projection from the wall surface and a variance for 2 other signs that will not meet minimum spacing requirements. The applicant is requesting a variance for three of five proposed projecting signs which will exceed the maximum permitted 4-foot wall projection by 3.5 feet for a total of 7.5 feet projection from the wall surface. Two of five proposed projecting signs will be spaced 20.5 feet apart when a minimum of 25 feet is required between each sign. The property is located on the south side of Spring Garden Street east of Freeman Mill Road and is zoned CB (Central Business) along with being located in the CBO (Central Business Overlay) and the DDO (Downtown Design Overlay). In 2014, the property was rezoned from LI (Light Industrial to CB (Central Business). The growth and transitioning of the property from vacant industrial to commercial downtown use lends itself to be compatible and competitive with surrounding downtown properties. A former portion of South Edgeworth Street was adjacent to this property as well. In 2014, Council approved closing the portion of South Edgeworth Street that was adjacent to the subject site. The applicants also own the lot that was adjacent to the west side of the former Street. By closing the street, this allowed the applicant to have one property for development and to provide a parking lot for the building and its proposed uses.

As the applicant moved forth with development drawings for the building and property, the sign plans were submitted for discussion and review. The projecting signs as proposed do not meet two of the minimum standards. Due to the location for the signs, proposed elevations and future loading dock additions, the applicant has mentioned the need for 3 of the projection signs to project 3.5 feet more than the 4 feet as permitted. Two other projection signs will not exceed the 4 feet projection but will not meet the spacing requirement, which is 25 feet. They are planned to be spaced 20 feet apart. The signs will comply with the other standards as described in the Ordinance Section portion of this report. The style and location for the signs were designed specifically to compliment the retrofit plans for the building. There were two existing older projection signs in place over doorways that were thought to be historically associated to the building. Exhibit #7 as enclosed with the case packet shows the proposed project has been awarded recognition by Council and recognized as an economic development project for the downtown area. As the project plans moves forth, the City's Technical Review Committee including Inspections and others will review required plans based on local and state code requirements. Tax records reflect these properties are two separate parcels. The record also reflects both properties are under the same ownership. Based on the Land Development Ordinance definition of a Zone Lot, the signs may serve the entire project. The CB, Central Business District, is solely intended for application in the central core of the city.

The district is established to encourage high intensity, compact urban development. The district is intended to accommodate a wide range of uses including office, retail, service, institutional, and high density residential developments in a pedestrian-oriented mixed-use setting (often, multiple uses may be located in the same building).

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Amanda Hodierne, attorney speaking on behalf of the property owner, stated that their request is for two variances from the sign ordinance, specifically from the standards for projecting signs. The first is to allow a projecting sign to extend out from the building 7 ½ ' rather than the allowed 4' and the second is to allow two different projecting signs to be spaced 20.6 feet apart rather than 25 feet apart. She emphasized that these variances are for separate signage. The applicant has owned and operated Fresh Local Good Catering Group for almost a decade and as that business grew, it quickly outgrew its home at the companion restaurant of the Iron Hen, just off Wendover Avenue. As they looked for a solution to the problem they simultaneously developed a couple of new restaurant concepts, so they decided to upfit the vacant warehouse in downtown Greensboro. The goal was to have that warehouse become home to the catering business, two new restaurants, a bakery/coffee shop and an event space and the offices and supporting uses for all the establishments located at 433 Spring Garden Street.

The property had to be rezoned which was achieved in 2014 and added to the City's Central Business District. A portion of S. Edgeworth Street was closed to allow parking on-site. With those two important entitlements behind them the next step was acquiring the property and that acquisition process stretched out over 2015 and ultimately happened about a year ago. Throughout the entire process, the City has been an important partner to HJHN, through the entitlements and awarding the project the Urban Development Investment Grant in early 2015. Since closing on the property, HJHN has been hard at work transforming the space from an outdated warehouse into a state-of-the-art catering kitchen with two restaurant lines, two sit-down dining rooms, the bakery, a rental event space and offices. All the construction shown in photographs shows the detail about signage is the culmination of a long journey to bring this exciting new destination to downtown Greensboro. A booklet was presented that outlines the details of the proposed signs and their placement and projection on the proposed buildings.

Dawn Chaney, a nearby property owner, 2002 W. Market Street, was sworn in and stated that her office is across the street from the proposed property. She has asked local businesses and residents if they have any objection to the proposed development and signage which projects from the building and none of them had any objection to the variances. They especially indicated they felt it would be much easier for potential customers to find the location, especially because of the location of the building and because of the site distance from the roadway. She asked that the Board grant the variances for this request for the revitalization of downtown Greensboro.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their full support of the request.

Ms. Williams moved that in regard to BOA-16-32, 433 Spring Garden Street, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted, based on the following: If the applicant complies with the provisions of the ordinance

unnecessary hardships will result to the property by applying strict application of the ordinance because the signs would not be visible from the road and may cause confusion for drivers because permitted signs would be too small. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to this property because this is an existing building that is being redeveloped for a commercial establishment. The hardship is not the result of the applicant's own actions because the building existed previously and is already situated a certain distance from the roadway. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because this will safely assist the public in finding the businesses, which is part of the downtown commercial properties, seconded by Ms. Skenes. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Bowers, Cooke, Eckard, Williams and Skenes. Nays: None)

Variance #2: Ms. Williams moved that based on the findings of fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the ordinance unnecessary hardships will result from the property by applying strict application of the ordinance because the signs would not be able to face existing doorways and require additional lighting. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing building has been divided for multiple uses. The hardship is not the result of the applicant's own actions because the doorways where the signs will be placed already existed. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures the public safety, welfare and substantial justice because there will be more accurate information about the locations of the specific businesses and will allow the owner to use the property to its highest and best use, seconded by Ms. Blackstock. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Bowers, Cooke, Eckard, Williams and Skenes. Nays: None)

BOA-16-33: 2614 Springwood Drive David Bouska requests a variance from a required average front setback. *Variance:* A proposed front porch will encroach approximately 8.57 feet into a required average front setback of approximately 55.57 feet. The proposed addition will be setback 47.00 feet from the front property line Section 30-7-1.4. Present Zoning – R-5 (Residential Single Family), Cross Street – Beechwood Street. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed front porch to an existing single-family dwelling which encroaches approximately 8.57 feet into a required average front setback of 55.57 feet. The porch will be set back 47.0 feet from the front property line. The lot is located on the north side of Springwood Drive east of South Lindell Road and is zoned R-5 (Residential Single-family). The survey shows the lot is .31 acres which is equivalent to 13,503 square feet in area. The lot is rectangular shaped with a slight angle on the rear lot line. The house was originally built in 1938. Exhibit 4 shows the lot is recorded in the Lindley Park Subdivision as Lot 47, recorded in March 1927. The existing house is located approximately 56 feet from the front property line. The house currently has an uncovered front entry area. The applicant is proposing to construct a 9 foot by 32.70 feet front porch. The porch will contain approximately 294 square feet. There were a total of four houses that were used to calculate the average front setback for the subject property. Two of the houses are located east of the subject site and two were located west of the subject site. They are addressed as 2610, 2612, 2616 and 2618 Springwood Drive. The combined setbacks for these four lots averaged 55.57 feet. The applicant's front porch will be 47.00 feet from the front property line.

In February 2014, Council adopted infill standards for residential single family homes and effective April 4, 2014 infill standards for residential front setbacks were implemented. The R-5 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

David Bouska, the applicant was sworn in and stated that he has always had large, deep front porches and always loved it. Front porches are an integral part of a lot of these neighborhoods where neighbors walk by and visit with each other and have social gatherings. The proposed front porch would be an important addition to this house and it would fit in beautifully with the rest of the neighborhood. The neighbors on each side have front porches and the proposed front porch would not be an intrusion in the neighborhood.

Chair Hayworth asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

All of the Board members had no further questions and stated their support of the request.

Ms. Skenes moved that in regard to BOA-16-33, 2614 Beechwood Drive, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted, based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because the application of the ordinance would not allow a porch to be built. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because setbacks on the street are significantly different ranging from 81 feet to 41 feet. In addition, the curve in the road in front of the house makes calculating a true visual average setback very difficult to accomplish. The hardship is not the result of the applicant's own actions because the LDO rewrite in 2014 made the average setback ordinance. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the front porch addition would be in keeping with the general architecture of the house as well as the neighborhood, seconded by Ms. Bowers. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Bowers, Cooke, Eckard, Williams and Skenes. Nays: None)

SPECIAL EXCEPTION:

BOA-16-34: 3408 Green Needle Drive Khadja Oliver requests a Special Exceptions as authorized by Section 30-8-10.1(B) to allow a family care home separation encroachment from the current one-half mile development spacing standard. *Special Exception Request:* The family care home is proposed to be 1,072 feet from another family care home (6 or less persons) located at 3601 Amos Drive when 2,540 feet is required. Present Zoning – R-5 (Residential Single-Family- Cross Street – Woodgreen Drive **(DENIED)**)

Loray Averett stated that the applicant is proposing to locate a family care home which is too close to an existing family care home. A family care home is proposed to be 1,072 feet from another family care home, (6 or less persons) located at 3601 Amos Drive when 2,640 feet is required. The lot is located on the eastern side of Green Needle Drive, east of Yanceyville Street

and is zoned R-5. The applicant is proposing to locate a family care home (6 or less persons) at this location and it is too close to an existing family care home located at 3601 Amos Drive. Privilege license records, along with telephone communications reflects the family care at 3601 Amos Drive is in operation. The existing home is located 1,072 feet slightly north and east of the proposed family care home. The homes are separated by a network of collector streets and other single-family homes. The R-5, Residential Single Family District is primarily intended to accommodate low density single family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Khadja Oliver, the applicant and owner of the home, was sworn in and stated that she wants to operate a short-term family care home in her residence to be able to house elderly adults, to help her earn an income and be able to finish school. Her goal is to have the family care home only on a temporary basis. After she graduates, she plans to relocate the family care home. In response to questions by the Board members, Ms. Oliver stated that she does not have prior experience in operating a family care home. She is studying Speech Pathology. The clients in the home would be elderly women and most likely be associated with dementia. She would have to hire staff to care for the residents. She does not have a NC license to operate a family care home because she wanted to make sure she would be able to use this address as a family care home before going through the process of getting it licensed.

Chair Hayworth asked if there was any opposition to the request.

Bill O'Neal, 3407 Green Needle Drive, was sworn in and stated that he is speaking in opposition to this request because he fears the unknown and knows nothing about the future of this business, what risk it may pose to the neighborhood and his family. He does know that the other location in the area on Amos Drive takes care of younger people who have mental handicaps. In a check of the 9-1-1 records for Guilford County over a 5-year period shows that on average, that location has received 20 calls a year where Police has responded to that address.

Stephanie Spiller, 3303 Green Needle Drive, was sworn in and stated that she is a Special Education teacher and also has a Masters which she completed while working 17 hours a week with 2 children at home. She has previously worked in group homes with adults with challenges and she is concerned about the client/staff ratio. She has first-hand experience and 1 to 4 or even 2 to 4 is great, but she knows that clients need full time supervision and she does not find the idea of a security system to be very reliable. There are a lot of concerns that have been brought up throughout the neighborhood, but having had a history with this position and having an idea of what it takes to complete a Masters, and also having been a Supervisor in a Boys and Girls Club and she has an idea of what it takes to run a facility like this. She does not feel that this proposal is a responsible proposition.

Charles Barfield, 1402 Woodgreen Drive, was sworn in and stated that he built his house in 1972 and he had an in-ground pool put in for his wife to be able to exercise and for his grandchildren. He has met all the stipulations for security fencing. He does not want to worry about somebody wandering onto his property.

Wendy Barfield-Haynes, 1402 Woodgreen Drive, was sworn in and stated that the proposed family care home backs up to their property so it would not take very much to climb over the fence and get into the pool. Her other concern is that there is a chance that some years down the road, she could lease the property to a health care facility who could come in and could bring in

mentally handicapped children that would have no problem scaling the fence and getting into the pool. The pool is a very large concern for them. She does not feel this is an appropriate place for a family care home, since there is already one in existence less than ½ mile from their property.

Frances Garland, 3408 Overland Drive, was sworn in and stated that she walks in this area all the time. She does not feel that the applicant has enough experience in this type of health care. She also does not feel that it would be very good for the neighborhood, as it may cause a downfall on resale if someone wanted to sell their home and potential buyers found out that several family care homes were located in the area.

Ms. Averett shared a letter that had been received on behalf of one of the neighbors that is opposed to this family care home in the neighborhood.

There being no other speakers, the public hearing was closed.

Board Discussion:

The Board members stated their concerns related to the request, such as the property owner not being available to answer questions; Ms. Fox is not up-to-date on how many homes are being managed; even being limited to three (3) clients, there could be the possibility of clustering; unknown age and disabilities of other homes in the area; and the closeness of this proposed family care home to an already-existing family care home in the immediate area.

Ms. Blackstock moved that in regard to BOA-16-34, 3408 Green Needle Drive, the findings of fact be incorporated into the record and the Enforcement Officer be upheld and the Special Exception be denied, based on the following: The Special Exception is not in harmony with the general purpose and intent of the ordinance and does not preserve its spirit because the home is too close to an existing family care home and would promote clustering of homes in the neighborhood and cloistering of residents. Based on LDO Article 8, Residential Use Standards, it will not maintain the character of the neighborhood. The granting of the Special Exception does not assure the public safety and welfare and does not do substantial justice because the neighbors are in opposition and they also fear the unknown due to the fact that this facility could house a variety of clients that may not blend or compliment the neighborhood, seconded by Ms. Eckard. The Board voted 7-0 in favor of denying the Special Exception. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes and Bowers. Nays: None)

ACKNOWLEDGEMENT OF ABSENCES

The absence of Mr. Truby

OTHER BUSINESS

Chair Hayworth stated that this is Jennifer's last meeting and Andrew Kelly will be her replacement.

Loray Averett stated that there will be an update on Family Care Homes at next month's meeting.

Mr. Cooke stated that he feels the Board should be very careful about making specific references concerning clients which are housed in Family Care Homes and support or deny Special Exceptions based upon the Ordinance criteria that regulates the operation of these homes.

Counsel Schneier stated that this type of issue would be discussed fully at next month's meeting, especially with regard to the ADA, the Fair Housing Act and the Disabilities Act, so there are ordinance standards that keep the Board in compliance.

Ms. Bowers moved that the Board members review the information submitted by staff and have a full discussion at the October meeting, seconded by Ms. Williams.

Mike Kirkman stated that there is a report on Front Setbacks that can also be addressed next month.

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There being no further business before the Board, the meeting adjourned at 7:55 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
OCTOBER 24, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday October 24, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Patti Eckard, Laura Blackstock, Chuck Truby, Enyonam Williams, Mary Skenes, Deborah Bowers. Representing the Planning Department staff was Loray Averett, Nicole Smith; and Andrew Kelly, City Attorney's Office.

Vice Chair Williams called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the September 26, 2016 Board of Adjustment minutes, as submitted, seconded by Ms. Skenes. The Board members voted 5-0-1 in favor of the motion. (Ayes: Eckard, Blackstock, Williams, Bowers and Skenes. Nays: None. Abstained: Truby)

SWEARING IN OF STAFF

Loray Averett and Nicole Smith were sworn in as to their testimony regarding cases before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been a request for 3607 Dogwood Drive to be continued.

Wallace Williams, the applicant, was sworn in and stated that they would like to request a continuance to the November meeting.

Vice Chair Williams stated that the request would be granted.

Loray Averett stated that the request would be heard on November 28th, 2016.

Vice Chair Williams stated that there is a matter that has been requested to move the agenda items around and hear the Elmwood Drive request first.

Ms. Eckard moved to make changes to the order of hearings for today's items, as discussed, seconded by Ms. Blackstock. The Board voted 6-1 in favor of granting the agenda change. (Ayes: Blackstock, Bowers, Truby, Eckard, Williams and Skenes. Nays: None)

NEW BUSINESS

VARIANCE

BOA-16-38: 300 Elmwood Drive Jonathon W. Hirschfield Trust, to be represented by Counsel, requests a variance from required average front setback. Variance: A proposed single family dwelling will encroach 12 feet into a required average front setback of approximately 55.5 feet. The proposed house will be setback 43.5 feet from the front property line. Section 30-7-1, Cross Street – West Newlyn Street. **(GRANTED)**

Loray Averett stated that the applicant requests a variance for a proposed new single-family dwelling which will encroach approximately 12 feet into a required average front setback of approximately 55.5 feet. The proposed dwelling will be setback at 43.5 feet from the front property line. The property is a corner lot located on the northeastern corner of Elmwood Drive and W. Newlyn Street and is zoned R-5. The lot contains approximately 11,761 square feet. The subject site is currently vacant. There were two house located north of the subject site that were used in calculating the average setback for the vacant subject lot. The house located at 302 Elmwood Drive is approximately 47 feet from the front property line and the house located at 304 Elmwood Drive is approximately 64 feet from the front property line; thus the average setback for 300 Elmwood Drive was determined to be 55.5 feet from the front property line. The applicant is requesting to be allowed to construct his house 43.5 feet from the front property line instead of the averaged setback. The lot is an irregular shaped lot. One side lot line is 28 feet longer than the other side lot line which causes an angle on the front property line. This lot has less depth than the other 3 lots on the same side of the street within the same block face, of which two of them were used for the average calculated setback. Exhibit D shows the footprint of the proposed house. Imposed over that footprint and highlighted in yellow is the footprint of the previous house that existed on the lot. The proposed front setback does not appear to increase, but the house footprint is larger and includes a detached garage for the site. Effective April 4, 2014, Council adopted average front setbacks for infill lots in the single family zoning districts. The setbacks are applicable to new houses and additions to the front of existing houses. Prior to that adoption, the base zoning setback for the R-5 zoning district was 20 feet. The R-5 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Vice Chair Williams asked if there was anyone wishing to speak in favor of this request.

Brian Pearce, attorney representing the applicant, presented a packet for the Board members' review. He stated that the packets includes drawings of the proposed house which indicate the

diameter of the property and the guide wires that are located on the property and shows why the variance is appropriate in this case. There are also drawings showing the elevations of the proposed house and what it will look like on completion of the project. There is an unusual curvature of Elmwood Drive that causes a loss of depth to the residential lots on the street because of the way the road curves. The placement of the power pole on the property is what causes the difficulty for building this house. In an effort to try and adjust the proportions, spoke with Duke Energy and found that they were unable to re-locate the power pole. This causes an unnecessary hardship for this request. He respectfully asked that the Board grant the variance in this request.

Vice Chair Williams asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their full support of the request.

Ms. Skenes moved that in regard to BOA-16-38, 300 Elmwood Drive, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: If the applicant complies with the provisions of the ordinance unnecessary hardships will result to the property because the house would not be able to be built in the way it is proposed, which does not exceed the footprint of the previous house. The hardship of which the applicant complains results from the conditions that are peculiar to the property, i.e., the Duke Energy power pole that cannot be moved which requires the house to be shifted forward slightly and also because of a change to the LDO. There is also a curvature to the street that affects the placement of the house and the setbacks to the property. The hardship is not the result of the applicant's own actions because the street was curved and they made every effort to try and have the power pole moved and that was not feasible. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the proposed new house to be built does not exceed the footprint of the original house, seconded by Mr. Truby. The Board voted 6-1 in favor of granting the variance. (Ayes: Blackstock, Bowers, Truby, Eckard, Williams and Skenes. Nays: (One absent member)

- (a) **BOA-16-36: 2111 Medford Lane** Laura and Alan Irvin request a variance for a proposed detached accessory carport to be located in front of the front building line of the house and to encroach into a required minimum front street setback.

Variance #1: A portion of the proposed detached carport will be located in front of the front building line of the existing dwelling. It is required to be in line or behind the front building line of the dwelling. Section 30-8-11.1(B) *Variance #2:* It will also encroach 4.91 feet into a required 30-foot front setback. Section 30-8-11.1(B) and 30-7-3.2, R-3 (Residential Single-Family), Cross Street – West Cornwallis Drive.

(BOTH VARIANCES GRANTED)

Nicole Smith stated that the applicants request variances for: Variance #1: A proposed detached carport will be located in front of the front building line of the existing house. It is required to be in-line or behind the front building line of the house. Variance #2: It will also encroach 4.91 feet into a required 30-foot front setback. The lot is located on the western side of Medford Lane north of West Cornwallis Drive. Tax records reflect the lot size is approximately 38,438 square feet. The

lot is rectangular shaped and contains approximately 3 time the depth of the lot width. The existing house was originally built in 1975. The applicant is proposing to construct a detached carport, which will be located in front of the principal structure and in a street setback requirement. The carport is proposed to be constructed 22 feet wide by 22 feet deep for a total of 484 square feet and will not exceed 15 feet in height. The existing house was constructed centered and angled on the lot. The location for the carport is proposed on the south side of the lot. The rear portion of the property contains a water feature (pond/lake) and the elevations slope downward away from the existing house. The property located adjacent to the proposed carport location does contain established landscaping consisting of trees and vegetative growth. The Board heard and approved two requests for this property at their August 22, 2016 meeting. The requests were for an attached carport to encroach into a required average front setback and a minimum 10-foot side setback. Those summary minutes and site plan are attached as exhibit numbers 3 & 4. The applicant has mentioned the proposed location of this detached (instead of attached) carport will better fit the property based on the drive-way alignment and will allow the applicant to maintain more of the existing trees and landscaping. The subject site is located at the dead end of Medford Lane. There is an undeveloped heavily wooded 21 acre tract of land located north of the applicant's property. There is an existing detached accessory building that is too close to a side lot line and encroaches onto the adjacent property. The applicant has agreed to remove that building from the property. The R-3 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Vice Chair Williams asked if there was anyone wishing to speak in favor of this request.

Alan Irvin, the applicant, 106 Elmwood Drive, was sworn in and stated that after getting their plans together for the proposed new house on the property, they found that they would have to remove several trees from the property and they really wanted to try and save as many trees as possible during the build. They had to come up with a plan to put a carport on the lot that allow access from the existing driveway and to be able to save some of those trees with minor adjustments to the lot. There is an angle to how the house is placed near the property line and there is nowhere to put anything on the other side of the house.

Vice Chair Williams asked if there was any opposition to the request. There being none, the public hearing was closed.

Board Discussion:

After some discussion of the Board members, they had no further questions and all Board members stated their support of the request.

Ms. Eckard moved that in regard to BOA-16-36, 2111 Medford Lane, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: Variance #1: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because the majority of the property is made up of a pond and limits placement of the carport. The existing house was built on an angle on the property further limiting the locations and space available for the carport. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the pond limits locations to be used for a carport. The placement of the angle further reduces suitable locations and the driveway would have to be further changed and trees removed. The hardship is not the result of the applicant's own actions because the house and

pond were already in place when the applicant purchased the property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because this revised request has a better placement and design for the carport and conserves the flow of the property based on the current driveway and helps with the landscaping and preserves several existing trees, aesthetics and general character of the property and should add value to the current property. The variance is in harmony and purpose of the ordinance, seconded by Ms. Bowers. The Board voted 6-1 in favor of the granting of the variance. (Ayes: Eckard, Blackstock, Bowers, Truby, Williams and Skenes. Nays: (Absent member)

Variance #2: Ms. Eckard moved that the Board grant this variance and incorporate the same findings as in Variance #1, seconded by Ms. Blackstock. The Board voted 6-1 in favor of granting the Variance. (Ayes: Hayworth, Blackstock, Cummings, Eckard, Bowers, Williams and Skenes. Nays: (Absent member)

BOA-16-37: 3607 Dogwood Drive Gregory and Wallace Williams requests a variance from a required average front setback requirement. *Variance:* A proposed front addition will encroach approximately 14 feet into a required average front setback of approximately 60 feet. The proposed addition will be setback 46 feet from the front property line. Present Zoning – R-3 (Residential Single Family). Section 30-7-1.4, Cross Street-Wedgedale Avenue. **(CONTINUED TO NOVEMBER MEETING)**

This request was continued at the beginning of the meeting.

ACKNOWLEDGEMENT OF ABSENCES

The absence of Ms. Hayworth and Mr. Cummings was acknowledged as excused.

OTHER BUSINESS

Loray Averett stated that there will be an update on Family Care Homes at the January 2017 meeting. November is expected to have several items coming before the Board and continuing the discussion would be a better use of the Board members' time.

* * * * *

There being no further business before the Board, the meeting adjourned at 6:15 p.m.

Respectfully submitted,

Enyonam Williams, Vice Chair
Greensboro Board of Adjustment

EW/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
NOVEMBER 28, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday November 28, 2016 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair - Cyndy Hayworth, Patti Eckard, Laura Blackstock, Chuck Truby, Enyonam Williams, Mary Skenes, Mark Cummings. Representing the Planning Department staff was Loray Averett and Lucas Carter; and Andrew Kelly, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the October 24, 2016 meeting minutes as submitted, seconded by Ms. Williams. The Board voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Loray Averett and Lucas Carter were sworn in as to their testimony for items on today's agenda.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that she received a request from the applicant that BOA-16-42 related to 3312 Olde Sedgefield Way be withdrawn from the agenda. No action would be required by the Board.

There have also been requests for BOA-16-39: 1105-1115 East Bessemer Avenue and BOA-16-46: 306 Meadowbrook Terrace, to be continued to the December meeting.

Chair Hayworth asked if there was anyone wishing to speak on the first request for continuance related to 1105-1115 East Bessemer Avenue.

Henry Isaacson, attorney representing the applicant came forward and stated that they wish to ask for a continuance on this matter to the December 19th meeting. He needs some additional time to adequately prepare the case for hearing. He was only first notified about his representation of this case early last week and then the client was out of town for a planned holiday. There are exhibits to be prepared and other work to be done with the help of his client.

The holiday last week prevented him from accomplishing these tasks. He sent a letter to nearby neighbors notifying them of his intention to request the postponement so they would not be inconvenienced.

There being no opposition to the requested continuance, Mr. Truby moved to approve the continuance to the December meeting, seconded by Ms. Eckard. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. (Nays: None)

For Item BOA 16-46, 306 Meadowbrook Terrace, Mike Davis, Stonewall Construction, 3032 Rock Hill Road, Burlington, NC, stated that there has been a matter that came up during their initial investigation on this project. They would like to ask that this matter be continued to the December meeting. Ms. Averett verified that she has spoken with them about this matter and agrees that it would be better to hear this item at the December 19th meeting.

There being no opposition to the requested continuance, Ms. Eckard moved to approve the continuance to the December meeting, as requested by the applicant's representative, seconded by Ms. Skenes. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. Nays: None)

OLD BUSINESS

VARIANCE

- (a) BOA-16-37: **3607 DOGWOOD DRIVE** Gregory and Wallace Williams request a variance from a required average front setback. **Variance:** A proposed front addition will encroach approximately 14 feet into a required average front setback of approximately 60 feet. The proposed addition will be setback 46 feet from the front property line. This request was continued from the October 24, 2016 meeting. Present Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street - Wedgedale Avenue. **(GRANTED)**

Loray Averett stated that a proposed front addition will encroach 14 feet into a required average front setback of approximately 60 feet. The addition will be setback approximately 46 feet from the front property line. This request was continued from the October 24, 2016 meeting. The lot is located on the south side of Dogwood Drive east of Wedgedale Avenue. Tax records reflect the lot size is approximately 21,780 square feet. The house was originally built in 1948. The existing house is located approximately 60 feet from the front property line. The applicant has mentioned that the house needs updating and that based on its current configuration the front area is the logical space for the addition. There is a detached garage located behind the house in the southeastern area of the lot. There were a total of four houses that were used to calculate the average front setback for the subject property. Two of the houses are located east of the subject site and two were located west of the subject site. They are addressed as 3603, 3605, 3609 and 3701 Dogwood Drive.

Their combined setbacks averaged 60.0 feet. In 2014, Council adopted infill standards for residential single family homes and effective April 4, 2014, infill standards for residential front setbacks were implemented. The applicant is requesting to be allowed to construct the front addition 46 feet from the front property line instead of the averaged setback of 60 feet. The base setback for the R-3 (Residential Single-family) zoning district is 25 feet if no garage entrance faces the street and that setback increases to 30 feet if you have a garage entrance facing the street. The R-3 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak on this matter.

Greg Williams and Wallace Williams, the property owners, were sworn in and stated that they wish to make an addition to the front of the property that will encroach 14 feet into a required average front setback of 60 feet. The house would still be 46 feet from the street. The house was built in 1948 in a traditional neighborhood. They have lived in the house for over 25 years and now wish to make an addition. The original layout and design did not anticipate modern living and they would now like to bring it up to current standards. They love this neighborhood and hope to live there well into their retirement. There is no suitable place in the home for a washer and dryer and his wife has had to go down to the basement through all these years to do the laundry. With them now aging, it is becoming more and more dangerous for her to carry loads of laundry up and down the stairs. The proposed addition is located in the most feasible location for the addition. They have received a notarized statement of support from one of their neighbors.

There being no opposition to the request, the public hearing was closed by unanimous vote.

Board Discussion:

All Board members voiced their support of the request and felt that it would have a positive impact on the neighborhood, at large.

Mr. Truby moved in regard to BOA-16-37, 607 Dogwood Drive, that the Zoning Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardships would result to the property by applying strict application of the Ordinance because the owner would not be able to construct the addition to be able to add a needed laundry room within the home. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the house was built in 1948 without a space for a washer and dryer. The hardship is not the result of the applicant's own actions because the applicant did not build the original house. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the addition is modest in size, within the minimum street setback and is a relatively small scale, seconded by Ms. Eckard. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. Nays: None)

NEW BUSINESS**VARIANCE**

- (a) BOA-16-39: **1105-1115 EAST BESSEMER AVENUE** Sandhills Group, LLC, to be represented by Counsel, request variances from minimum standards regulating nonconforming outdoor advertising signs as defined for replacement and relocation in the CB Overlay District. **Variations:** An outdoor advertising sign that was not attached to or within 2 feet of a building or other improvement to be demolished is proposed to be relocated on the site. The outdoor advertising sign cannot comply with minimum design or compatibility requirements because it will be freestanding and will not be located on a building or flush to any wall surface. Section 30-2-5.5(C), Present Zoning-C-M, (Commercial-Medium) and CBO, (Central Business Overlay), Cross Street - Westside Drive. **(CONTINUED TO DECEMBER 19, 2016 MEETING)**
- (b) BOA-16-40: **1916 LAFAYETTE AVENUE** Timothy and Lindsey Murphy request a variance from a minimum rear setback requirement. **Variance:** A proposed addition will encroach 4.3 feet into a 30-foot required rear setback. Section 30-7-3.2, Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street-Sunset Drive. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed rear addition to a single-family dwelling which will encroach 4.3 feet into a 30-foot rear setback. The property is located on the southeastern side of Lafayette Avenue south of Sunset Drive and is zoned R-3, (Residential Single-family). The property contains a 2-story single family dwelling. Property records reflect the house was originally built in 1956. The lot contains approximately 13,940 square feet or equivalent to 0.32 acres. The rear lot line is severely angled due to unequal side lot lines. The applicant is proposing to construct an addition to the rear of the existing house. The addition will be approximately 18 feet by 8 feet for a total of 144 square feet. Exhibit 3 contains September 1983 summary Board of Adjustment minutes and a drawing from a previous Board of Adjustment request. The request was for an addition to the rear which encroached 7.76 feet into the 30-foot rear setback. That addition was approved to be 22.24 feet from the rear instead of 30 feet. As shown in Exhibit B, the current proposed addition will be adjacent to the previously approved addition and will maintain the same depth and building line. The encroachment for this proposed addition will be less than the existing encroachment. The slight differences in the rear encroachments are due to the angle of the rear lot line. The applicant has made mention that only a small portion of the proposed rear addition will encroach. The area of encroachment is 5.17 feet and is highlighted in pink as shown on Exhibit B. The property located adjacent to the applicant's rear lot line is a portion of a golf course. The subject site is landscaped along the rear lot line. The R-3, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Tim Murphy, the property owner, was sworn in and stated that he has been at this address for quite some time and their family grew unexpectedly with the arrival of twins a few years ago and they wish to add a second bedroom to the house. They asked for permission to be able to make this addition to the house.

Dwight Stone, builder for the applicant, 1909 Lafayette Avenue, was sworn in and stated that the applicant is going to make a substantial addition to the house on the side and the rear to try and close in an area between an existing sunroom and where the patio is located to expand the sunroom so the adjustment would only be a little over 5 feet. Staff has done a great job of explaining the plans for the property. None of the neighbors object to this project.

There being no opposition to the request, the public hearing was closed by unanimous vote.

Board Discussion:

All Board members voiced their support of the request and felt that it would have a positive impact on the neighborhood, at large.

Ms. Eckard moved in regard to BOA-16-40, 1916 Lafayette Avenue Drive, that the Zoning Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardships would result to the property by applying strict application of the Ordinance because without the variance the addition could not be built and the property could not be improved. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because it is an existing house built in 1956, there was an addition made in 1983 to the back of the house and the addition to the rear will actually fill in the gap between the sunroom and the house. The hardship is not the result of the applicant's own actions because the applicant did not build the original house and the previous addition was already there. The applicant is only trying to improve the use of the property. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it will improve the value and character of the property and will not impact the adjacent golf course area and will have no harm to the public or neighbors, seconded by Ms. Blackstock. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. Nays: None)

- (c) BOA-16-41: **1207 FOXFIRE DRIVE** Rodney Neely and Lisa O'Connor request a variance from a required average front setback. **Variance:** A proposed attached garage addition will encroach approximately 8 feet into a 33-foot front setback. Section 30-7-1.4, Present Zoning-R-3 (Residential Single-family), Cross Street-Arcadia Drive. **(GRANTED)**

Lucas Carter stated that a proposed front garage addition will encroach 8 feet into a required average front setback of approximately 33 feet. The addition will be setback approximately 25 feet from the front property line. The lot is located on the south side of Foxfire Drive north of

Arcadia Drive and is zoned R-3 (Residential Single-family). Plat and survey records reflect the lot contains approximately 12,788 sq. feet. Tax records reflect the original house was built in 1996. The existing house is located approximately 47 feet from the front property line. The applicant is proposing to add an attached garage to the front of the house. That addition will encroach 8 feet into a 33-foot average front setback; however it will not encroach beyond the underlying zoning setback which is 25 feet. The design of the garage will be a side loaded entrance. The area for the proposed garage is currently established as a concrete parking pad. The applicants purchased the property in July 2016. In their application, the applicant has made mention that his plan was to construct the garage and then remove the remaining concrete between the property and street in order to return that portion of the front yard back to green space. There were a total of three houses and one undeveloped lot that were used to calculate the average front setback for the subject property. Two of the houses are located east of the subject site and the house and vacant lot are located west of the subject site. They are addressed as 3603, 3605, 3609 and 3701 Dogwood Drive. Their combined setbacks averaged 33.0 feet. In April 2014, Council adopted infill standards for residential single family homes and standards for residential front setbacks were implemented. The applicant is requesting to be allowed to construct the garage addition 25 feet from the front property line instead of the averaged setback of 33 feet. The base setback for the R-3 (Residential Single-family) zoning district is 25 feet if no garage entrance faces the street. The R-3 Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Rod Neeley, the applicant, was sworn in and stated that they purchased this house in July and like this neighborhood but would like to build a garage on the property. There would be an encroachment of 8 feet into the required setback. There is a large concrete pad in the front yard that is very inconsistent with the neighborhood and is somewhat of an eyesore to the neighborhood. The neighbors has installed vegetation between the houses because of the eyesore of the concrete pad in the front. If the garage is allowed, it would be consistent with the neighborhood and would be consistent with other houses on the street. They would take out the concrete pad and add grass to that area to improve the curb appeal in that area.

Lisa O'Connor, the applicant, was sworn in and stated that the proposed placement of the garage is the only place that the proposed garage could go because there is a pond in the back yard that limits building anything in that rear area.

There being no opposition to the request, the public hearing was closed by unanimous vote.

Board Discussion:

All Board members voiced their support of the request and felt that it would have a positive impact on the neighborhood, at large.

Ms. Williams moved in regard to BOA-16-41, 1207 Foxfire Drive, that the Zoning Officer be overruled and the variance granted based on the following: If the applicant complies with the

provisions of the Ordinance, unnecessary hardships would result to the property by applying strict application of the Ordinance because the owner would not be able to construct the garage and add green space to the front of their house. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot size and shape would not allow the placement of a new garage in any other location on the property, also there is a pond in the rear yard that restricts placement of the proposed garage. The hardship is not the result of the applicant's own actions because the homeowners purchased the property in July and did not create the original layout. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it would allow the homeowners to use the property to its highest and best use and allow for vehicle storage and additional green space, seconded by Mr. Truby. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. Nays: None)

- (d) BOA-16-42: **3312 OLDE SEDGFIELD WAY** Katarzyna and Steven Gollehon request a variance from a minimum side setback requirement. **Variance:** A proposed corner of a covered patio will encroach 4 feet into a 10-foot required side setback. Section 30-7-3.2 & Table 7-1, Present Zoning-CD-R-3 (Residential Single-family), Cross Street - Madison Oaks Court. **(WITHDRAWN)**

- (e) BOA-16-43: **216 ELMWOOD DRIVE** Tyler and Lori Richardson request a variance from a minimum side setback requirement. **Variance:** A proposed attached garage/addition will encroach 1.73 feet into a 5-foot required side setback. Section 30-7-3.2 & Table 7-1, Present Zoning-R-5 (Residential Single-family), Cross Street - West Newlyn Street. **(CONTINUED TO DECEMBER MEETING)**

Loray Averett stated that the applicants are not present and in checking with Legal staff, it has been determined that at least one of the owners must appear before the Board, even if they have a builder speaking on their behalf. After some discussion it was determined that this matter would be postponed to the December 19th meeting.

Mr. Cummings moved to continue this matter to the December meeting, seconded by Mr. Truby. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. Nays: None)

- (f) BOA-16-44: **1112 BUCKINGHAM ROAD** Edmund Brown requests variances from minimum side setback requirements. **Variances:** A proposed detached garage will encroach 1 foot into a 3-foot side setback. The eaves will encroach 2 feet into a required 3-foot setback. Section 30-8-11.1 & 30-7-1.4, Present

Zoning-R-3, (Residential Single-family), Cross Street-Cleburne Street.
(CONTINUED TO DECEMBER MEETING)

Andrew Kelly stated that the applicants are not present and it has been determined that at least one of the owners must appear before the Board, even if they have a builder speaking on their behalf. After some discussion it was determined that this matter would be postponed to the December 19th meeting.

Mr. Cummings moved to continue this matter to the December meeting, seconded by Mr. Truby. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. Nays: None)

- (g) BOA-16-45: **3026 ROBIN HOOD DRIVE** Martin and Claudia McCoy request a variance from a required average front setback. **Variance:** A proposed front porch expansion will encroach 8 feet into a 43.5 foot front setback. Section 30-7-1.4, Present Zoning-R-5 (Residential Single-family), Cross Street-Nathaniel Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed front porch which will encroach 8 feet into a required average front setback of approximately 43.5 feet. The porch will be setback 35.5 feet from the front property line. The lot is located at the northwestern intersection of Robin Hood Drive and Nathanael Road. Tax records reflect the lot size is approximately 13,764 square feet. The lot is rectangular in shape. The house was originally built in 1962. The existing house is located approximately 46 feet from the front property line. The applicant is proposing to rebuild and enlarge their front porch. The front porch will be 12 feet by 22 feet for a total area of 264 square feet. The property is a corner lot. There were a total of two houses that were used to calculate the average front setback for the subject property. Both of the houses are located west of the subject site. They are addressed as 3028 and 3030 Robin Hood Drive. Their combined setbacks averaged 43.5 feet. Effective April 4, 2014 infill standards for residential front setbacks were implemented. Prior to that implementation, the front setback for the R-5 zoning district was district was 20 feet. The applicant is requesting to be allowed to construct the front porch which will be approximately 35.5 feet from the front property line instead of the averaged setback of 43.5 feet. The R-5 Residential Single-family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this request.

Martin McCoy, the property owner, was sworn in and stated that he could really not add anything to what was supplied by staff. The house was built under different standards than are in place today. The house has done a lot of sinking and settling over the years and the front porch was apparently a last-minute add-on and was a garbage pit from the original construction. It is a brick wall with a thick concrete slab and the weight has sunk considerably over the years making the front porch very unsafe and unsightly. They now want to fix the front porch and add onto the front of the house with a usable front porch and sunroom area that would be screened

for convenience and to keep the bugs out when they are enjoying their new area. They have a letter from their neighbor in support of the project.

Claudia McCoy, the applicant, was sworn in and stated that they have spoken with several of the neighbors and no one is opposed to this project.

John Mallard, the builder for the applicant, Arcodect, 5587 Garden Village Way, Greensboro, was sworn in and stated that this would be a covered and screened porch at the front of the house. The drawing included in the package shows what it would look like on completion. It is felt that this will enhance the use of their home and add value to the house and the neighborhood.

There being no opposition to the request, the public hearing was closed by unanimous vote.

Board Discussion:

All Board members voiced their support of the request and felt that it would have a positive impact on the neighborhood, at large.

Ms. Skenes moved in regard to BOA-16-45, 3026 Robin Hood Drive, that the Zoning Officer be overruled and the variance granted based on the following: If the applicant complies with the provisions of the Ordinance, unnecessary hardships would result to the property by applying strict application of the Ordinance because the porch could not be repaired or rebuilt and is currently in need of both. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the Land Development Ordinance was changed in 2014 and prior to that time a variance would not have been needed. The hardship is not the result of the applicant's own actions because the applicant did not build the original house in 1962. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the porch is currently in disrepair and is in need of being replaced, seconded by Mr. Truby. The Board voted unanimously in favor of the motion. (Ayes: Hayworth, Skenes, Cummings, Williams, Truby, Eckard and Blackstock. (Nays: None)

- (h) BOA-16-46: **306 MEADOWBROOK TERRACE** Mark and Kelly McDonald request a variance from a minimum side and rear setback requirement. **Variance:** A proposed screened porch addition will encroach 1 foot into a 10-foot side setback and 4.23 feet into a 30-foot required rear setback. Section 30-7-3.2, Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street-Allendale Road. **(CONTINUED TO DECEMBER MEETING)**

OTHER BUSINESS

Loray Averett stated that the 2017 Calendar of meetings is ready and will be sent to each Board member before the December meeting.

Chair Hayworth asked about a Training Session to be held in January 2017. Loray Averett stated that staff would be sending information on the Session, which will be held immediately following the January meeting.

The December meeting of the Board of Adjustment will be held in the Plaza Level Conference Room because the Zoning Commission will be holding their meeting the same day in the Council Chamber.

Mr. Truby congratulated Mr. Cummings on his appointment. Mr. Cummings stated that he would have to resign from the Board so this will likely be his last meeting. He would write a letter to his Council person so that a replacement member can be appointed as soon as possible.

ACKNOWLEDGEMENT OF ABSENCES

None

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 6:54 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair

Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
DECEMBER 19, 2016**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, December 19, 2016 at 5:30 p.m. in the Plaza Level Meeting Room of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Patti Eckard, Laura Blackstock, Chuck Truby, Deborah Bowers, Enyonam Williams, and Mary Skenes. Representing the Planning Department staff was Loray Averett, Lucas Carter; and Andrew Kelly, City Attorney's Office.

Chair Hayworth called the meeting to order and explained the policies and procedures of the Board of Adjustment. She further explained the manner in which the Board conducts its hearings and method of appealing any ruling made by the Board. The Chair advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

APPROVAL OF MINUTES

Ms. Eckard moved approval of the November 28, 2016 meeting minutes, seconded by Ms. Skenes. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Bowers. Nays: None.)

SWEARING IN OF STAFF

Loray Averett and Lucas Carter were sworn in for their testimony during the hearings.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that **BOA-16-44: 1112 BUCKINGHAM ROAD** has been withdrawn from the agenda. There is also a request for **BOA-16-48, 4120 CAUSEY STREET** to be continued.

Chair Hayworth asked if there was anyone wishing to speak on this matter.

Mr. Truby asked to be recused from this matter as there is a conflict of interest. He was recused by vote of 6-0-1. (Ayes: Hayworth, Williams, Eckard, Blackstock, Skenes and Bowers. Nays: None. Abstained: Truby.)

Teri Hammer, the applicant, stated that she would like to continue this request so that they can revise the site plan to include a different number of parking spots.

Ms. Skenes moved approval to continue this item until the January 23, 2017 meeting, seconded by Ms. Blackstock. (Ayes: Hayworth, Williams, Eckard, Blackstock, Skenes and Bowers. Nays: None. Abstained: Truby.)

OLD BUSINESS

VARIANCE

- (a) BOA-16-39: **1105-1115 EAST BESSEMER AVENUE** Henry Isaacson, Attorney for Sandhills Group, LLC request variances from minimum standards regulating nonconforming outdoor advertising signs as defined for replacement and relocation in the CB Overlay District. **Variances:** An outdoor advertising sign that was not attached to or within 2 feet of a building or other improvement to be demolished is proposed to be relocated on the site. The outdoor advertising sign cannot comply with minimum design or compatibility requirements because it will be freestanding and will not be located on a building or flush to any wall surface. This request was continued from the November 28, 2016 meeting. Section 30-2-5.5(C), Present Zoning-C-M, (Commercial-Medium) and CBO, (Central Business Overlay), Cross Street - Westside Drive. **(APPROVED WITH CONDITIONS)**

Loray Averett stated that the variance is for relocation for a previous existing outdoor advertising sign that was not attached to or within 2 feet of a building or other improvement to be demolished is proposed to be relocated on the site. The property is located at the northwestern corner of East Bessemer Avenue and Westside Drive and is zoned C-M (Commercial Medium). The property is also in the CBO (Central Business Overlay). New outdoor advertising signs are prohibited in the central business overlay zoning district. However, provisions were adopted to allow replacement outdoor signs in the central business overlay district. Outdoor advertising signs are permitted in the C-M zoning District. This property is also located in the Central Business Overlay district which has additional standards for replacing existing non-conforming outdoor advertising signs. The property was recently rezoned from Light Industrial to Commercial Medium. The property was two lots and has recently been combined by survey and deed into one lot which contains approximately 1.18 acres. The lot is a corner lot with frontage on East Bessemer Avenue and Westside Drive. The older existing restaurant buildings are proposed to be removed and replaced with a new drive-through restaurant. The applicant also wants to relocate the old outdoor advertising sign with a smaller more modern outdoor advertising sign. The older existing outdoor advertising sign was not attached to or within 2 feet of the original building. In order to replace this sign, the applicant is required to be granted a variance from a standard that states he may only replace the sign if it were originally attached to or within 2 feet of a building that is being demolished. This sign was approximately 52 feet from original building. The applicant also cannot meet size, design and compatibility requirements for outdoor advertising signs located in the Central Business Overlay zoning district because such standards are applicable to flush wall mounted outdoor advertising signs and the new sign will be freestanding on the lot. Exhibit B shows the subject site along with the location of the

previous existing outdoor sign and a new proposed lease area for the new outdoor sign. The proposed area will be less intrusive to the future site development for the proposed drive-through restaurant. The maximum allowed height for replacement of any non-conforming outdoor advertising sign is 35 feet. For comparison purposes, in the commercial medium zoning district the maximum height for freestanding business identifications signs is 30 feet. For visual impact purposes, the new outdoor advertising sign is also proposed to be smaller than the area of the previous outdoor advertising sign. That sign contained approximately 672 square feet. The proposed new sign will contain 378 square feet. The maximum replacement area of square footage allowed is 396 square feet. The applicant is aware all other free standing identification and wall signs for the proposed drive-through restaurant will be required to meet minimum sign requirements for the Commercial Medium zoning district. C-M – Commercial Medium: Primarily intended to accommodate a wide range of retail, service and office uses. The district is typically located along thoroughfares in areas which have developed with minimal front setbacks.

Chair Hayworth asked if there was anyone wishing to speak in favor of this matter.

Henry Isaacson, attorney representing the applicants, stated that he represents Sandhills, LLC as well as Fairway Advertising of the Triad. Present are Eric Stacey, Manager and Mike Peters, General Manager of Fairway. He presented a booklet with information concerning this case. Staff's explanation and summary is correct. He would like to add a condition: "The sign would be limited to 378 square feet" if the variance is allowed. Photographs showed the two properties involved in the request. During the past 31 years there has been an outdoor advertising sign on the property at 1115 E. Bessemer, serving the businesses in the neighborhood, as well as offering public service information. A photograph shows the sign in question. Bojangles plans to build a new, more modern, larger facility on the two properties combined. In the meantime, the City passed and amended the LDO with a provision that says that if a billboard is located in the Central Business Overlay District, and is taken down, it can only be replaced by locating it on a building or flush to any wall surface, which is now not an option on either of these two properties. He pointed out that the Overlay District is spread out over a lot of area that is not located centrally to the downtown Central Business area. That is what causes the problem with this property. He feels that this Overlay District is overly wide and the fact that the property is located on the fringe of the Overlay District, thus is unique to this lot. They are asking that the Board grant the requested variance for the signage on this property.

Chair Hayworth asked if there was anyone wishing to speak in opposition to this matter. There being none, the public hearing was closed.

Board Discussion:

After some discussion among the Board members, there were no further questions and all Board members stated their support of the request.

Mr. Truby moved that in regard to BOA-16-39, 1105-1115 East Bessemer Avenue, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: If the applicant complies with the provisions of the

ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the owners would not be allowed to relocate the billboard that has existed on the property since 1985. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the billboard was built in 1985, prior to the adoption of the CBO in 2008. The hardship is not the result of the applicant's own actions because of substantial ordinance changes with the adoption of the LDO, which occurred July 1, 2010, have prevented the owners of the building to retain or relocate the sign on the property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety and welfare and substantial justice because the relocated billboard is 378 square feet, as opposed to the old billboard which was 672 square feet. The variance would be conditional that the sign would be limited to 378 square feet overall, seconded by Ms. Skenes. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Truby, Williams and Skenes. Nays: None)

- (b) BOA-16-46: **306 MEADOWBROOK TERRACE** Mark and Kelly McDonald request variances from a minimum side and rear setback requirement.
- Variance #1:** A proposed screened porch addition will encroach 1 foot into a 10-foot side setback and 4.23 feet into a 30-foot required rear setback. This request was continued from the November 28, 2016 meeting.
- Variance #2:** An existing attached pergola encroaches 7.77 feet into a 10-foot side setback requirement. Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street-Allendale Road. **(GRANTED WITH CONDITIONS)**

Loray Averett stated that the property is located on the north side of Meadowbrook Terrace, west of Allendale Road. The property contains a single family dwelling and a detached storage building. The applicant is requesting to cover an existing patio with a screened porch. On October 13, 2016, the applicant applied for a building permit to cover the existing patio. The comments concerning the encroachment were noted. A structure may not encroach into the side or rear or rear setback. The patio is approximately 20 feet by 20 feet. The applicant is requesting to cover the patio in its current size. The existing house is constructed at a slight

angle on the lot. Based on the survey, the applicant wishes to maintain the same building line with the proposed covered patio which is planned to align with the northwestern wall of the existing house. The property report indicates the house was constructed in 1964. The existing house was built to meet side and rear setbacks. The lot contains approximately 13,939 square feet and is rectangular in shape with a severe angle on the rear lot line. The side lot lines are unequal in distance which creates the angle on the rear lot line. In summary, the lot is uniquely shaped and the house was constructed slightly closer to the western side lot line. The applicant has mentioned that due to the flow of the existing property, this location was the most reasonable area for a rear screened porch. The R-3, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

VARIANCE ITEM #2

EXISTING PERGOLA ENCROACHMENT

Staff is incorporating the pre-listed facts concerning the property for applicability to this request as well with the following additional fact finding for the existing pergola structure. Each item must be motioned and voted separately.

Chair Hayworth asked if there was anyone wishing to speak in favor of this matter.

Mike Davis, from Stonewall Construction 3032-A Rock Hill Road, Burlington, NC, stated that he is representing Mark and Kelly McDonald, the applicants. This has evolved into a more complex situation than they had expected. The applicants did a landscaping project in 2009, and they built the pergola during that period of time. They will get the proper permit and address that with the Inspections Office. The pergola does not extend and cross the property line and is 2.33 feet from the property line, but is within the setback requirements. There is a drastic drop in the topography of the neighboring property and there is a lot of vegetation and landscaping that separates the applicant's property from their neighbors. The hardship would be that this is a very unusually shaped lot.

Kelly and Mark McDonald have spoken with the neighbors on that side of their property and they do not have any objection to allowing the pergola to remain in place as there is so much vegetation between the property it is difficult to even see the pergola.

Chair Hayworth asked if there was anyone wishing to speak in opposition to this matter. There being none, the public hearing was closed.

Board Discussion:

After some discussion of the Board members, there were no further questions and all Board members stated their support of the request.

Ms. Williams moved that in regard to BOA-16-46, 306 Meadowbrook Terrace, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: Variance #1 related to the screened porch - If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying the strict application of the ordinance because the screened porch would not be constructed as planned. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because the side property line is unusual as well as the rear property line. The hardship is not the result of the applicant's own actions because the lot is smaller than surrounding lots and is an odd shape. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it allows the homeowners to use their property to its highest and best use, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Truby, Williams and Skenes. Nays: None)

In regard to Variance #2, the pergola encroachment, Ms. Williams moved that based on the stated findings of fact, that the Zoning Enforcement Officer be overruled and variance granted with the following condition, that the pergola not be enclosed. If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying strict application of the ordinance because the existing pergola would have to be removed. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the house is situated more toward the left side of the property where the pergola is located. The hardship is not the result of the applicant's own actions because the applicant was unaware of the need for a permit when the pergola was constructed. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because it allows the homeowners to use their property to its highest and best use, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Truby, Williams and Skenes. Nays: None)

- (c) BOA-16-43: **216 ELMWOOD DRIVE** Tyler and Lori Richardson request a variance from a minimum side setback requirement. **Variance:** A proposed attached garage/addition will encroach 1.73 feet into a 5-foot required side setback. This request was continued from the November 28, 2016 meeting. Section 30-7-3.2 & Table 7-1, Present Zoning-R-5 (Residential Single-family), Cross Street - West Newlyn Street. **(GRANTED)**

Loray Averett stated that the property is located on the north side of Elmwood Drive south of West Newlyn Street and is zoned R-5. The property contains a single family dwelling and a detached accessory building. The applicant is requesting to construct a two-story addition which will encroach 1.73 feet into a 5-foot side setback. The addition will be 3.27 feet from the side lot line. The property report indicates the original house was built in 1946. It is a two-story dwelling

and the record reflects it contains 2,809 square feet of heated space. The applicant is proposing to add a two-story attached addition to the existing house that will include a garage and other additional habitable space. The first floor space for the addition will contain 1,217 square feet and the second floor space will contain 976 heated square feet. The addition will contain a total of 2,193 square feet. The addition will be connected by a raised concrete walkway to a detached building that was recently constructed. The walkway connection will not be covered. The lot is rectangular shaped. The Plat was originally recorded in July 1931. Since that original Plat date, several of the lots in this area were redrawn and lines shifted to create more consistent building lots. As the houses were developed in the 1940's, these lots were recorded by metes and bounds descriptions contained in the deeds. The subject lot is rectangular shaped. It is 75 feet wide; approximately 150 feet deep and contains 11,250 square feet. The minimum lot size for the R-5 zoning district is 7,000 square and requires a minimum 50-foot lot width. The subject lot is in compliance with the current requirements. The applicant may cover 40 percent of the lot with structures located on the ground. The R-5, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-5 will typically be 5.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this matter.

Gary Jobe, 8 Lockridge Drive, was sworn in and stated that the original plans showed that the proposed addition would be 5 feet from the property line. Everyone thought that the retaining wall was the property line, but found out later that is not on the property line. The existing building is in compliance. They plan to move the house print 2 feet and there are 2 doors that come out to the patio area and this would be a two-story patio attached to the main house and there will be steps to the upper level. The poles shown on the photographs will be inside the wall that they are building with the brick veneer on the outside of that.

Tyler Richardson, the property owner, was sworn in and was available to answer questions posed by the Board members.

Chair Hayworth asked if there was anyone wishing to speak in opposition to this matter. There being none, the public hearing was closed.

Board Discussion:

After some discussion of the Board members, there were no further questions and all Board members stated their support of the request.

Ms. Skenes moved that in regard to BOA-16-43, 216 Elmwood Drive, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying the strict application of the ordinance because the addition would be able to be built. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because this the topography of the lot makes the requested location the

logical location for the addition. The hardship is not the result of the applicant's own actions because the original house was built in 1946 which created a very large left side yard which is the only logical location for an addition. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the property owner to the left of the subject property and will be the most impacted by the addition, has submitted a letter of support and the addition will be in keeping with other additions on the street, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Truby, Williams and Skenes. Nays: None)

- (d) BOA-16-44: **1112 BUCKINGHAM ROAD** Edmund Brown requests variances from minimum side setback requirements. **Variation:** A proposed detached garage will encroach 1 foot into a 3-foot side setback. The eaves will encroach 2 feet into a required 3-foot setback. This request was continued from the November 28, 2016 meeting. Section 30-8-11.1 & 30-7-1.4, Present Zoning-R-3, (Residential Single-family), Cross Street-Cleburne Street. **(WITHDRAWN)**

NEW BUSINESS

VARIANCE

- (a) BOA-16-48: **4120 CAUSEY STREET** Teri W. Hammer requests a variance from minimum off-street parking requirements. **Variance:** A proposed detached townhome development can only provide 4 parking spaces when 13 spaces are required, therefore a reduction of 9 off-street spaces is requested. Section 30-11-5, Present Zoning-RM-18 (Residential Multi-family), Cross Street - Boston Road. **(CONTINUED TO JANUARY MEETING)**
- (b) BOA-16-49: **1605 CARLISLE ROAD** Mary and Mark Rainosek request a variance from a minimum side setback requirement. **Variance:** Two additions to the same side of an existing house will encroach 3.1 feet into a 10-foot required side setback. Section 30-7-3.2 & Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street - Sunset Drive. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for two proposed attached additions to the side of the existing house. Both additions will encroach 3.1 feet into a 10-foot side setback. The property is located on the north side Carlisle Road north of Sunset Drive and is zoned R-5. The property contains a single family dwelling. The applicant is requesting to

construct two additions to the eastern side of the house. The original house was built in 1917 and was originally constructed in its existing location. The house was built 6.9 feet from the side lot line. The proposed additions will not encroach any further than the original structure. The applicant is proposing to close in a small gap on the side of the existing house as highlighted in yellow on the site drawing identified as exhibit B. That area contains approximately 35 square feet. The other addition is proposed at the back of the house and will be a kitchen update addition. It will not encroach any further than the existing house as well. This addition will contain approximately 520 square feet. The lot is rectangular shaped and contains approximately 29,620 square feet. There was no record plat on file. The metes and bounds description for the subject site is attached with the applicant's deed. The house was built prior to zoning requirements. The R-5, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development. The overall gross density in R-3 will typically be 3.0 units per acre or less.

Chair Hayworth asked if there was anyone wishing to speak in favor of this matter.

Mary Rainosek, 1605 Carlisle Road, was sworn in and stated that they are requesting this side setback because the house was built in 1917 and sits 3.1 feet into the 10-foot required side setback. They love historical homes and want to bring it up to date and restore its character. They hired an architect that focuses on historical homes. They hope to gain a little bit of space without impacting the character of the house. They also wish to add a new bathroom in the upstairs area. The hardship is that there is not enough room or bathrooms to accommodate their family.

Jim Collins, architect for the applicant, was sworn in and stated that they would not be encroaching more than the 6.5 feet. The breakfast room downstairs would be pushed back and would be 7.5 feet from the property line.

Jackie Humphrey, 1607 Carlisle Drive, was sworn in and stated that she has lived in her house for 49 years. Her house was built in 1919 and she is very happy with the proposed project for the applicant's house. It definitely needs to be enhanced in the ways they are talking about. Hopefully there will be a few tweaks to their plan to make the house more in character with the neighborhood, putting in some charm and the old character of the house. She is in support of the request if they add two more windows on the first and second floors.

Bo Rodenbow, attorney representing the applicant's neighbor, 230 N. Elm Street, stated that they are in support with the changes Ms. Humphrey has mentioned.

The Board members stated that they could only address the issue at hand which is the two additions to the same side of an existing house will encroach 3.1 feet into a 10-foot required side setback and they are not authorized to establish conditions unless requested by the applicant.

Chair Hayworth asked if there was anyone wishing to speak in opposition to this matter. There being none, the public hearing was closed.

Board Discussion:

After some discussion of the Board members, there were no further questions and all Board members stated their support of the request.

Ms. Blackstocck moved that in regard to BOA-16-49, 1605 Carlisle Road, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardships will result to the property by applying the strict application of the ordinance because the applicant will not be allowed to make alterations to the property and add the two-story addition as planned. The back door is very unsafe and the new addition would provide more security for the homeowners. More storage is needed to modernize the home. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the property because the current home which was built in 1917 was built too close to the north side of the property line. The hardship is not the result of the applicant's own actions because the home is 99 years old and the homeowner would like to add value by updating, while keeping the character of the property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because improving the character of the home and the value of the home in the neighborhood will have no negative impact to the neighborhood and the property owners, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Bowers, Truby, Williams and Skenes. Nays: None)

OTHER BUSINESS

There are currently three items filed for the January 2017 meeting. The filing deadline is not over until Dec 22nd. **ACKNOWLEDGEMENT OF ABSENCES**

There being no further business before the Board, the meeting adjourned at 7:34 p.m.
Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd