



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT**

JANUARY 23, 2017

The regular meeting of the Greensboro Board of Adjustment was held on Monday January 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, Chuck Truby, Mike Cooke, Deborah Bowers, Enyonam Williams, and Mary Skenes. Representing the Planning Department staff was Loray Averett, Nicole Smith and Mike Kirkman; 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 December 2016 meeting minutes, as written, seconded by Ms. Williams. 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, Nicole Smith and Mike Kirkman were sworn in for their testimony during the hearings.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there were no request for a continuance or withdrawal.

OLD 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 12 spaces are required, therefore a reduction of 8 off-street spaces is requested. This request was continued from the December 19, 2016 meeting. Section 30-11-5, Present Zoning-RM-18 (Residential Multi-family), Cross Street - Boston Road. **(DENIED)**

Mr. Truby asked to be recused from this matter as there is a conflict of interest. He was recused by vote of 7-0-1. (Ayes: Hayworth, Williams, Eckard, Blackstock, Cooke, Skenes and Bowers. Nays: None. Abstained: Truby.) Ms. Bowers would be seated for this item.

Loray Averett stated that the applicant is requesting a variance to provide 4 off-street parking spaces for a proposed detached townhome development which requires 12 off-street parking spaces. This request was continued from the December 19, 2016 meeting. The property is located on the north side of Causey Street west of Boston Road and is zoned RM-18 (Residential Multifamily 18). The applicant is proposing to develop the site with tiny houses. The site will contain 6 detached dwelling units. The development will be designed to meet the requirements governing detached townhomes. The City's Technical Review Committee will review for compliance with the Land Development Ordinance. Some preliminary review noted that the project would not meet the minimum off-street parking requirements. The applicant has shown 4 spaces on the site. The proposed density is required to provide 13 spaces; thus, the applicant is seeking a variance for 9 off-street parking spaces. The lot is rectangular shaped. The width averages approximately 75 feet and the depth averages approximately 260 feet. The lot contains approximately 20,000 square feet. The project as designed, based on land use will be required to develop using detached townhouse development standards and townhouse parking requirements. The current Ordinance does not have standards or definitions for Tiny House development as a specific land use. The applicant recently purchased the property from the city of Greensboro and submitted preliminary plans for sketch review. The project is the first proposed tiny house project for the City of Greensboro. The applicant has mentioned the project is located within near proximity of public transit transportation and that it will be unusual for the residents using these homes to have motor vehicles. Exhibit 2-A is a map that shows the walking distances to each of the bus stop locations. Both locations are 1,925 lineal feet from the front of the subject site along the street frontages. Staff will note that there are no sidewalks constructed along the walking distances to the bus stops. The Building Code does require the applicant to provide a minimum of two parking spaces for ADA (American Disabilities Act for Handicap Persons) compliance. The RM-18, Residential Multi-Family District is primarily intended to accommodate multi-family and similar residential uses at a density of 18.0 units per acre or less.

In response to a question by Chair Hayworth, Loray Averett went into more detail concerning the parking requirements. The townhouse dwelling parking requirement is 2.1 spaces per unit and based on 6 homes that number came up 12.6 spaces. When the required number exceeds a whole number, the Ordinance provision allows for rounding down the space number to the nearest whole number. Handicap parking may be a part of that number.

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

Teri Hammer, the applicant, 1817 Madison Avenue, was sworn in and stated that there is a gentleman that owns the property next door to the subject property and he was not comfortable with the 4 parking spaces for the proposed off-site parking. She has met with him at the property and worked out a compromise and he has stated that 7 parking spaces would be amenable for him. She is now asking for 7 parking spaces for this development, which would be a variance request for 5 parking spaces. Ms. Hammer stated that this is a very unique population that would be living in these tiny houses. Many of these people living in these homes would not own a vehicle, so it is felt that the parking situation would be too restrictive.

Mr. Cooke stated that he thinks tiny houses are an awesome idea and a way to house a portion of the population that could not otherwise provide housing. He also feels that the parking requirements are somewhat too restrictive and unfair for this type of designation, but the Board has to abide by the ordinance that is currently in place.

After a short discussion with Legal staff, Chuck Truby, 502 Waycross Drive, was sworn in and stated that he is the civil engineer on this project and his firm is working on this project pro bono and they think it is a good cause for the recipients of this type of housing. There is currently not an ordinance related to tiny houses because this is a new concept. It is reviewed as a multifamily/townhome development and should meet the townhome development parking requirements. Not having an ordinance for tiny houses, staff is treating the development like townhouses, which they are not. He pointed out that a one-bedroom apartment in Greensboro is around 600 square feet and these houses are only 250 square feet, which is much smaller. To abide by the current ordinance for townhomes is going to cause much more damage to the surrounding area by cutting down more trees and paving land that does not need to be paved, thereby adding to the run-off of the area. He feels that seven spaces would be more than enough for this development. He does not see the need for 12 parking spaces for the development.

In response to questions, Loray Averett stated that two of the parking spaces would be required for ADA compliance.

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:

Ms. Eckard stated that she does support the request. Ms. Bowers supports the request. Ms. Blackstock also supported the request. Mr. Cooke stated that he could not support it because of the ordinance that is now in place. Ms. Skenes stated that the Board is being asked to consider some unenforceable assumptions in regard to this variance. The Board can only consider the land use and if these units should be rented to someone else in the future, then there may not be enough parking spaces and she is uncomfortable with the request at this time. Other Board members felt that the parking requirements should be met for this type of housing now and in the future so that there are no complications for the rest of the surrounding neighborhood. Ms. Williams stated that she would not support the request because the numbers of parking spaces the applicant can provide keeps going up, so there is some confusion on the final number of spaces that will be created on this property.

After a short discussion Ms. Williams moved that in regard to BOA-16-48, 4120 Causey Street, that the findings of fact be incorporated into the record and the Enforcement Officer be upheld and a variance be denied based on the following: If the applicant complies with the provisions of the ordinance, unnecessary hardship will not result to the property by applying strict application of the ordinance because the property could still be used for a tine house development. The hardship of which the applicant complains does not result from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the property is large enough for the required parking spaces. The hardship is the result of the applicant's own actions because the applicant has used the extra space for a garden instead of the parking spaces that the ordinance requires. 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 public safety and welfare and substantial justice because allowing this variance to run with the land may cause problems if there is a different housing configuration in the future, seconded by Ms. Skenes. The Board voted 4-3-1 in favor of the denying the variance. (Ayes: Hayworth, Skenes, Williams and Cooke. Nays: Eckard, Blackstock and Bowers. Abstained: Truby.)

Thereupon, Ms. Bowers left for the remainder of the meeting at 6:35 p.m and Board Member Chuck Truby returned to his seat.

NEW BUSINESS

VARIANCE

- (a) BOA-17-01: **BETWEEN 5015 AND 5097 TOWER ROAD** Ryan Gladden, Attorney for William C. Payne Sr. Family, Ella Payne Trustee and Karen Koutsky request variances from standards regulating access requirements and vehicular access to public streets. **Variance:** The applicant is requesting to create two lots that cannot provide direct lot frontage and vehicular access to a publicly maintained street. The access is proposed to be through a recorded access easement which will cross over a portion of the Hamilton Woods Association property. Sections 30-13-3.8 and 30-9-3.1, Present Zoning-R-3 (Residential Single-family), Cross Street – Guida Drive. **(GRANTED)**

Loray Averett stated that the applicant is requesting variances from standards regulating access requirements and vehicular access to public streets. The applicant is requesting to create two lots that cannot provide direct lot frontage and vehicular access to a publicly maintained street. The access is proposed to be through a recorded access easement which will cross over a portion of the Hamilton Woods Association property. The two properties are located on the southern side of Tower Road and north of Guida Drive. They are zoned R-3 (Residential Single Family). The applicants are requesting to create two lots which will not have access to a publicly maintained street nor can they provide lot frontage. At one time, the subject properties were rear portions of properties that are located adjacent and south of the subject properties. The subject properties were sold by deed. Both of the subject properties are currently undeveloped. Exhibit 3 shows the southern lots that face Guida Drive and were recorded by Plat in 1962. Both of these properties are developed with single family homes. The current owners of the two subject properties have reached agreements with the owner of the property adjacent to Tower Road for access to the subject properties. That owner is Hamilton Woods Association, Inc. - The agreements and settlements are identified as Exhibit C, which is titled MUTUAL EASEMENT AGREEMENT and Exhibit D, which is titled CONSENT JUDGMENT. Staff's Exhibit 2 is a detail drawing of the two proposed lots. For clarification purposes, staff has labeled them as Proposed "Lot A" and Proposed "Lot B". The highlighted access adjacent to Tower Road will be for Lot A. That access will continue from Lot "A" to Lot "B" as shown and highlighted on this Exhibit. This will allow for both lots to have ingress/egress privileges for the properties. Each of the proposed lots will contain approximately 41,500 square feet of area. The R-3 zoning district requires a minimum of 12,000 square feet per lot, thus the lots will provide and exceed the required lot area. 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.

Bill Payne, the applicant, 7501 Strawberry Road, was sworn in and stated that he is present on behalf of his mother Ella Payne and Ms. Karen Koutsky the other owner of the property. Part of the property is in a trust and must be represented by Counsel. The variance is for two lots that cannot provide direct frontage to a publicly maintained street and they propose that access be provided through a recorded permanent easement to cross the ten-foot strip of property that is now owned by Hamilton Woods Association. They have worked extensively with the Planning Department staff for their suggested layout, wording and requirements for the property easement, site drawings and the overall layout of the property. The map shown indicates the layout of the property. In 1973 his parents and Ms. Koutsky's parents and other neighbors, the Collins, purchased the triangle of land shown and this was land that was essentially left over from the subdivision of Guida Drive. The land was unusable for the subdivision for a building lot. In 1978 the Richardson Corporation started property development to the north and east of this property and during that development, Tower Road was extended from Muirs Chapel Road all the way over to Dolley Madison Road essentially cutting through the farm land and trees that were there before. At that time the "spite strip" was developed and was not seen as an antagonistic mode, and the distance between the property line and the street is about 10 feet. They have tried over multiple years to purchase that section of property to give them access to it and in the last several months they have been able to come to an agreement with the Hamilton Woods Association and have created this easement, so they now have their permission to now make use of this property for a cross-

over driveway including vehicular access and utilities across this space. At the advice of the Planning Department, they have created easements across Section A, to give access to Lot "B" and included for future use, the lot immediately to the west should that group ever decide to make use of that. They have also included a natural border between this property and the Hamilton Woods property to the east to meet part of the easement section. The hardship is because the two lots are currently land-locked and have no use or availability to the owners for any kind of use. There is no access from Guida Drive nor from Tower Road other than directly across the easement. These lots were never intended to be accessed from Guida Drive and now that Tower Road is in place this seems to be the only reasonable access to the property. Mr. Payne thanked the Board for their considerations as they begin their deliberations.

Karen Koutsky, 3990 Lakeshore Road S., Denver, NC, was sworn in and was available for questions by the Board.

In response to a question, Ryan Gladden, attorney representing the applicants, 4020 Fountain Grove, High Point, NC, stated that this easement was granted in the context of a lawsuit and so it is not just an easement agreement, it is also a consent judgment so that if it is the subject of any kind of attack in the future, even as a recorded easement, it would be difficult to break the easement agreement in the future.

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-17-01, Between 5015 and 5097 Tower 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 hardship will result to the property by applying strict application of the ordinance because the two lots are land-locked and would not be able to be developed 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 two lots are land-locked by topography and a stream and the placement of Tower Road created a "spite strip" in the mid 1970s. The hardship is not the result of the applicant's own actions because the properties were purchased prior to the construction of Tower Road. 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 there would be no ability to improve or develop the property and no increase in value of the property, seconded by Ms. Blackstock. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Cooke, Truby, Williams and Skenes. Nays: None)

- (b) BOA-17-02: **605 WOODLAND DRIVE** James and Marianne Bennett request variances from a minimum side and rear setback requirement. **Variance:** A proposed detached garage will encroach 4.7 feet into a 10-foot side setback and 3.3 feet into a 10-foot rear setback. Section 30-8-11.1, Present Zoning-R-3 (Residential Single-family), Cross Street – Dover Road. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance to enlarge and construct a detached garage taller than 15 feet that will encroach 4.7 feet into a 10-foot side setback and 3.3 feet into a 10-foot rear setback. The property is located on the south side of Woodland Drive, north of Dover Road and is zoned R-3 (Residential Single Family). The applicant's lot is rectangular shaped. The lot contains approximately 17,500 square feet. The house footprint on the ground contains approximately 2,160 square feet. The proposed garage dimensions are 27 feet x 40 feet and will contain 1,080 square feet. The applicant is allowed to have structures up to 50 percent of the size of the footprint on the ground. Based on the square footage of the house detached structures on the site may not exceed 1,080 square feet. The proposed garage will be within the maximum square footage requirements. The lot is developed with existing infrastructure consisting of the dwelling, a detached accessory carport, driveway, landscape features, fencing, vegetative growth and trees. The lot is heavily landscaped along the sides and rear of the property. There is an existing carport in the location of the proposed garage. The applicant is planning to basically remove the carport and reuse the foundation of that portion to rebuild a larger detached garage/building. this garage/building will be enclosed. The garage will be taller than 15 feet and is required to be 10-foot from the side and rear lot lines. The existing house is a two-story house. The new garage/building will be a two-story structure. 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.

Marianne Bennett, the applicant, was sworn in and stated that she had notarized letters from 2 of the adjoining property owners, who are familiar with and support this request. They are hoping to add a space for her husband to have a home office as he works in Burlington and this would allow him to have a space over the garage for his office.

In response to a question, Frank Cheney, 1309 Latham Road, architect for the property, was sworn in and stated that the height of the existing carport is about 14 or 15 feet.

The playhouse would be taken down as the applicant's children have outgrown it.

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. Cooke moved that in regard to BOA-17-02, 605 Woodland 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 hardship will result to the property by applying strict application of the ordinance because the 10-foot rear side setback requirements and 3-foot rear setback requirements are triggered by the height of the proposed structure and this structure is in keeping and similar to the existing structure's height. 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 proposed structure would be only slightly taller than the existing structure. The hardship is not the result of the applicant's own actions because the existing structure will be re-used and was in place prior to the Development Ordinance. 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 accessory structure will only be slightly taller than the 15 feet, which triggers a difference in setback requirements, seconded by Ms. Skenes. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Truby, Cooke, Williams and Skenes. Nays: None)

- (c) BOA-17-03: **2003 INDEPENDENCE ROAD** Mark Crouse requests a variance from a required average front setback. **Variance:** A proposed front addition will encroach approximately 11.96 feet into a required average front setback of approximately 49.76 feet. The proposed addition will be setback 37.8 feet from the front property line. Present Zoning-R-5 (Residential Single-family), Section 30-7-1.4, Cross Street – Lawndale Drive. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a proposed front addition which will encroach 11.96 feet into a required average front setback of approximately 49.76 feet. The front addition will be setback 37.8 feet from the front property line. The lot is located on the south side of Independence Road east of Lawndale Drive. Tax records reflect the lot size is approximately 9,585 square feet. The lot is rectangular in shape. The house was originally built in 1945. The existing house is located approximately 53.8 feet from the front property line. The applicant is proposing to construct an addition to the front of the house. The proposed addition will be 16 feet by 13 feet for a total of 208 square feet. There were three houses that were used to calculate the average front setback for the subject property. They are addressed as 2001, 2007 and 2009 Independence Road. Their combined setbacks averaged 49.66 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 addition which will be approximately 37.8 feet from the front property line instead of the averaged setback of 49.66 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 on this matter.

Mark Crouse, the applicant, was sworn in and stated that he has been working on an addition to this house and has gone through the process of obtaining a building permit and found that he would be unable to put the addition on the front of the house as he is proposing, without obtaining a variance. The reason he wants the addition on the front of the house is because of the unique features of his property, because there is only 6 or 8 feet of space between the houses, so not a lot of space for expansion on the sides. The rear of the house would be preferable, but because of the architecture of the house, he cannot do that either. The original house had an addition constructed in the late 1960s, but the addition to the rear has a flat roof and is not an A-frame roof, so this would cause several problems with construction. So that leaves only the front of the house available for an addition. There are other houses in the neighborhood that are closer to the street than his would be even after the addition is completed. He has received no complaints or opposition to the proposed addition from his neighbors and it would be in keeping with other houses in the area.

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.

Ms. Eckard moved that in regard to BOA-17-03, 2003 Independence 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 hardship will result to the property by applying strict application of the ordinance because due to the style and footprint of the house and the close proximity of the side neighbors, an addition on the front of the house is the only logical placement for an 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 properties on both sides of the house are less than 15 feet from the side lot setback lines and the lots are rectangular in shape. The hardship is not the result of the applicant's own actions because prior to 2014, when the ordinance were changed, the proposed addition would not have required a variance since the base setback was 20 feet. 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 granting this variance will allow the best use of the property, keeping in harmony with the neighborhood, seconded by Mr. Cooke. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Cooke, Truby, Williams and Skenes. Nays: None)

- (d) BOA-17-04: **807 HOBBS ROAD AND 3516 WEST FRIENDLY AVENUE** Thomas E. Terrell, Jr, Attorney for Halpern Tyrone, LLC requests a variance from the maximum fence/wall height requirement. **Variance:** A proposed privacy fence/wall along the north property line will exceed the maximum height of 7 feet by 1 foot. Section 30-9-4.6(A), Present Zoning-PUD (Planned Unit Development), Cross Street-Hobbs Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance from the maximum fence/wall height requirement. A proposed privacy fence/wall along the north property line will exceed the maximum height of 7 feet by 1 foot. The property is located at the northwestern intersection of West Friendly Avenue and Hobbs Road and is zoned PUD (Planned Unit Development). This is a special district with specific development standards which allow for multiples uses. The property consists of 6 lots under the same ownership and may be developed with residential and non-residential uses except for the uses that were excluded in the zoning conditions which are identified as Exhibit 2 in the case material. The zoning conditions contain specific regulation development in reference to the northern property line which is adjacent to the existing single-family development. The buildings must be a minimum of 20 feet from the northern lot line and they are limited to 1.5 stories in height with no exterior balconies facing the northern lot line adjacent to the existing single family development. The applicant is requesting to construct a fence/wall 8 feet in height along this northern lot line. The maximum wall height allowed is 7 feet. The wall will provide additional privacy to the existing single family development. The preliminary plan, identified as Exhibit 4, shows the commercial development is planned for construction along the West Friendly Avenue and a portion of Hobbs Road rights-of-way. The planned residential component will be developed nearest the northern lot line adjacent to the existing single-family development. The transition from the commercial portion to the location of the residential portion, along with installing an 8 foot tall privacy fence/wall was considered to be more compatible to the existing single-family residential development. The applicant is requesting the variance for one-foot in height beyond the allowed seven-feet in height. The applicant has mentioned that due to slight natural elevation changes along the northern property line along with the height of the existing single family homes, that one additional foot in height will better provide the desired privacy for the existing single-family homes. 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 wishing to speak on this matter.

Tom Terrell, 300 N. Greene Street, attorney representing the applicant, was sworn in and stated that this is a very small, minor variance from a requirement in the ordinance and it is supported by everyone who would be affected. There have been several very contentious rezonings in this area that generated more newspaper headlines than ever in the past, over a small 6-acre tract of land. The rezoning that was approved in 2015, with Halpern Development and he is here tonight to finish what was started by an agreement with neighbors to try to make this a development that would work for everyone concerned. The Zoning Commission, City Council and a large community all participated in positive roles to provide vital and compatible development for this particular property. He read passages of the examples for the Board's information. Photographs of the adjoining properties at Hobbs Landing Court were shown for demonstration.

Steve Marks, 3214 Hobbs Landing Court, was sworn in and stated that he lives in the neighborhood that is adjacent to this property. He is not opposed to this proposed development of the subject property. This 1-foot variance was requested by his neighborhood and they support the request.

Mark O'Connor, 3209 Hobbs Landing Court, was sworn in and stated that he also supports this request as it will give some additional privacy to his home.

Frank Burton, 3213 Hobbs Landing Court, was sworn in and stated that he is also an adjacent property owner and feels that the proposed wall would certainly provide them with privacy for their homes.

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.

Ms. Skenes moved that in regard to BOA-17-04, 807 Hobbs Road and 3516 West Friendly 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 it is the intent of the property owner to provide additional buffer between the commercially zoned subject property and the adjacent residential property. 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 inclining from the front to the rear and the additional foot being requested will give additional visual buffer. The hardship is not the result of the applicant's own actions because the LDO limits the fence height to 7 feet. 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 applicant has continually worked with the neighbors regarding privacy issues. The variance would enhance the adjoining property and the subject property, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Cooke, Truby, Williams and Skenes. Nays: None)

- (e) BOA-17-05: **1401 ROANOKE DRIVE** Lawton D. Gresham, Jr. requests a variance from the requirement that utilities to detached accessory buildings be provided by branching service from the principal building. **Variance:** The applicant is proposing to have a separate electrical meter for a recently permitted detached garage/storage building. Section 30-8-11.1(G), Present Zoning-R-5 (Residential Single-family), Cross Street-Hawthorne Street. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance from the requirement that utilities to detached accessory buildings be provided by branching services from the principal building. The applicant is proposing to locate a separate electrical meter on a proposed detached accessory storage building. The property is located at the eastern dead end of Roanoke Drive west of Hawthorne Street and is zoned R-5 (Residential Single Family). Tax records indicate the house was originally constructed in 1926. The survey shows the lot contains 40,270 square feet. The R-5 zoning district requires 7,000

square feet in size for each lot. This lot has 5 times more area than a minimum size R-5 lot. The property contains a 1.5 story dwelling. The house is located on the southern front portion of the property. Exhibit 4 shows that on October 2016, the applicant applied for and received a permit to construct a 20-foot x 18-foot detached accessory building. The location for the detached building is 20 feet from the north (rear) property line. The distance between the house and building is approximately 230 feet. The lot is oddly shaped. At one time, Roanoke Drive was a proposed right-of-way through this property. Exhibit 5 shows the portion of Roanoke Drive dedication that was abandoned and a new inclusion map to combine both portions of the subject site was recorded in September 2009. The property is developed with infrastructure consisting of the home, driveway, heavy landscaping and trees. The house and large areas of landscaping are located approximately 230 feet south of the location for the detached building. The applicant has mentioned that there is a power supply location for the building that will be best served from a power pole located at the north property line a few feet from the detached building. The applicant is aware that the detached building must serve the property as a personal use accessory building. 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 on this matter.

Douglas Gresham, the applicant, was sworn in and stated that there would be difficulties in connecting to the electric pole that is closest to the property because of a stone wall near the property. There is also significant landscaping that is outside the woods making it more difficult for them to connect.

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 distance from the house and accessory building is more than 200 feet. The hardship of which the applicant complains results from conditions that a peculiar to the property and unique circumstances related to the applicant's property because the shape of the property is an unusually long lot shaped. The hardship is not the result of the applicant's own actions because the lot has been in this condition and was additionally changed by the closing of the street. 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 there are no safety issues with tying onto the existing power line at the nearby pole, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting of the variance. (Ayes: Hayworth, Eckard, Blackstock, Cooke, Truby, Williams and Skenes. Nays: None)

OTHER BUSINESS

Information concerning average front setbacks for residential properties will be discussed at the February meeting since tonight's meeting ran so long.

ACKNOWLEDGEMENT OF ABSENCES

None.

There being no further business before the Board, the meeting adjourned at 7:59 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
FEBRUARY 27, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday February 27, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Cyndy Hayworth, Chair, Patti Eckard, Laura Blackstock, Enyonam Williams, Mike Cooke, Mary Skenes. Representing the Planning Department staff was Loray Averett, Nicole Smith; 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 to approve the minutes of the January 27, 2017 meeting, seconded by Ms. Williams. The Board voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Loray Averett and Nicole Smith were sworn in for their testimony regarding matters coming before the Board.

CONTINUANCES/WITHDRAWALS

Ms. Averett stated that there were no continuances or withdrawals.

Mike Cooke arrived at 5:48 p.m. for the remainder of the meeting.

In response to questions about alternate members and regular members on the Board, Ms. Averett stated that if Mr. Truby arrives for the meeting, Mr. Cooke will be considered a replacement for Mark Cummings. Mr. Cummings did send his resignation letter in but she has not received confirmation of Mr. Cooke's appointment to the Board, so technically, he would not be able to sit unless he is replacing a regular member. That seat is currently vacant according to the information she has received from the Clerk's office. Since Chuck Truby is not in attendance at this time, Mike Cooke can sit in for Mr. Truby. There will be a six (6) – member Board with six (6) members present.

NEW BUSINESS**VARIANCE**

- (a) **BOA-17-06: 1401 RED SAIL LANE** John Forbis requests a variance from a minimum rear setback requirement. **Variance:** An existing attached carport encroaches 15.1 feet into a 30-foot rear setback. Section 30-7-3.2 Table 7-1, Present Zoning-R-3 (Residential Single-family), Cross Street – Gramercy Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for an existing attached carport which encroaches 15.1 feet into a 30-foot rear setback. The lot is located at the northwestern intersection of Gramercy Road and Red Sail Lane. The property is a corner lot. Tax records reflect the lot size is approximately 18,295 square feet. The house was constructed in 1978. The lot is an unusual shape due to the curve of the property line adjacent to Red Sail Lane. The existing house was constructed with the front orientation to Red Sail Lane. Prior to the 2014 adoption of the average front setback requirement, the orientation of a house did not factor into minimum setback requirements. On corner lots, the previous Development Ordinances allowed houses and additions to be constructed so long as the structure complied with setbacks, with no impact regarding orientation of the structure. In 1982, the applicant applied for an easement release to add the carport to the house. The release request was approved and the carport was constructed in a time-frame following that approval. The applicant has recently applied for a Building Permit to construct an addition to the front of his house which faces Red Sail Lane. That request will meet average front setbacks. The front setback was determined based on orientation of the house fronting on Red Sail Lane. The results of this determination causes the carport to encroach into a rear setback. The applicant was offered the option to move forth with his current request for a building permit. He was also offered the option to apply for the variance concerning the carport encroachment or he could leave the carport as is, noting that the carport is non-conforming. The applicant chose to move forth with a variance request to correct the existing encroachment. There is also a small (10 feet x 8 feet) detached storage building located at the center north-eastern portion of the subject lot. This building is located in an easement. The applicant has applied for an easement release for this area of the site. The Planning Board will hear that release request at their February 15, 2017 meeting. The detached storage building does meet setbacks and there no variances required, only the easement release, due to buildings/structures may not be located in an easement area. 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 Forbis, the applicant, stated that the maps provided show the position of the carport location on the property. He presented a notarized letter from one of his neighbors who support his request for this variance. The house was built in 1978 and he now wishes to make an addition to the house to improve the property and expand the interior living spaces. There are other properties within the neighborhood that have made additions in the recent past. He does not feel that this addition would be intrusive to the character of the neighborhood.

Mr. Truby arrived at 5:59 p.m. but did not sit on the Board.

Chair Hayworth 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 as it is felt that this addition would not be intrusive in the surrounding neighborhood.

Ms. Skenes moved that in regard to BOA-17-06, 1401 Red Sail 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 because the existing carport was constructed in 1982 and prior to 2014, when the ordinance was changed. At the time it was built, it was in compliance. Due to the ordinance change in 2014, the new request for a front addition the carport must receive a variance to be conforming. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to the applicant's property because due to the multiple easements and the irregular shape of the lot, the building area is severely restricted and without a variance the carport would be non-conforming. The hardship is not the result of the applicant's own actions because the irregular shaped lot and utility easements, even with the release of part of the easement, because those easements were in place and because of the development ordinance change. The applicant did all that could be done at the time. 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 carport has been in place since 1982 when an easement release was granted and at the time it was conforming, seconded by Ms. Eckard. The Board voted 6-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: None.)

Mr. Forbis came forward to thank staff for their excellent help in obtaining the requested variance.

BOARD DISCUSSION:

Mr. Truby stated that he apologizes for being so late arriving for the meeting. Ms. Averett explained that there may be an unappointed seat with the resignation of Mark Cummings. Chair Hayworth stated that it was her understanding that when Mr. Truby arrived, that he could sit on the Board and then Mr. Cooke, since he is not an appointed member, would release the seat. Ms. Averett stated that staff has looked at the policy concerning seating based on when and how an alternate and a regular member can sit on the Board. Mr. Cooke would be sitting for Mr. Truby. Upon Mr. Truby's arrival, because he was late for the meeting, may not be switched back and there is no other alternate seat. Counsel Kelly stated that is what the rules say. Mr. Truby stated that was fine with him, he just wanted to make sure that he was not causing any problems by not being at the meeting earlier.

Loray Averett read into the record, "A regular member who appears after the opening of the hearing will take on an alternate status for the duration of that meeting." Counsel Kelly stated that an alternate can only come on for an appointed member and there are now only six (6) appointed members. Chair Hayworth asked for clarification that Mike Cooke would stay seated for the duration of the meeting, and Chuck Truby cannot sit because there is no vacant seat? Loray Averett stated that was correct. Chair Hayworth thanked Mr. Truby for trying to attend and sit at the meeting.

- (b) BOA-17-07: **4823 COUNTRY WOODS LANE** Choudry and Tayba Buttar request a variance from a minimum front setback requirement. **Variance:** A proposed single-family dwelling will encroach approximately 148 feet into a required average front setback of approximately 188 feet. The proposed dwelling will be setback at a minimum of 40 feet. Section 30-7-1.4, Present Zoning-R-3 (Residential Single-family), Cross Street-Joseph Bryan Boulevard. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a proposed single-family dwelling which will encroach approximately 148 feet into a required average front setback of approximately 188 feet. The proposed dwelling will be setback at a minimum of 40 feet. The property is located on the south/eastern side of Country Woods Lane, north of Joseph M. Bryan Boulevard and is zoned R-3. It is considered a through lot with two street setbacks. The lot has frontages on Country Woods Lane and Joseph M. Bryan Boulevard and contains 2.07 acres. This property was annexed into the City on June 30, 1996. There are only two houses located east of the subject site that may be used in calculating the average setback for the vacant subject lot. There are no houses or lots located west of the subject site that meet the requirement for averaging calculations. The average setback was determined using the two houses nearest the subject site on the same block face. The house located at 4821 Country Woods Lane is approximately 116 feet from the front property line and the house located at 4819 Country Woods Lane is approximately 260 feet from the front property line; thus the average setback for 4823 Country Woods Lane was determined to be 188 feet from the front property line. The applicant is requesting to be allowed to construct his house 40 feet from the front property line instead of the averaged setback of 188 feet. The lot is an irregular shaped lot. One side lot line is 130 feet longer than the other side lot line which causes a severe angle on the lot line adjacent to Bryan Boulevard. The property has less depth than the other two lots nearest the subject that was used for the average calculated setback. The Plot plan identified as Exhibit B also shows the lot will be developed with a septic tank and well location. Exhibit 4 contains summary minutes from a similar request that was heard and approved at the February 23, 2015 meeting. The difference of that request and this one is the proposed setback amount. The house in the 2015 request was proposed to be setback 50 feet from the front property line and this house is proposed to be setback 40 feet from the front property line. Deed records reflect the previous owner sold this lot to the current owners on March 6, 2015. 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.

Choudry Buttar, the applicant, was previously sworn in and stated that he would let his contractor speak for him.

Tony Johnson, 3395 Travis Court, Summerfield, NC, Builder for the applicant of the property, was previously sworn in and stated that the 2014 development ordinance has created a situation where they cannot build the house based on what the other houses that were built previously have done. There is well and septic on the property and this variance came up during the normal permitting process with the City. If they are unable to obtain the variance, the house would sit right on Bryan Boulevard, which makes the property unbuildable. In response to questions by the Board members, Mr. Johnson stated that he has heard of no objections from the neighbors. Most of the surrounding houses are so far back of their properties that he does not feel this would be an invasion and they would also be able to save the existing trees as a buffer.

Chair Hayworth 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 as it would not be intrusive to the surrounding neighborhood.

Ms. Eckard moved that in regard to BOA-17-07, 4823 Country Woods 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 because the lot is unusual in size and shape and has a severe angle to it and without the variance, the space could not be used efficiently and could be considered unbuildable. The hardship of which the applicant complains results from the conditions that are peculiar to the property, and unique circumstances related to the applicant's property because the only other location would be pushing the house back towards Bryan Boulevard, which would require cutting down and cause more noise to the whole neighborhood, also, the lot is not deep enough to comply with the setback requirements. The hardship is not the result of the applicant's own actions because the previous homes built in the area cause a problem with the setback requirements of the proposed home. 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 variance would make the lot more attractive and more buildable for the owners and should add value to the property and maintain the public safety of the neighborhood, seconded by Ms. Skenes. The Board voted 6-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: None.)

- (c) BOA-17-08: **2302 CREEKWOOD DRIVE** Maha Elobeid requests 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 39 feet. The proposed addition will be setback 25 feet from the front property line. Present Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street - Pennoak Road. **(GRANTED)**

Nicole Smith stated that the applicant is requesting a variance for a proposed front addition. The proposed addition will encroach 14 feet into a consistent front setback of approximately 39 feet. The addition will be setback 25 feet from the front property line. The lot is located on the western side of Creekwood Drive west of Pennoak Road. Tax records reflect the lot size is approximately 12,895 square feet and is rectangular shaped. The house was originally built in 1989. The survey indicated the house is located 40.3 feet from the front property line. The applicant is proposing to construct an addition to the front of the house. The proposed addition will be 15 feet by 18 feet for a total of 270 square feet. The 2300 block of Creekwood Road only contains two houses that are oriented towards the street. They are 2300 Creekwood Drive and the subject site. The house on the corner, south of the subject site and addressed as 2311 Braceyrige Road is oriented to Braceyrige Road. The only property that could help determine consistent average front setback was the property located at 2300 Creekwood Road, as shown on Exhibit B. This house is approximately 39 feet from the front property line. Effective April 4, 2014 infill standards for residential front setbacks were implemented. Prior to that implementation, the front setback for the R-3 zoning district was district was 25 feet. The applicant is requesting to be allowed to construct the front addition which will be approximately 25.0 feet from the front property line instead of the averaged setback of 39 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.

Maha Elobeid, the current owner, 801 Valley Oak Drive, was previously sworn in and was available to answer questions.

Mr. Elobeid Elobeid, 2302 Creekwood Drive, was previously sworn in and stated that he is trying to make an addition of 15 feet by 28 feet to the front of the house. The proposed addition is because of his large family. This is the best location for the proposed addition because of the layout 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:

The Board members had no further questions and indicated their full support of the request as it did not appear to be intrusive to the neighborhood and if the request had come in before 2014, there would not be a need for a variance for this property.

Ms. Blackstock moved that in regard to BOA-17-08, 2302 Creekwood 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 addition could not be constructed and a kitchen expansion is needed within the house. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to the property because this is the most logical location on the property for the addition to the house. The hardship is not the result of the applicant's own actions because the house was built in 1989, which was before the ordinance entered in 2014 regarding implementation of front 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 intent is to preserve the spirit of the ordinance and no harm will come to the public, seconded by Ms. Skenes. The Board voted 6-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: None.)

Chair Hayworth asked that the last case on the agenda be moved and heard at this time.

- (e) **BOA-17-10: 2021 ST. ANDREWS ROAD** Jack W. Britts requests a variance from the requirement that utilities to detached accessory buildings be provided by branching service from the principal building. Variance: The applicant is proposing to have a separate electrical meter for an existing detached pool-house. Section 30-8-11.1(G), Present Zoning-R-3 (Residential Single-family), Cross Street-Carlisle Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance from the requirement that utilities to detached accessory buildings be provided by branching services from the principal building. The applicant is proposing to locate a separate electrical meter on a proposed detached accessory pool-house. The property is located on the south side of St. Andrews Road east of Carlisle Drive and is zoned R-3 (Residential Single Family). Tax records indicate the house was originally constructed in 1954. The lot contains 1.47 acres. The property contains a 2-story dwelling, accessory pool and pool-house. The house is located on the northern front portion of the property. The detached pool-house is located behind the house and closer to the southern portion of the lot. The applicant is requesting to place a detached meter on the pool-house. The meter will supply power for a heat pump - pool heater. He has mentioned there is a power supply close to his rear lot line. The area between the house and the building is developed with existing infrastructure consisting of hardscape parking areas, patio and existing landscaping. The applicant is aware that the detached pool-house building must serve the property as a personal use accessory building. 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.

Jack Britts, the applicant, was previously sworn in and stated that the main reason for this request is that his gas pool heater went out and he wants to replace it with a more economical and efficient electric heat pump. There is currently electrical service going out to the pool shed but the current infrastructure does not support the additional amperage that would be needed. The service now comes in from the southeast side of the house and there is electrical service almost directly behind the pool house on the property line, so it would be more reasonable to connect to that location as a solution. He also owns the adjacent property.

Chair Hayworth 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 as it seems to provide better efficiency and use for the property.

Mr. Cooke moved that in regard to BOA-17-10, 2021 St. Andrews 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 because the property owner would have to trench out and apply new electrical lines to be able to obtain electricity to the existing pool house. The hardship of which the applicant complains results from the conditions that are peculiar to the property because the existing service was shared on the property some time ago. The hardship is not the result of the applicant's own actions because the electrical service was likely there when the applicant purchased the home. 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 private property owner to do what is feasible on his property, seconded by Ms. Blackstock. The Board voted 6- in favor of granting the variance. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: None.)

- (d) BOA-17-09: **411 GALLIMORE DAIRY ROAD** Colonial Pipeline Company request variances from a separation standard and a minimum fence height requirement. **Variance #1:** All operations for petroleum products are required to be 50 feet from any property line. An existing containment area is located 20 feet from the Boulder Road Right-of-way line. It is encroaching 30 feet in to a 50-foot setback requirement. The applicant is requesting to expand operations in this area. The existing operation and a future planned expansion will not exceed the current setback. Section 30-8-10.5 (1) (a), Present Zoning-HI (Heavy industrial) & BP (Business Park). **Variance #2:** Tanks are required to be 500 feet from any residential zoning district. An existing tank is located 216 feet from a residentially zoned property. The tank encroaches 284 feet into the required 500-foot separation requirement. Section 30-8-10.5 (1) (b), Present Zoning-HI (Heavy industrial) & BP (Business Park). **Variance #3:** Security fencing at least 8 feet in height must be provided around the perimeter of the operation. The existing perimeter fencing is 7 feet in height, thus the applicant is seeking a reduction of one-foot from the requirement. Section 30-8-10.5 (2), Present Zoning-HI (Heavy industrial), BP (Business Park), AG (Agriculture) and R-3 (Residential-Single-family) Cross Street – South Chimney Rock Road. **(GRANTED)**

Loray Averett stated that the applicants request variances for: #1: All operations for petroleum products are required to be 50 feet from any property line. An existing containment area is located 20 feet from the Boulder Road Right-of-way line. It is encroaching 30 feet in to a 50-foot setback requirement. The applicant is requesting to expand operations in this area. The existing operation and a future planned expansion will not exceed the current setback. #2: Tanks are required to be 500 feet from any residential zoning district. An existing tank is located 216 feet from a residentially zoned property. The tank encroaches 284 feet into the required 500-foot separation requirement. #3: Security fencing at least 8 feet in height must be provided around the perimeter of the operation. The existing perimeter fencing is 7 feet in height, thus the applicant is seeking a reduction of one-foot from the requirement. The property is bound by four streets/highways. They are identified as Interstate 40 East, Gallimore Dairy Road, South Chimney Rock Road and Boulder Road. In its entirety, the property consists of five tracts of land which total approximately 338.85 acres. The five tracts consist of multiple zoning districts with the primary tract containing 268.52 acres. This tract has a split zoning. The majority of the tract is zoned HI (Heavy Industrial). There is a small portion located along the southern lot line which is zoned (BP) Business Park. The remaining four tracts are zoned BP (Business Park), R-3, (Residential Single-family) and AG (Agriculture). The existing land use was established prior to the requirement of a Special Use Permit. Since there are multiple zonings on these five tracts of land and planned future development, the applicant has submitted application to rezone the property and to acquire a Special Use Permit. This land use requires HI (Heavy Industrial) zoning along with a Special Use Permit. As the owners move forth with their additional properties along with any proposed site changes, staff noted that there were nonconformities associated to the property. Those nonconformities were identified as - Operations that were not 50 feet from a property line adjacent to Boulder Road; Tank spacing from residentially zoned property and minimum security fence height requirements. Each item is required to have its own motion and vote. Variance #1: All operations for petroleum products are required to be 50 feet from any property line. An existing containment area is located 20 feet from the Boulder Road Right-of-way line. It is encroaching 30 feet in to a 50-foot setback requirement. The applicant is requesting to expand vehicular operations in this area. The existing operation and any planned construction expansion will not exceed the current setback of 20 feet. Variance #2: Tank Separation from Residentially Zone Property: There is an existing tank located 216 feet from a vacant R-3 residentially zoned lot. The tank perimeter appears to be enclosed by a container. It is required to be 500 feet from the any residential zoning district. Variance #3: Security Fencing that is not a minimum of 8 feet tall: The property is required to be enclosed with security fencing at least 8 feet tall. The existing security fence is 7 feet tall. The HI, Heavy Industrial District is primarily intended to accommodate a 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 in favor of this request.

Brian Pearce, attorney representing the applicant, 701 Green Valley Road, stated that even though the property has existed many years, new and updated ordinances have had some impacts on the property and the non-conforming situations.

Brian Pearce presented some information for the Board members' review and stated that they are requesting three variances. There is one variance that relates to the fence height; another variance that relates to a petroleum tank that is within the 500 feet of the residentially zoned property; and a variance for the new area that is being developed for an off-load area. Touching first on the fence height, which is currently 7 feet and meets all the regulations along with the fact that this complex is very heavily federally regulated, the fence has been in place since the complex was built.

Loray Averett pointed out that prior to 2010, with the Heavy Industrial sites were required to have fences at a minimum height of 6 feet. In 2010, with the adoption of the LDO the fence height was changed from 6 feet to 8 feet in height. The adoption of the LDO created a non-conformity concerning the fence height. Chair Hayworth stated that her concern is that the fence is not adequately high enough to protect the property from vandalism or damages and/or trespassing.

Brian Pearce stated that he is unsure if the 7 foot height of the existing fence includes the barbed wire or not. He reminded the Board that this fence has been in place for many years and they are considering a legal non-conforming situation to correct the non-conformity. Raising the fence by one foot on this property would be an enormous cost to the owners. The fence was built in conformity at the time it was built and it is not the owner's fault that it is now non-conforming because of a change in the ordinance. In regard to the off-load area, looking at the second drawing, it shows the trucks that would come to this area to off-load the petroleum into existing tanks. This drawing also shows the fence line and there is a large right-of-way on the property, and that is what is cutting into the setback. The distance from the middle of the road to where the off-load area is going to start, is actually 63.9 feet in one location. From the curb to the corner is 66.6 feet, so if it weren't for the width of the right-of-way area, the 50 would have been met, but as a result of the large right-of-way, to fit this in, they would have the 20.1 foot distance. So that is the reason for the variance request. The aerial photos shown indicate the area and the distances they have to work with. He has notified the adjacent owners and has not received any opposition from them. He explained the photographs presented and asked that the Board support this request for the three variances.

Chip Little, 1185 Sanctuary Parkway, Alpharetta, GA., Colonial Pipeline, was previously sworn in and stated that he is the Manager of Government Affairs for Colonial Pipeline Company and they operate 5,500 miles of pipeline from Houston, Texas to New York City. Along that line they provide unleaded gasoline, diesel fuel, jet fuel and home heating oil. The Greensboro facility is their largest facility in the U.S. and fuel comes here from Houston, Texas along two lines, and fuel is stored in Greensboro and then distributed throughout the eastern seaboard to meet those needs. The Greensboro facility is regulated by FEMSA, which is a federal agency that oversees the operations, not only with regard to security, but also how the facility is operated and maintained, including the tanks that are part of the facility. From a security standpoint there is 24-hour security at the facility. In addition, there are other means of security at the facility which are part of Homeland Security. They meet regularly with the NC Army National Guard for security updates and they have an excellent relationship with the Fire Department, which is a model for other cities. They are proud to be a good corporate citizen for the City and participate with the Red Cross, Junior Achievement and Piedmont Land Conservancy.

Brent Bailey, Commercial Director of Integration with Texon, 11757 Katy Freeway in Houston, Texas, was previously sworn in and stated that they have been working with the city for about a year and a half with their Planning Department to try and get a handle on how to do things right at the beginning. They intend to construct a bio-diesel blending operation at the property. Bio-diesel is a biodegradable, non-hazardous material that is as combustible as paper. It is not made from fossil fuels, but is made from corn or used cooking oil, used animal fats and things of that nature. That bio-diesel is then blended into diesel as it runs up the pipeline and they will contract with a trucking firm with some dedicated trucks to handle this bio-diesel fuel. There will probably be 15-18 trucks per day visiting the site. The trucks will pick up product from a transloading facility, bring the product to the facility and off-load it.

In response to a question posed by Ms. Williams in regard to why this is not the result of the applicant's own actions, Mr. Pearce stated that as far as they know, when that tank was built there is no evidence that it wasn't permitted, that if it were not in compliance, they would not have been able to build it. That tank has been in place for many years now and it is felt that it should be able to remain in place and operation as it has been all this time. Mr. Little stated that the construction on that tank started in 2005 and was entered into service in 2006. Loray Averett stated that it would not be uncommon that the Planning Department did not review that tank as it was not a building or a structure. The process for tank location reviews by the Planning Department has been improved in more recent years. The estimated guess is that the Fire Marshall review was involved with the tank at that time. Their criteria would not have included the ordinance spacing requirement. Mr. Little stated that at that time they would have had state approvals as well as federal approvals and probably worked closely with the Fire Department to review the plans for the tank.

Chair Hayworth 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 support of the request for all three of the variance requests as the vacant property that is adjacent takes away the concern of the distance factor.

Ms. Williams moved that in regard to BOA-17-09, 411 Gallimore Dairy Road, the findings of fact be incorporated into the record and the Enforcement Officer be overruled and all three variances be granted based on the following: If the applicant complies with the provisions of the ordinance unnecessary hardships will result to the property because with regard to the 50 foot setback, the owner will not be able to expand the property use by adding an off-loading area for the trucks. With regard to the 500 foot residential setback the tank would need to be removed and it has been in place since 2006. With regard to the fence, the massive fence would need to be increased in height by 1 foot, which would be cost prohibitive. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to the applicant's property because for (A), the 50 foot setback has an extremely large right-of-way in this area; for (B) with regard to the residential matter, the property is large and the topography varies; with regard to the fence, again, the property is large and the fence encloses about 330 acres. The hardship is not the result of the applicant's own actions because the Land Development Ordinance changed after the land was developed; the applicant was unaware of being non-conforming at the time of construction; and the fence was in compliance with the ordinance when it was built. 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 owner to use the property to its highest and best use; and the nearest residential area is undeveloped, seconded by Ms. Blackstock. The Board voted 6-0 in favor of granting all three variances. (Ayes: Hayworth, Blackstock, Cooke, Eckard, Williams and Skenes. Nays: None.)

OTHER BUSINESS

Loray Averett stated that a discussion was planned for tonight's meeting concerning average front setbacks. She asked if the Board members wanted to continue with the discussion, or table them until the March meeting. After some discussion, the Board members determined that they would rather wait until the March meeting to hold this discussion. In regard to the family care homes, Mr. Cooke felt that it is futile to continue discussions on this matter because there are laws that already address that. Chair Hayworth suggested that the Board members look over the information provided by staff and be ready to have discussions on these issues at the March meeting.

Chair Hayworth asked that staff make sure that City Council is made aware of any vacant seats that require appointments. Timely appointments are necessary for the Board's ability to hear cases and make decisions.

ACKNOWLEDGEMENT OF ABSENCES

None (Truby was in attendance after the meeting opened)

* * * * *

There being no further business before the Board, the meeting adjourned at 7:35 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
MARCH 27, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday March 27, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Cyndy Hayworth, Chair, Patti Eckard, Laura Blackstock, Enyonam Williams, Deborah Bowers, Chuck Truby and Mary Skenes. Representing the Planning Department staff was Loray Averett, Nicole Smith; 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 to approve the minutes of the February 27, 2017 meeting, seconded by Ms. Williams. The Board voted unanimously in favor of the motion.

SWEARING IN OF STAFF

Loray Averett and Nicole Smith were sworn in for their testimony regarding matters coming before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that BOA-17-14: 2107 Joseph McNeil Avenue was withdrawn at the request of the applicant. No Board action is required.

NEW BUSINESS**VARIANCE**

- (a) BOA-17-11: **3704 WEDGEDALE PLACE** Henry M. Battle, Jr. requests a variance from a required average front setback. **Variance:** A proposed front porch will encroach 10.5 feet into a required average front setback of approximately 50.5 feet. The proposed addition and cover for the porch will be setback 40 feet from the front property line. Present Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street – Wedgedale Avenue. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a slightly larger footprint and a proposed roof cover for the porch/portico addition. The proposed addition will encroach 10.5 feet into an average front setback of approximately 50.5 feet. The addition will be setback 40 feet from the front property line. The lot is located at the northeastern intersection of Wedgedale Avenue and Wedgedale Place. Tax records reflect the house was constructed in 1980 and the lot size is 16,552 square feet. The lot is a corner lot and the front orientation is facing Wedgedale Place. There is an existing entry porch/landing on the front of the house. The applicant is proposing to center the porch to the front elevation of the house and cover it with a roof. The porch will slightly increase in width. The properties that were used in the average front setback determination are 3700 and 3702 Wedgedale Place. The two properties are located east of the subject. The setbacks for the properties are shown on Exhibit 2. Their average setback is 50.5 feet. Effective April 4, 2014 infill standards for residential front setbacks were implemented. Prior to that implementation, the front setback for the R-3 zoning district was 25 feet. The applicant is requesting to be allowed to construct the slightly larger porch with a cover which will be 40 feet from the front property line instead of the averaged setback of 50.5 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 on this matter.

Henry Battle, Jr., the applicant, was sworn in and in response to questions, stated that the replacement porch is going to be the same depth, it is just going to be a little wider to center the front door and the porch would not go out any further than it already is.

There being no one to speak in opposition to this matter the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this addition would not be intrusive in the surrounding neighborhood.

Ms. Skenes moved that in regard to BOA-17-11: 3704 Wedgedale Place, 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 current porch is not covered which has created moisture and structural problems that need to be addressed. The current ordinance would not allow the porch to be enlarged, even though it would not extend any further into the front setback than the original porch. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to the applicant's property because the ordinance was changed after the house was built. The hardship is not the result of the applicant's own actions because the applicant just purchased the house and is requesting the variance to correct a previous problem. 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 replacement porch will be similar in size to the original porch with the addition of a roof to prevent moisture intrusion. The new porch will be 40 feet from the front property line, seconded by Ms. Blackstock. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Truby, Bowers, Eckard, Williams and Skenes. Nays: None.)

- (b) BOA-17-12: **3921 LAWDALE PLACE** Lonnie Houck requests a variance from a required average front setback. **Variance:** A proposed front sunroom addition will encroach 22.4 feet into a required average front setback of approximately 56.3 feet. The proposed addition will be setback 33.9 feet from the front property line. Present Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street – Lawndale Drive
(GRANTED)

Nicole Smith stated that the applicant is requesting a variance for a proposed front addition. The proposed sunroom addition will encroach 22.4 feet into an average front setback of approximately 56.3 feet. The addition will be setback 33.9 feet from the front property line. The lot is located on the western side of Lawndale Place north of Lawndale Drive. Tax records reflect the house was constructed in 1973 and the lot size is 34,848 square feet. There is an existing small sunroom on the front of the house. The applicant is proposing to remove that addition and replace it with a slightly larger sunroom addition. The existing sunroom is 5 feet by 13 feet and contains 65 square feet of area. The proposed sunroom will be 9 feet by 13 feet and contain 117 square feet. The properties that were used in the average front setback determination are 3915, 3923 and 4101 Lawndale Place. Two of the properties are located north of the subject and one property is located south of the subject site. The property located south of the subject site at 3915 Lawndale Place had a larger setback by 20 more feet than the subject site and the two lots located north of the subject site. The setbacks for the properties are shown on Exhibit 2. Effective April 4, 2014 infill standards for residential front setbacks were implemented. Prior to that implementation, the front setback for the R-3 zoning district was 25 feet. The applicant is requesting to be allowed to construct the slightly larger sunroom addition which will be approximately 33.9 feet from the front property line instead of the averaged setback of 56.3 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 on this matter.

Lonnie Houck, the applicant, was sworn in and stated that he wants to replace the existing sunroom because it is in very poor shape and is also very narrow making it difficult to use. He would like to make it 3 feet wider to make it more usable and there would be more windows to make it more aesthetically pleasing. He has sent letters to his neighbors and a few have come over to discuss his intentions and no one indicated that they were opposed to the request.

Shannon Parker, the licensed contractor for the applicant, 146 Crown Drive, Kernersville, NC, was sworn in and stated that he has been hired construct the sunroom for the applicant. The hardship for the property is that the existing sunroom has structural damage and needs to be re-built.

There being no one to speak in opposition to this matter the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this addition would not be intrusive in the surrounding neighborhood.

Mr. Truby moved that in regard to BOA-17-12: 3921 Lawndale Place, 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 owner would not be able to rebuild the sunroom. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to the applicant's property because the house was built in 1973, prior to the current ordinance requirements. The hardship is not the result of the applicant's own actions because the addition meets the previously required 25' setback of the existing 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 it will enhance the property, preserve the structural integrity thus enhancing the neighborhood and increasing property values, seconded by Ms. Eckard. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Truby, Eckard, Bowers, Williams and Skenes. Nays: None.)

- (c) BOA-17-13: **Sebastian Village Apartments consisting of three areas containing multiple addresses located along certain sections of Cunningham Street, South Benbow Road, Perkins Street, South Booker Street, McGuire Street, S. O'Henry Boulevard and East Washington Street.** Marc Isaacson, Attorney for Greensboro AG II, LLC requests a variance from the maximum fence height requirement. **Variance:** Multiple sections of security fencing will exceed the maximum height of 4 feet by 2 feet within 15 feet of multiple street rights-of-way. The fence sections are proposed to be located 3 feet from the property lines adjacent to street rights-of-way identified as East Washington Street, South Booker Street, South Benbow Road, Cunningham Street, McConnell Road, South O'Henry Boulevard and Perkins Street. Section 30-9-4.6(A), Present Zonings - CD-RM-26 (Conditional District-Residential Multi-family), RM-18 (Residential Multi-family-18), CD-LI (Conditional District-Light Industrial), and PUD (Planned Unit Development), Cross Streets – These parcels are located within boundaries south of East Market Street, east of South Benbow Road, north of McConnell Road and west of South O'Henry Boulevard. **GRANTED**

Loray Averett stated that Marc Isaacson, Attorney for Greensboro AG II, LLC requests a variance from the maximum fence height requirement. Variance: Multiple sections of security fencing proposed to be located within 3 feet of the portions of the described rights-of-way will exceed the maximum height of 4 feet by 2 feet. The three areas for the subject properties are located in close proximity of each other. They are located within boundaries south of East Market Street, east of South Benbow Road, north of McConnell Road and west of South O'Henry Boulevard. Tax records indicate the properties consist of twelve lots under the same ownership. They have a combination zoning of CD-RM-26, CD-LI and PUD. The CD-LI parcel is

located in Area 1 and contains 0.21 acres. The remaining eleven parcels in the CD-RM-26 and PUD zoning districts contain 12.63 acres. The properties are developed with multifamily dwellings and accessory uses. The zoning conditions contain specific language limiting the three areas of development to 312 units with accessory office use along with some specific exterior architectural design materials.

The applicant is requesting to construct a fence 6 feet in height for all three areas. The maximum height allowed within 15-feet of the right of way is 4 feet. The fence is proposed to be 6 feet tall and approximately 3 feet from the property lines in locations shown on the applicant's maps identified as Exhibit B in Areas 1, 2, and 3. The applicant has mentioned the fence will be wrought iron with a brick foundation and will provide higher levels of safety and security for the residents and the public. The fence locations for all three areas, prior to any installation is required to be submitted for compliance through the City's review process. As a reminder for the applicant, if the variance is granted, unless otherwise specified, construction, operation or installation must start within 12 months of the date of issuance of a variance or it becomes void.

RM-26 - Purpose and Intent: The RM-26, Residential Multi-family District is primarily intended to accommodate multi-family and similar residential units at a density of 26.0 units per acre or less.

RM-18 - Purpose and Intent: The RM-18, Residential Multi-family District is primarily intended to accommodate multi-family and similar residential units at a density of 18.0 units per acre or less.

PUD - Purpose and Intent: 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 wishing to speak on this matter.

Marc Isaacson, attorney representing the applicant, 804 Green Valley Road, was sworn in and provided drawings and other documentation for the Board members' review. He stated that he represents the owner of these three related student housing properties, known as Sebastian Village, Sebastian Courtyard and Sebastian Place. Together they represent a total of 850 beds for student housing. The purpose of the variance is to allow a 6' high fence to be installed around these properties. The Ordinance allows only a 4' high fence if the fence is located within 15 feet of the public street right-of-way. The location of the proposed fencing is within 15 foot area, and the owner is now requesting a variance. Officer Randy Dixon, who is the Greensboro Police Officer, among others, who works at this property and also resides at the property, as well as members of the Property Management Group, the fence builder and the surveyor. Mr. Isaacson gave some background history on the property and its significance to the A&T State University. This area was considered a blighted area in 2000 and a Redevelopment Plan was adopted for this area. In response to a question posed by Chair Hayworth, Mr. Isaacson stated that a "blighted area" is determined if the negatives of the area outweigh the positives in regard to its impact on the citizens or the particular area.

Counsel Kelly stated that the Planning Board is the first entity that makes a determination about an area being considered "blighted" and then a recommendation goes to City Council for their final determination.

Mr. Isaacson stated that this request is in keeping with the Redevelopment Plan and several citizen groups and other interested parties were involved in the plan for this particular area. The owner has determined to make significant improvements to these student housing properties to make them safer for the development, as well as the surrounding residential neighborhood. They are specifically interested in addressing the unauthorized entry into these properties for criminal purposes. The improvement plan has been worked out with the input of Greensboro Police Department, A&T State University and various other consultants. The types of improvements that are being made are the installation of exterior LED lighting, exterior security cameras and video recording and monitoring equipment and the fencing that is the focus of today's request.

Mark Everhart, General Manager of Sebastian Village, was sworn in and answered in response to a question by Chair Hayworth, that the current occupancy rate for the property is at 70% occupied. Illustrations of the proposed fencing were shown for the Board members' review. He stated that the gates would not be installed at this time. This is the first step for this project to provide a safer environment for the residents.

Steve Waverly, 1909 Trosper Road, stated that he is the fence builder and at 6 foot high it is quite difficult to climb over the fence. It is felt that this is an adequate height to provide safety and security for the development.

Marc Isaacson presented handouts with additional information for the Board members' review. He explained other public streets have been installed going throughout this development and the buildings are constructed the way that they are to take into account the other residential properties within the areas. It is felt that the hardship is not the result of the applicant's own actions as the applicant did not construct the buildings and utilities within the area or locate the public streets around the subject properties.

Randy Dixon, 503 S. Booker Street, was sworn in and stated that he is with the Greensboro Police Department. In response to a question posed by Chair Hayworth, he stated that most of the crimes committed in this area are robbery, burglary and assault. The fence would help serve as a deterrent to anyone trying to get into the area. Anyone trying to run from the area would quickly realize that the fence would be a large obstacle to overcome.

There being no one to speak in opposition to this matter the public hearing was closed.

Board Discussion

The Board members had no further questions and indicated their support of the request as it is felt that this addition would not be intrusive in the surrounding neighborhood.

Ms. Williams moved that in regard to BOA-17-13: Sebastian Village Apartments, 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 owner would only be able to construct a 4 foot fence, which would be inadequate to serve the purpose of increasing safety

and security for the residents. The hardship of which the applicant complains results from the conditions that are peculiar to the property and unique circumstances related to the applicant's

property because there is applied configuration of the buildings and the streets that provide access which prevent the fence from being located 15 feet from the right-of-way. Existing infrastructure and parking lots in the area technically impact the location of the fence. The hardship is not the result of the applicant's own actions because the applicant did not build the buildings on the properties or locate the public streets around and through the properties. 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 a 6-foot fence will add safety and security for the apartment residents and the public and allow for the highest and best use, seconded by Ms. Skenes. The Board voted 7-0 in favor of granting the variance. (Ayes: Hayworth, Blackstock, Truby, Eckard, Bowers, Williams and Skenes. Nays: None.)

SPECIAL EXCEPTION

- (a) BOA-17-14: **2107 JOSEPH MCNEIL AVENUE** Gifty Ababio 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. **Special Exception:** The family care home is proposed to be 2,504 feet from another family care home (6 or less persons) located at 3212 Presley Way when 2,640 feet is required. Present Zoning-R-7 (Residential Single-family), Cross Street-McKnight Mill Road. **(WITHDRAWN)**

OTHER BUSINESS

Loray Averett stated that the Board members have raised concerns about the average front setback, particularly on the front porch additions which are required to meet average front setbacks. She has updated the report to include the number of cases that have been heard so far from January through tonight's meeting. There have been 14 – 15 requests this year and five of them have related to the average front setback. Planning Staff has met and talked about the room additions, potential new houses, porches, garages and other items that people build on the front of a house that would impact their setback requirements. They have also talked with some of the Greensboro Builder's Association concerning the trends of front porches based on the number of requests so far this year. They have suggested that most porches have a depth of 7 to 10 feet, so that could be a guideline for staff to consider. Staff's discussions have included changing ordinance language that could be provided/changed to accommodate flexibility for proposed porches that encroach into average front setbacks. Some of the discussions included - Writing a definition for a front porch; setback was that porches could be no closer than the base zoning for that district; other suggestion was that porches that would be allowed to be constructed up to 50% of the front façade of the house and that would help control

the width of the proposed porch and porches would not extend beyond the base zoning district. Also, there was other discussion considering allowing up to a 10% encroachment of the average front setback. Discussion also included porches should not create visual barriers.

Other front setback items and room additions are properly where they need to be in this venue for a variance because they tend to have visual impacts that can change the character of the neighborhood based on an average front setback. Staff plans to do more outreach with TREBIC and the Neighborhood Congress to gain their insights.

Mr. Truby stated that he was on the Planning Board when the requirements were adopted and the intent was keep people from encroaching so far into the front setback and making the houses closer to the street than they should be. He is aware that the applicant must pay the filing fee and also wait 30 to 45 days from the time they file to the time they can actually start construction, and he feels this places an unusual burden on these applicants. He feels that the Board needs to come with a reasonable way to keep the intent but give some flexibility so that staff can approve minor modifications without having to come before the Board for a variance on these types of situations.

Counsel Andrew Kelly stated that in regard to Board member recusals, the State statute Section 388(P)2 of Chapter 168 says, "A member of any Board exercising quasi-judicial functions pursuant to this article shall not participate or vote on any quasi-judicial matter in a manner that would violate effected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include or are not limited to a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close, familial business or other associational relationship with an affected person or a financial interest in the outcome of the matter. If an objection is raised to a member's participation, and that member does not recuse himself or herself, the remaining members shall, by majority vote, rule on the objection." Section 2, subsection 142, says, "No member of any Board or Commission may discuss, advocate, or vote on any matter in which he has a separate practice or monetary interest, either direct or indirect, and no member may discuss before the Council or committees, any matter which has been, is or will be considered by the Board or Commission on which he serves and which he has a separate following or monetary interest, either direct or indirect, any member who violates this provision may be subject to removal from the Board or Commission." So from practical speaking terms, if you do recuse yourself, how they are defining "participate" would include not only voting or commenting as a Board or Commission member, but also participation in the support for or the lack of support from the comment period.

Chair Hayworth asked if a member should recuse themselves, should they leave the room? Counsel Kelly stated that no one can be asked to leave the room, but they would be asked not to speak on that particular matter after they recuse themselves. In response to a question by Mr. Truby concerning his participation on the Planning Board and being able to recuse himself but yet also able to speak on some matters, Counsel Kelly stated that the difference is that the Planning Board is not a quasi-judicial body. Mr. Truby thanked Counsel Kelly for his clarification.

Chair Hayworth asked that the discussion concerning Family Care Homes be continued to the next meeting. The Board members concurred with that suggestion. Counsel Kelly suggested that the Board members send their questions concerning Family Care Homes to staff so that they can get any pertinent information gathered to help streamline

the discussion. After some discussion, the Board agreed to hold this discussion at the April meeting of the Board of Adjustment.

ACKNOWLEDGEMENT OF ABSENCES

The absence of Mr. Cooke was acknowledged and excused.

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 7:18 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
APRIL 24, 2017**

The regular meeting of the Greensboro Board of Adjustment was not held on Monday April 24, 2017, due to lack of a proper quorum.

After waiting until 6:05 o'clock p.m., Chair Hayworth went on record and stated that the meeting would be cancelled and all items on the April agenda would be carried over to the May 22, 2017 meeting.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT**

MAY 22, 2017

The regular meeting of the Greensboro Board of Adjustment was held on Monday May 22, 2017 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, Mike Cooke, 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 March 27, 2017 meeting minutes, as written, seconded by Ms. Skenes. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Cooke. Nays: None.)

CONTINUANCES/WITHDRAWALS

None

OLD BUSINESS

VARIANCE

- (a) BOA-17-15: **400 MUNSTER AVENUE** Esmeralda Garcia-Parra requests a variance from a required average front setback. **Variance:** A recently constructed front porch encroaches 10 feet into a required average front setback of approximately 32 feet. The porch was constructed 22 feet from the front property line. This request was continued from the April 24, 2017 meeting. Zoning-R-5 (Residential Single-family), Section 30-7-1.4, Cross Street - Tipperary Drive. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a recently constructed front porch addition. The porch encroaches 10 feet into a 32-foot average front setback. The porch is required to be setback 32 feet and it has been constructed 22 feet from the front property line. This request was continued from the April 24, 2017 meeting. The lot is located at the northeastern intersection of Munster Avenue and Tipperary Drive west of Randleman Road. Tax records reflect the house was constructed in 1971 and the lot size is 10,018 square feet. Based on Exhibit B, the applicant applied for a building permit for a detached storage building, changing roof area on the existing carport, adding 3 dormers, and to add columns to the existing front entry. The permit was approved. After construction began, the inspector noted the front porch had been reconstructed and enlarged. The applicant was informed that portion of the construction was not covered on the permit. The applicant immediately came to city staff to request to update the permit and learned that they would be required to obtain a variance for the porch enlargement. The lot is a corner lot and the front orientation is facing Munster Avenue. The applicant recently constructed and changed the front porch entry to a larger covered porch. The existing entry landing was 4 feet by 6 feet. It was increased to 8 feet by 11.8 feet for a total of 94.4 square feet. The properties that were used to calculate the average front setback are 402 and 404 Munster Avenue. The setbacks for those properties are shown on Exhibit 2. Their average front setback is 32 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 on this matter.

The applicant Esmeralda Garcia-Parra, speaking through her interpreter, Karin B. Vicard, responded to questions posed by Board members. She stated that there was no roof over the front porch and entrance previously, but she now wishes to add a more substantial roof over the porch of the house.

There being no other speakers and no one speaking in opposition to this matter, the public hearing was closed.

Board Discussion:

Ms. Eckard stated that she always advocates for porches and feels that this would add value to the house and the neighborhood. Other Board members made similar comments and agreed that they would support this variance request for a porch on this structure.

Ms. Skenes moved that in regard to BOA-17-15, 400 Munster 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 porch is already built and if the variance is not approved, the porch 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 ordinance was changed in 2014 and the house was already in existence. The new porch actually meets the setback requirements of the previous ordinance. The hardship is not the result of the applicant's own actions because they obtained a building permit and felt that they were proceeding in compliance. 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 an attractive addition not only to the house, but to the neighborhood and adds value to both, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Cooke, Eckard, Blackstock. Nays: None.)

- (b) BOA-17-16: **3307 MILL SPRING COURT** Sanna Festa requests a variance from a required rear setback. **Variance:** A proposed rear sunroom addition will encroach 3.6 feet into a required 15-foot rear setback. The addition will be 11.4 feet from the rear property line. This request was continued from the April 24, 2017 meeting. Present Zoning-R-3 (Residential Single-family), Table 7-1 and Section 30-7-3.2(L), Cross Street - Cardinal Wood Drive. **(CONTINUED TO JUNE 2017 MEETING)**

There was no one to speak on this matter. This item was continued to the June 2017 meeting by unanimous vote of the Board.

- (c) BOA-17-17: **31 FLAGSHIP COVE** Anthony and Liselott Allen request a variance from a minimum pool separation requirement. **Variance:** A proposed pool will encroach 5 feet into a 10-foot separation requirement from an existing house. This request was continued from the April 24, 2017 meeting. LDO Section 30-4-6.6 and UDO Section 30-5-2.82, Present Zoning-PUD (Planned Unit Development), Cross Street - Bass Chapel Road. **(GRANTED)**

Loray Averett stated that a proposed pool will encroach 5 feet into a 10-foot separation from an existing house. This request was continued from the April 24, 2017 meeting. The property is located at the dead-end cul-de-sac on Flagship Cove south of Bass Chapel Road and is zoned PUD (Planned Unit Development). Guilford County tax records indicate the house was built in 1999. The lot contains approximately 29,185 square feet. The lot is oddly shaped and has 5 property lines. The property contains an existing house and the applicant is requesting to add a detached swimming pool in the rear of the property. The pool will be 5 feet from the house instead of 10 feet as required. The property was developed as part of a Planned Unit Development. As noted in Exhibit 3, structures in Planned Unit Developments may set their own dimensional setbacks and separations or refer those requirements to be the same as current ordinance requirements. No portion of the pool will encroach into any easement area. 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 wishing to speak on this matter.

Mark Voight, Aquatic Designs, the pool contractor for this project, was sworn in and provided drawings of the project and an engineer's report indicating that there were no issues with the soil on this property and that they would not be disturbing the existing structure.

Anthony Allen, the property owner, was sworn in and stated that he wishes to install a pool on his property and there is no other location on the property to be able to install the pool without causing drainage problems and safety issues. He was available to answer any questions by the Board members.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this proposed pool addition would not be intrusive to the surrounding neighborhood.

Mr. Truby moved that in regard to BOA-17-17, 31 Flagship Cove, 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 owner would not be able to construct a pool. 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 set back toward the rear of the lot and drainage easements prevent a pool from being constructed to the rear of the property. The hardship is not the result of the applicant's own actions because the house and the drainage easements were already in position. 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 pool needs to be placed behind the house which is out of view from the neighbor, seconded by Ms. Williams. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Cooke, Eckard, Blackstock. Nays: None.)

- (d) BOA-17-18: **213 GREEN VALLEY ROAD** Mohsen Abbaszadeh requests a variance from a required rear setback. **Variance:** A proposed rear storage/carport addition will encroach 19 feet into a required 30-foot rear setback. The addition will be 11 feet from the rear property line. This request was continued from the April 24, 2017 meeting. Present Zoning-R-3 (Residential Single-family), Table 7-1, Cross Street - West Wendover Avenue. **(GRANTED)**

Luke Carter stated that the applicant is requesting a variance for a proposed rear storage/carport addition to a single-family dwelling which will encroach 19 feet into a 30-foot rear setback. This request was continued from the April 24, 2017 meeting. The property is located on the western side of Green Valley Road north of Madison Avenue and is zoned R-3, (Residential Single-family). The property contains a one-story single family dwelling. Property records reflect the house was originally built in 1959. The lot contains approximately 15,680 square feet or equivalent to 0.36 acres. The applicant is proposing to construct an addition to the rear of the existing attached carport. The addition will be approximately 25 feet by 20 feet for a total of 500 square feet. As shown in Exhibit B, the current proposed addition will be attached to an existing carport. The structures will be attached. The applicant is requesting to maintain the same side building line of the existing house. The rear section of the property has a 10-foot easement across the rear portion. The applicant is proposing for the addition to be 11 feet from the rear and the structure will not encroach onto the 10-foot easement area. The lot is rectangular shaped and the original plat was recorded in 1959. Exhibit 3 (Plat Map), shows there is a minimum build line for the lots recorded in this section. The minimum build line for these 27 lots ranges from 50 feet to 70 feet for front setbacks. 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.

Mohsen Abbaszadeh, the owner, was sworn in and stated he tore down the previously existing storage building because it was very deteriorated and falling down. He hopes to be able to add 10' to the replacement structure so he will have more storage. In response to a question, he stated that the new structure would have an "A" frame roof on it.

Stan Henley, 215 Green Valley Road, was sworn in and stated that he is a neighbor of the applicant. He is very much in favor of the variance so the owner can build a new storage/carport structure. There is nowhere else the applicant can place the proposed carport/storage structure on the property.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this carport/storage structure would not be intrusive in the surrounding neighborhood and would add value to the owner's property.

Ms. Blackstock moved that in regard to BOA-17-18, 213 Green Valley 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 hardship will result to the property by applying strict application of the ordinance because if the variance is not granted the proposed storage area cannot be built. 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 original home was constructed in 1959. The hardship is not the result of the applicant's own actions because the applicant did not construct the existing building. The rear lot line has a continuous slope from north to south on both sides. 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 variance's intention is to preserve the spirit of the ordinance and no harm will come to the public as the rear elevation is behind the subject site and is heavily wooded, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Cooke, Eckard, Blackstock. Nays: None.)

- (e) BOA-17-19: **807 LONGVIEW STREET** Catherine McCormack requests a variance from a required average front setback. **Variance:** A proposed front porch will encroach 24.15 feet into a required average front setback of approximately 57.5 feet. The porch addition will be 33.35 feet from the front property line. This request was continued from the April 24, 2017 meeting. Present Zoning-R-5 (Residential Single-family), Section 30-7-1.4, Cross Street - Sherwood Street. **(GRANTED)**

Ms. Eckard was recused from this matter.

Loray Averett stated that the applicant is requesting a variance for a proposed front porch which will encroach 24.15 feet into a required average front setback of approximately 57.5 feet. The porch will be setback 33.35 feet from the front property line. The lot is located on the eastern side of Longview Street north of Sherwood Street. Tax records reflect the lot size is approximately 5,227 square feet. The lot is rectangular in shape. The house was originally built in 1946. The subject has 99.85 feet in depth. The two lots north of the subject site are greater in depth by approximately 50 additional feet and those houses were constructed with deeper setbacks. The existing house is located approximately 42.35 feet from the front property line. The applicant is proposing to construct a front porch. The front porch will be 9 feet by 27 feet for a total area of 243 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 north of the subject site. They are addressed as 803 and 805 Longview Street. Their combined setbacks averaged 57.5 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 20 feet. The applicant is requesting to be allowed to construct a front porch which will be 33.5 feet from the front property line instead of the averaged setback of 57.5 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 on this matter.

Catherine McCormack, the property owner, was sworn in and stated that she feels that the front porch addition would be aesthetically pleasing for the neighborhood and asked that the Board approve this request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this front porch would not be intrusive in the surrounding neighborhood and would add value to the owner's property.

Mr. Cooke moved that in regard to BOA-17-19, 807 Longview Street, 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 applicant would not be able to build a porch on the front of the house because of the average setback requirement. 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 property owner would have difficulty trying to comply with the setback requirements. The hardship is not the result of the applicant's own actions because the house was in compliance with the prior ordinance and today's setbacks are difficult to adhere to. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and does assure public safety, welfare and substantial justice because it allows a private homeowner to use the property and expand the property in a reasonable manner, seconded by Ms. Skenes. The Board voted 6-0-1 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Cooke, Blackstock. Nays: None. Abstained Eckard.)

INTERPRETATION

- (a) BOA-17-20: **2737 HORSE PEN CREEK ROAD** Derek Allen, Attorney for Buchanan Builders of North Carolina, LLC requests an interpretation concerning an ordinance requirement that his client must provide a vehicular cross-access easement on his property at the time of development. This request was continued from the April 24, 2017 meeting. Section 30-9-3.10, Present Zoning-CD-O (Conditional District-Office), Cross Street - Talmaga Lane. **(INTERPRETATION OVERTURNED)**

Mr. Truby was recused from this matter by unanimous vote.

Counsel Andrew Kelly outlined the case and stated that this is an appeal of an interpretation from the Greensboro Department of Transportation (GDOT). He further explained the process that would be followed for presentation of this case.

Loray Averett stated that Derek J. Allen, Attorney for Buchanan Builders, LLC requests an interpretation concerning an ordinance requirement that his client must provide a vehicular cross-access easement on his property at the time of development. This request was continued to the May 22, 2017 meeting. The City will take a position on their ordinance determination with representation by City Counsel, Terri Jones. The property is located south and west of Horse Pen Creek Road and west of Talmaga Lane. Records reflect the property was annexed into the City limits on June 30, 1996. The property consists of three parcels of land totaling 4.22 acres. In December 2016, the applicant had the properties rezoned from CD-C-N (Conditional-District-Commercial Neighborhood) & R-3 (Residential Single-family) to CD-O (Conditional District-Office). The zoning conditions are attached as Exhibit 2. In December 2016, the applicant submitted a sketch plan for preliminary comments and received various comments from the Greensboro Department of Transportation Plans Reviewer. Following additional conversation concerning the applicant's sketch drawing, in January 2017, the comments were revised and updated to include a requirement that the applicant must provide a cross access easement on his lot for the use of the adjacent property located to the west of the subject site. In March 2017, the adjacent property was rezoned from single family zoning to multi-family zoning. The density for the property was limited by a zoning condition not to exceed 200 multi-family dwellings. The applicant appeals the requirement that he must provide cross-access for the property located west of his subject site. In his application, the applicant mentions that the subject site and the adjacent site are incompatible land uses and other concerns for safety and security were not properly considered. The O, Office District, is primarily intended to accommodate office, institutional, supporting service and other uses.

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

Teri Jones, Deputy City attorney, stated that she represented the Planning Department and GDOT in this appeal. She asked that Exhibit #3 be shown on the projector for viewing. Loray Averett verified that the information shown on the drawing and map were accurate.

Ryan Moates, civil engineer with GDOT, was sworn in and in response to questions posed by Counsel Teri Jones, stated that he has been with the City for 10 years. He is the Technical Review Committee site plan review point for Transportation. He reviews plans from the Transportation standpoint as far as the issues that might arise in regard to transportation and vehicular movement in a particular area. He is familiar with this property as a sketch plan was submitted by the applicant, which he reviewed and the site plan shows with the applicant plans to do on the property, before getting into the heart of design of the actual site. During the review process he made notes on the sketch plan regarding the proposed Horse Pen Creek Road widening project and driveway permits and general site distances. The cross-hatched area on the site plan was added separately because he was not aware of the Well Springs property development to the west that are zoned RM-12. That particular property was later zoned CD-RM-12 after his comments were made on the sketch plan. He explained that a cross-access easement or service drive providing vehicular access between two or more contiguous sites, (land uses) so that motorists and pedestrians do not need to re-enter the public street system to gain access to an adjacent site or planned use.

Under the Land Development Ordinance, cross-access easements are required for all new commercial, industrial and office developments or additions to existing developments of over 3,000 square feet of gross floor area; all uses planned of buildings involving more than 40,000 square feet and all non-residential subdivisions including group developments and integrated multiple use developments that front thoroughfares and collectors, must be designed to provide cross-access to the above-mentioned developments. This property is a group development and another group development was going to come in to the west and that's when the requirement for cross-access came in. Group development is a development in which in lieu of division of the traffic plan in separate lots for separate principle buildings, a tract of land is divided into two or more principle building sites for the purpose of building development, whether immediate or in the future and occupancy by separate families, firms, business, or other enterprises. He finds that this particular site meets the definition of cross-access. Cross-access easements are not required when the subject properties have one or more conditions or barriers: 1) the properties do not have common frontage along the same street; 2) there is significant topography differences in existing or proposed conditions; 3) significant natural features exist; 4) vehicular safety factors; 5) existing cross-access provisions; 6) other safety and security factors; 7) incompatible land uses, or 8) existing infrastructure obstructions. Transportation did not find any of these present to not require cross-access. Counsel Jones asked if all of the parcels that are part of the CD-RM-12 rezoning (multifamily development) all have frontage on Horse Pen Creek Road. Mr. Moates stated that they do.

Counsel Jones stated that in the appeal, the appellant mentioned that these proposed uses are incompatible uses. Mr. Moates stated that staff feels that they are compatible uses due to the types of development that is allowed and approved in the City of Greensboro, especially Mixed Use development. As an example, he provided maps showing New Garden Road, showing property highlighted in yellow that consists of multifamily development, a grocery store, a restaurant, and they all share two different driveways for vehicular access. There are other examples of where cross-access has been required between two different types of development.

Ms Skenes asked Mr. Moates if group developments are considered different types of development, office versus residential. Mr. Moates stated that he does not interpret group development as different residential or commercial. Group developments come in with an assertion of site requirements for them and he applies those same site requirements to a group development that is an office park as does a group development as an apartment complex. He would ask for the same requirements. Ms. Skenes stated that she is having a difficult time with this one and is trying to justify it in the ordinance. Mr. Moates pointed out that neither one of these developments is a non-residential subdivision, they would both be considered group developments. For clarification, Ms. Skenes stated that staff's interpretation of group development is not taking into consideration the actual use of the properties.

Derek Allen presented a copy of Davenport's Transportation Assessment, dated February 15, 2017 for Horse Pen Creek Road senior living development. He referred to Section 30-9-3.10 and stated that "cross-access is an easement or service drive providing vehicular access between two or more contiguous sites/land uses so that motorists and/or pedestrians do not need to re-enter the public street system to gain access to the adjacent site land use." In the next section, it says, "The intent of this section is to provide for cross-access between compatible land uses that front major/minor thoroughfares so that patrons leaving one business may access adjoining businesses without having to re-enter a busy public street system."

Mr. Allen pointed out that there are no (zero) trips accounted for between the properties for the proposed senior living development and the office park. He also pointed out that during the re-zonings for some of the examples used earlier were related to "smart growth" for compatible land uses that were complementary to one another and in that, everything was about internal trips, walkability, pedestrian use, mixed use side-by-side, mixed use on top of each other and other configurations. All those dealt with internal trips and in this situation, there are none.

Counsel Jones then called Adam Fischer, Director of Transportation Department and a registered professional engineer for the State of North Carolina for the City's next witness.

Mr. Fischer stated he has been with the City for over 29 years. He oversees all the functions of the Department of Transportation from Planning to roadway projects through the MPO process and negotiating the construction of major roadway projects through the NCDOT and Federal Highway Administration, as well as identifying deficiencies in the existing roadway system that are not funded by the federal or state entities. He develops roadway improvement projects to be funded locally through Bond projects. He is responsible for all transit functions, downtown parking lots, as well as overseeing the writing of the ordinance and its impacts to the public street section. Public safety is the primary goal of the ordinance and the requirements included in the ordinance. There have been several meetings to determine a safer way to get in and out of this site because of the median that is being placed on Horse Pen Creek Road. Counsel Jones asked if Mr. Fischer wants to allow through traffic through the office park while the elderly drivers would be coming from the senior living site and Mr. Fischer stated he agreed with that.

Counsel Allen asked Mr. Fischer if connections and interconnectivity are either of the two things that are listed in the two sections that deal with intent of cross-access easements. Mr. Fischer stated that the overall intent is to improve public safety and reduced vehicular conflicts. In response to a question posed by Counsel Allen, Mr. Fischer stated that the safety numbers or deaths do not account for injuries or deaths in parking lots but they do get a report on all vehicular accidents with injuries or deaths.

Ashley Clouse, 214 Beacon Circle, 27513, was previously sworn in and stated that she works for South Engineering and Construction and she is a traffic engineer for their transportation group. She develop traffic impact analysis and capacity analysis for NCDOT and parking analysis, signal analysis. She previously worked for the NC DOT and went to school at NC State University, majoring in civil engineering with a concentration in transportation. She is licensed under the State of North Carolina as a professional junior. She has previously testified as an expert in traffic matters in quasi-judicial hearings before municipal bodies.

Counsel Jones noted an objection to the documentation provided concerning Ms. Crouse, subject to the Voir Dire that she intends to process. Ms. Crouse verified that she has not appeared and testified before the Greensboro Board of Adjustment previously; she has not worked on any projects in the City of Greensboro where she has submitted a traffic impact study. Counsel Jones stated that she raises no objections to Ms. Crouse being found as an expert witness as she does not appear to have any familiarity with the City of Greensboro's Land Development Ordinance requirements. She also noted that just because she has testified as an expert, does not make her an expert before this Board.

Counsel Allen asked if Ms. Crouse has reviewed the City of Greensboro Land Development Ordinance and she stated that she has; she has reviewed the two transportation assessments provided by Davenport, regarding adjoining properties; and she has reviewed the City of Greensboro's staff report. Counsel Allen asked that Ms. Crouse be tendered as an expert.

Ms. Hayworth moved to accept Ms. Crouse as an expert in her field of expertise, seconded by Ms. Eckard. The Board voted 7-0-1 in favor of the motion. (Ayes: Hayworth, Skenes, Williams, Eckard, Cooke, Blackstock. Nays: None. Abstained: Truby.)

Counsel Allen asked Ms. Crouse if she has reviewed the site plan for Buchanan Builders and the Transportation Assessment dated 2/7/2017, and the renewed copy dated 2/15/2017, by Davenport and Ms. Crouse indicated that she had. Based on those she was asked for her opinion or concerns of the cross-access easement regarding the exemptions listed in 30-9-3.10(c) and she stated that it would be her opinion that the two-lane uses are not compatible which would address item #7, under Section C, and in that the two-lane uses would not access each other. No one would be going from the retirement community to the office park and vice versa. In terms of vehicular safety, you enter the same traffic to a parking lot that other residents would use and they are not going into the parking lot to access the buildings on that lot, they are simply going through the parking lot.

Counsel Jones asked when was a prior traffic impact study done in the City of Greensboro. Ms. Crouse stated that she did not know the exact time of that study. In response to other questions, Ms. Crouse stated that the office development did not require a traffic impact study because of the floor space of the building and it does not produce enough trips to require a traffic impact study. She has reviewed and is familiar with the sketch plan for the proposed office development and they are proposing medical office use. Senior citizens would not be the primary client for that particular complex. In regard to incompatible uses, a mixed use development that has residential units above the office would not be incompatible. The difference is the distance between the two uses. In the Exhibit that was shown by the City those uses were very close together and you would park the car and walk to multiple land use types within the same community. That would not happen in this situation, you would not park your car at the retirement community and walk over to the office building. There would be no cross-access because people would not drive from one to the other and they certainly would not walk from one to the other. There would not be cross-access between the two land use types. Counsel Jones pointed out that the ordinance requires cross-access. Ms. Crouse stated that cross-access would not be utilized because they would have no reason to go from one access point to the other. Counsel Jones stated that Ms. Crouse had previously agreed that there was a mixed use development with residential on top of offices and those would be compatible with each other. Ms. Crouse stated that she does agree with that. In multi-use facilities, when you're doing internal capture trips you directly factor the distance between two different land use types. In this case, they are so far apart that they would not have internal capture trips.

In response to further question posed by Counsel Allen, Ms. Crouse stated that the senior living facility would utilize the parking lot as a right-of-way to the proposed traffic light and that would create a safety factor that was not in place previously.

Chair Hayworth asked if there was anyone else wishing to speak on this matter, either in favor or in opposition.

Bill Stanley, 2105 Lafayette Avenue, was sworn in and stated that he does not understand all the rules and regulations, but to him as a layman, it seems that the folks who are trying to not have a cross-access makes a lot of sense because you are creating traffic in an area that has not had traffic and he envisions that there will be safety issues.

Ms. Skenes stated that Exhibit C says that the cross-access was part of the TRC comments on January 5, 2017. The adjoining multifamily property was not rezoned until March 20, 2017, does that mean that prior to March 20th, staff was requiring a cross parking easement into a single family home's back yard? Adam Fischer stated that the December comment that Mr. Moates made, when he thought the property mix was going to remain single family. However, at that same time the Well Springs people came in and were talking to staff about how could they safely access the parcel they were looking at and what kind of traffic impact study would have to be seen for access points along Horse Pen Creek Road needing access. Ms. Skenes agreed that it was done in anticipation of a future rezoning. Mr. Fischer stated that just because this property is required to put a cross-access easement does not necessarily mean that the cross-access would be made. It may be required, but then later withdrawn after development starts and it is found that it is not necessary that that particular property.

Mr. Cooke asked what is the anticipated harm with respect to safety, other than the costs of the driveway? Counsel Allen responded that the safety is the real reason. The fact that the parking lot becomes a thoroughfare for a multifamily development out to a traffic light is concerning. The costs is substantial.

Adam Fischer stated that there are several examples where these types of uses co-exist and there's not a safety issue between the driveways of these developments and there is not a documented safety pattern. Counsel Allen objected to the unsolicited answer and response.

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

Board Discussion:

Ms. Eckard stated that she is unsure how she feels about this interpretation. She thinks about the Harris Teeter shopping center where there is an entrance on Horse Pen Creek Road and one on New Garden Road and another on a side road. She does not see the office building being the same thing as the senior living concept. Mr. Cooke stated that there is a difference in the different land uses that may be incompatible land uses and he does not think that the two are incompatible. Mr. Cooke stated that he feels there is a difference in different land uses and incompatible land uses. He does not think that the two are incompatible. He wondered if this property could be connected back through to its own property. Ms. Williams stated that the Board's job is to interpret the Land Development Ordinance and the intent is very clear that it says the intent of this section is to provide a cross-access to compatible land uses so that patrons leaving one business may access adjoining businesses without having to re-enter the busy public street. Her inclination is to overturn the interpretation of the Transportation Director. Ms. Blackstock stated that she has listened to both sides and she will support the City and uphold the interpretation. Ms. Skenes stated that people coming out of Well Springs are going to have to pass three separate buildings and make two 90 degree turns to get to future traffic light. She feels there is a safety issue and it is more about how it would evolve and the distance that is going to have to be traveled to wonder through the office park.

Ms. Williams moved that in regard to BOA-17-20, 2737 Horse Pen Creek Road, that the Board should overturn the interpretation of the Transportation Director and support the motion to overturn the Board finds the following facts: 1) The Board accepts the following testimony and evidence as true. The adjacent property to the west of the subject property was recently rezoned to CD-RM-12 on March 28, 2017, with the exception of the hold-out parcel that will be used for multifamily dwellings for citizens 55 years of age older. Also, the goal of the cross-access LDO 30.9-3.10 to serve patrons from having to re-enter the public streets when leaving one of those in an attempt to access an adjoining business. At this time the property located at 2737 Horse Pen Creek Road is located within the City's jurisdiction and is subject to the Land Development Ordinance requirements. Sections 30-9-3.10 cross-access in the City of Greensboro Land Development Ordinance is applied to this property. The greater weight of evidence presented shows that the interpretation does not support Section 30-9-3.10 considering the required cross-access between the subject site and the adjacent site, seconded by Ms. Skenes. The Board voted 4-2-1 in favor of overturning staff's interpretation. (Ayes: Hayworth, Skenes, Williams, Eckard. Nays: Cooke, Blackstock. Abstained: Truby.)

At this time a break was taken from 8:30 until 8:42 p.m.

NEW BUSINESS

VARIANCE

- (a) BOA-17-21: **2109 LAFAYETTE AVENUE** Marius and Hilary Andersen request a variance from a required average front setback. **Variance:** A proposed single-family dwelling will encroach 13.23 feet into a required average front setback of 63.23 feet. The house is proposed to be constructed 50 feet from the front property line. Present Zoning-R-5 (Residential Single-family), Section 30-7-1.4, Cross Street - Country Club Drive. **(DENIED)**

Lucas Carter stated that the applicant is requesting a variance for a proposed single-family dwelling which will encroach 13.23 feet into a required average front setback of 63.23 feet. The proposed dwelling will be setback 50 feet from the front property line. The property is located on the western side of Lafayette avenue south of Country Club Drive and is zoned R-5. The access for the property is through a strip of land that has access from Country Club Drive, which is also owned by the applicant. The lot is currently vacant. The lot contains approximately 25,817 square feet in area. The proposed house will be partial 2-story and contain 6,064 square feet on the ground. The average setback was determined using the three houses nearest the subject site on the same block face. The house located at 1001 Country Club Drive is a corner lot and that house is 49.42 feet from the front property line. The house located at 2107 Lafayette Avenue is setback 69.98 feet and the house at 2105 Lafayette Avenue is setback 70.31 feet from the front property line. The average front setback for these three homes is 63.3 feet. The lot is an irregular shaped lot. The rear portion of the property is narrower and contains oddly shaped property lines. The subject site and the corner lot both have less depth than the other two properties which were used in calculations for the average front setback determination. Prior to the April 2014 average front setback text amendment, 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.

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

Bruce Cantrell, 1000 N. Eugene Street, architect representing the owner, was sworn in and stated that this variance is centered around the 2014 text amendment to the LDO, which created the average setbacks. The owners purchased this vacant lot and their initial intent was to build a new home for their family. The current trend in Irving Park, for the last several years has been to tear down a lot of the smaller homes that were built in the 1950s, and replace them with larger homes to have more amenities and room for larger families. Prior to 2014 text amendment , the lot would have accommodated most any design and size of house on the property. Unfortunately, the text amendment does restrict the size and the scale of proposed homes on lots in this area. He presented a map that showed the non-rectangular shape of the lot. This lot is unique, as it has an effective or usable depth of only 185 feet, so that is 40% less usable depth on this site, as opposed to other sites in the immediate area. The 2014 text amendment requires the house to be located further back on the lot and smaller because of the unusual shape and depth of the property. If there were a smaller setback in the front they would be able to use the rectangular portion of the site, but the fact of the unusual shape of the property, they are unable to do so. The requested reduction from 63.6' to 50' is approximately only 20% reduction. The requested setback is greater than many of the homes in the neighborhood. The original setback on this site, prior to 2014, was only 20'. The reduced setback would not create a safety issue, and would allow the property owner to build a home that would meet their needs and maintain an appropriate neighborhood scale. It would certainly add value to the neighborhood.

Marius Anderson, 2308 Danbury Road, the property owner was sworn in and was available to answer any questions by the Board.

Chair Hayworth pointed out that a lot of the large, old, beautiful trees would have to be taken down. Mr. Cantrell stated that they would meet with the City Arborist to preserve as many trees as possible.

Chair Hayworth asked if there was anyone wishing to speak in opposition to the request.

Evan Pierce III, 2107 Lafayette Avenue, was sworn in and stated that he has lived on his property for about 4 ½ years and has a great appreciation for the neighborhood. Part of the attraction of this neighborhood was the views of the golf course and the deep lots are very attractive, as well. Nothing has happened in recent years to change the shape of the subject lot and it has been the same for many years. The buyers knew about the odd shape of the lot when they purchased it, and that there were some limitations. This lot was very contentious back in December 2014, when the home was demolished and there were proposed plans to build on the property. The property owner, at that time, pulled the plans to build on the property as he had intended and then sold the property to the Andersons. He is concerned that the current request would set a precedence for the neighborhood. He also presented a letter from the property owner of 2109 Lafayette who also has concerns.

Bill Stanley, 2105 Lafayette Avenue. was sworn in and stated that his home is two houses away from the subject property. He is concerned that people can come to the Board and get a variance if it is supposed to be a rule or requirement. He has concerns about what is happening in his neighborhood and to put an 8,000 square foot house on a lot that is smaller than where his 3,500 square foot house is located is overpowering for the neighborhood. There are a lot of different types of building going on in the neighborhood that do not really fit into the existing neighborhood. He is opposed to the variance because people should have to adhere to the setbacks and should be followed.

Chair Hayworth asked if the applicant wished to make rebuttal statements.

Marius Anderson, the property owner, stated that after he learned about the house and the design of the previous house and what happened, he spent some time with the neighbors and talked about the proposed design of his house.

Opposition Rebuttal:

Evan Pierce, III, stated that Mr. Anderson did reach out to him last Tuesday. Once he saw the setback, which was the issue the last time and feels that the applicant should adhere to those setbacks.

Bill Stanley stated that he did not receive any notification or communication from the property owner or from the City. His neighbor called and told him about this matter. Loray Averett verified that notice was mailed to Mr. Stanley 10 days before the meeting date. There is also a large sign on the property.

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

Board Discussion:

Mr. Cooke stated that the 2014 text amendment does not seem to work when there is a degree of variability of houses. The 50' setback that they are requesting seems to be greater than some of the other houses on the street. It doesn't necessarily seem to interfere as long as the house isn't two or three stories high with a site line back to golf course. He would support the request. Ms. Skenes stated this is a prime example of why the text amendment was put in place. It is to try to have some rules on how much of the lot can be covered and how close to the street the house can be placed. The Board is charged with determining whether or not a variance is appropriate. In this particular case, the owner can still build an 8,000 square foot house but it may be more than one story high as long as it doesn't cover more than 40% of the lot. Ms. Blackstock stated that she is torn to make a decision on this request. She hopes the property owner will consider the types of other homes within the neighborhood. She will support the request. Mr. Truby stated that he would not be supporting the request because the old house that was previously on the property was about 65 feet off the right-of-way and the other residents are used to a house being 65 feet off the road and to place the house 15 feet closer to the roadway is disruptive to the adjacent property owners. Ms. Eckard stated that she cannot support the request because of the concerns of the people in opposition. Chair Hayworth stated that she leans toward opposing the request, but she is impressed that the architect is trying very hard to accommodate the wishes of the homeowner as well as the surrounding neighbors. She does feel that being 15 feet closer to the street is a lot, but they have also taken into consideration of the site lines for the golf course. Ms. Williams stated that she does not feel that the new house would be any closer than the house on the corner.

Ms. Williams moved that in regard to BOA-17-21, 2109 Lafayette Avenue, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled 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 able to build the house they prefer on their property that would fit their needs best. 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 a non-rectangular shape of the property limits the position of the residence on the site. The hardship is not the result of the applicant's own actions because the lot has an unusual shape and was divided many years ago. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assure public safety, welfare and substantial justice because it allows the owners to use their property to its highest and best use, seconded by Ms. Blackstock. The Board voted 5-2 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Blackstock, Cooke, Eckard. Nays: Truby and Eckard.)

Chair Hayworth reminded the Board members that the variance motion to approve failed because it has to be a vote of 6 in favor, and there are only 5 votes in favor.

SPECIAL EXCEPTION

- (a) BOA-17-22: **2 WOODLEA RIDGE COURT** Deborah King, Property Owner, and Roy Purnell, Applicant request 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. **Special Exception:** A previously approved family care home is 1,098 feet from another family care home (6 or less persons) located at 3221 Edenwood Drive when 2,640 feet is required. The previously

approved Special Exception was granted under the Unified Development Ordinance (UDO), which did not permit the transfer of a Special Exception to another applicant. Present Zoning-R-5 (Residential Single-family), Cross Street-Elm-Eugene Street. **(DENIED)**

Loray Averett stated that the applicant is proposing to operate a family care home that previously existed under requirements of the Unified Development Ordinance (UDO). Special Exception Request: A family care home for 6 or less persons is proposed to be 1,098 feet from another family care home, located at 3221 Edenwood Drive when 2,640 feet is required. It will be 1,542 feet too close. The property is located at the southeastern intersection of Woodlea Ridge Court and South Elm-Eugene Street and is zoned R-5. The applicant is proposing to re-establish a family care home at this location through licensing requirements in his name. The records concerning the original establishment for the family care home at this location reflect the following summary: The records reflect the owner signed and authorized an application for a special exception request in 2005. The minutes reflect that Shannon Hairston, the applicant appeared and was granted a special exception concerning the spacing requirement at the March 2005 BOA meeting. Ms. Hairston will no longer operate a family care home at this location. There have been 2 ordinance changes that have impacted this request since its original special exception approval: The special exception spacing request was granted based on the ¼ mile separation which increased to ½ mile after its 2005 date of approval. The facility would be considered in existence and may exist as is if there were no changes in the operation. 2. The 2005 special exception was granted using the UDO (Unified Development Ordinance) requirements which clearly stated: Special Exceptions were non-transferrable. The LDO (Land Development Ordinance) was adopted in 2010. The specific non-transferrable language for Special Exceptions concerning family care homes was not carried forward in the LDO; however, the LDO language does give the BOA the authority to attach conditions including specific authorization and operations.

A new applicant, Royal Purnell is proposing to operate a family care home (6 or less persons) at this location and it 1,542 feet too close to an existing family care home located at 3221 Edenwood Drive. Privilege license records, along with telephone communications reflects the family care at 3212 Presley Way is in operation. Exhibit 6 contains summary minutes concerning the granting of a previously requested special exception for the location. This location, through a request that was granted to Ms. Hairston was approved at the March 28, 2005 meeting. The subject site is located 1,098 feet from the existing home. They are required to 2,640 feet apart. This proposed location will be 1,542 feet too close. Exhibit B contains four documents submitted by the applicant. These documents are required City processes including permits and inspections that the applicant has recently acquired. The zoning approval was the last City item pending. Since the previously granted special exception was approved under different requirements to a specific operator, this request to operate a family care home under new business owners should be determined by the Board of Adjustment. The homes will be separated by a major thoroughfare, (South Elm-Eugene Street) and a network of other residential streets located on the western side of South Elm-Eugene Street. The R-5, Residential Single Family District is primarily intended to accommodate low to moderate 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 on this matter.

Deborah King, 4687 Heritage Lakes, Mapleton, GA., was sworn in and stated that Mr. Parnell would speak first on this request.

Royal Parnell, 2205 Forest Edge Drive, was sworn in and stated that he wants to establish a group home and there is staff that comes in to help with the residents. Patrick White will be there living with the clients. He actually owns another group home and has been in this field for about 8 or 9 years and he is familiar with the rules and regulations associated. He is passionate about working with the mentally disabled population and he loves what he does. His other group home is his own home at 2205 Forest Edge Drive. In response to questions, he stated that Patrick White will be the Supervisor and there will be no more than 3 clients in this home. This home is considered alternative family living, which means that versus a group home, it will be run more like a family setting, so a main person there full time and other workers coming in, as needed. The ages of the clients is 18 years and up, adults. He does not have a degree in this field. He has taken first aid training and he has worked with different types of people from muscular dystrophy, bi-polar, brain trauma and different types of mentally challenged people. The name of his current group home is called Royalty Care and is located in McLeansville, NC and he has run this home for about 6 years.

In response to a question, Patrick White, 1514 Covered Wagon Road, McLeansville, was sworn in and stated that he is the only Supervisor but he has a back-up staff but he is the primary caregiver for the home. There have not been any major issues related to his clients as they are very mild and laid back.

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

Board Discussion:

Ms. Williams stated that she was unable to approve Special Exceptions like these because of the threat of having too many of these types of homes too close together. Mr. Cooke stated that he supports the request as the applicant has a license to run this type of home and has done so successfully for several years. Ms. Skenes stated that she would not support the request. Ms. Blackstock stated that she cannot support the request. Ms. Eckard stated that she would not support the request. Mr. Truby stated that he has a difficult time with these types of homes. He also cannot support the request. Chair Hayworth stated that she agrees with Ms. Williams that the separation requirements are for a reason, so that these types of homes are not clustered within neighborhoods. She would not support the request.

Mr. Truby moved that in regard to BOA-17-22, 2 Woodlea Ridge Court, that the findings of fact be incorporated into the record and the Enforcement Officer be upheld and a 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 it is well within the 2,640 foot separation requirement. The granting of a Special Exception does not assure the public safety, welfare and does not do substantial justice because it places a group home too close to another established group home, seconded by Ms. Skenes. The Board voted 6-1 in favor of the denying the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Eckard, Blackstock. Nays: Cooke.)

OTHER BUSINESS

The June 26, 2017 meeting will be held in the Plaza Level Conference Room as there are upgrades being done to the Council Chamber.

This is Mike Cooke's last meeting. A replacement member, James Waddell, will join the Board next month. Ms. Bowers is still an active Alternate member.

ACKNOWLEDGEMENT OF ABSENCES

None

There being no further business before the Board, the meeting adjourned at 10:08 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
JUNE 26, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday June 26, 2017 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, James Waddell, 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 May 22, 2017 meeting minutes, as written, seconded by Ms. Skenes. The Board voted 6-0-1 in favor of the motion. (Ayes: Hayworth, Truby, Eckard, Blackstock, Skenes. Nays: None.)

SWEARING IN OF STAFF

Loray Averett and Lucas Carter were sworn in for their testimony for matters coming before the Board.

CONTINUANCES/WITHDRAWALS

None

OLD BUSINESS**VARIANCE**

- (a) **BOA-17-16: 3307 MILL SPRING COURT** Sanna Festa requests a variance from a required rear setback. **Variance:** A proposed rear sunroom addition will encroach 3.6 feet into a required 15-foot rear setback. The addition will be 11.4 feet from the rear property line. This request was continued from the April 24 and May 22, 2017 meetings. Present Zoning – R-3 (Residential Single-family), Table 7-1 and Section 30-7-3.2(L). Cross Street – Cardinal Wood Drive **(GRANTED)**

Loray Averett stated that the applicant is proposing to replace a screened porch with a newly constructed enclosed porch. The rear porch addition will encroach 3.6 feet into a 15-foot rear setback. The porch will be 11.4 from the rear property line. This request was continued from the April 24 and May 22, 2017. The property is located on the south side of Mill Spring Court south of Cardinal Wood Drive. The lot is zoned R-3 and has several hundred feet of open space adjacent to their rear lot line, which means the lot may use the 50 percent rear setback reduction. The applicant is proposing to remove the existing screened porch and replace it with an enclosed rear porch. Records reflect the lot was originally platted in the County in 1992 and the house was constructed 1992. The City annexed the property on June 30, 2008 and City zoning was applied at the time of that annexation date. The property was zoned RS-12 and was under the Unified Development Ordinance requirements. Effective July 1, 2010 the Land Development Ordinance (LDO) was adopted and the RS-12 zoning district was renamed to R-3. The applicant's rear lot line has an angle which creates about 4 feet difference in setback from one corner of the house to the other corner. The R-3, Residential Single-Family District is primarily intended to accommodate low-density single-family detached residential development.

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

Clinton Festa, 3307 Mill Spring Court, the applicant, was sworn in and stated that several owners ago the same back porch, which is currently screened in, was constructed. They bought the house in 2012 and do not want to go back further on the lot than what already exists, they just want to take the dimensions of what currently exists and change it from a screened back porch to a room that they can use all year round with glass enclosures.

Anna Festa, the applicant, was sworn in and stated that they are abutting open space at the rear and on the sides of the rear of the property there is another common area strip. The only neighbor that would be able to see the proposed sun room has submitted a notarized statement that she supports the request. The licensed contractor has also sent a form stating that he has inspected the existing porch and feels it should be brought up to Code to meet the standards of the NC Building Codes. She also presented an approval letter from the Homeowner's Association. She has blue prints available for review if the Board members wish to see them. There have been a lot of delays because of so much rain in the area. The HOA is fine with the delayed completion date.

Mr. Festa stated that they hope to be able to use the room more often and the hardship is to bring the house up to Code as it does not meet the minimum Building Code Standards. The existing flooring is original and was never designed to bear the weight of the existing roof. The roof and flooring would be removed and made to support the roof with larger concrete slab. The size, width and dimensions of the existing porch would remain the same. The slant of the roof would also remain the same as the existing.

In response to a question, Ms. Averett stated that there is no record of a building permit with the City, but this property was not annexed into the City until 2008 and there is no record from 2008 forward. It could have been permitted through Guilford County Planning.

There being no other speakers and no one speaking in opposition to this matter, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would not cause any issues with the open space behind the house. The only affected neighbor has provided support of the request.

Ms. Skenes moved that in regard to BOA-17-16, 3307 Mill Spring Court, 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 existing porch was not built to Code and has structural issues. If the variance is not granted, the porch cannot be replaced. 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 porch was built by previous owners and the current owner is just trying to rectify a previous problem. The hardship is not the result of the applicant's own actions because they did not build the existing 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 granting the variance will correct the structural problem and none of the neighbors would be adversely impacted, seconded by Mr. Waddell. The Board voted 6-0-1 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Waddell, Eckard, Blackstock. Nays: None.)

NEW BUSINESS:

VARIANCE:

- (a) **BOA-17-23: 3909 HAZEL LANE** Kurt and Joy Kronenfeld requests a variance from a required rear setback. **Variance:** A proposed attached patio addition will encroach 3 feet into a required 30-foot rear setback. The addition will be 27 feet from the rear property line. Present Zoning – R-3 (Residential Single-family). Table 7-1, Cross Street – Primrose Avenue. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed attached patio addition which will encroach 3 feet into a 30-foot rear setback. The property is located on the southern side of Hazel Lane west of Primrose Avenue and is zoned R-3, (Residential Single-family). The property contains a two-story single-family dwelling. Property records reflect the house was constructed in 1988. The lot contains approximately 20,908 square feet or equivalent to 0.48 acres. The applicant is proposing to construct a covered patio addition to the rear of the existing house. There is a deck in the current footprint which will be replaced with a covered patio. The addition will be approximately 16 feet by 24 feet for a total of 384 square feet. As shown in Exhibit B, the proposed covered patio area will be reconstructed in the area of a previous deck location. The rear portion of the property is developed with existing infrastructure, rock walls, landscaping etc. There is an existing in-ground pool which the applicant has noted will be filled in. There is a recorded 20-foot drainage easement located to the west of the patio area and a 10-foot drainage and utility easement located on the rear of the subject site. No portions of the proposed covered patio will encroach into the easement areas. The R-3, Residential Single-Family District is primarily intended to accommodate low-density single-family detached residential development.

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

Kurt Kronenfeld, 3909 Hazel Lane, the applicant, was sworn in and stated he is in the process of having the pool filled in. He would like to enlarge the rear portion of the house so it will be more usable by constructing a covered patio area. They will tie into the existing roof line so it is proportion and in scale. There will also be a nice green space in the middle of the yard. None of the neighbors have given any indication that they are opposed to the proposed construction of the covered patio. They purchased the house in 2001.

There being no other speakers and no one speaking in opposition to this matter, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would enhance the rear portion of the house and due to the density of the landscaping at the back of the house as well as the property to the rear, it would not cause an intrusion into the neighborhood.

Mr. Truby moved that in regard to BOA-17-23, 3909 Hazel 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: 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 allowed to construct a covered patio at the rear of his 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 house was built 73 feet back from the street, resulting in a limited area behind the house. The hardship is not the result of the applicant's own actions because the house was built in this location in 1988, prior to the applicant's ownership. 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 covered patio will not affect the public safety and welfare, seconded by Ms. Eckard. The Board voted 6-0-1 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- (c) BOA-17-26 **8 BYWOOD COURT** Richard Young requests variances from a required side setback. **Variances:** Two existing attached carports encroach 4.3 and 4.7 feet into a required 5-foot side setback. Present Zoning – R-5 (Residential Single-family), Table 7-2, Cross Street – Bywood Road. **(GRANTED WITH CONDITION)**

Luke Carter stated that the applicant is requesting variances from a required side setback. Two existing attached carports encroach 4.3 and 4.7 feet into a required 5-foot side setback.

Carport A is 0.7 feet from the new proposed side lot line. Carport B is 0.3 feet from the proposed new side lot line. The property is located on the south side of Bywood Court west of Bywood Road and is zoned R-5 (Residential Single-family). The property contains a single-family dwelling. Property records reflect the house was originally constructed in 1972. The lot contains approximately 10,583 square feet. The original plat was recorded in 1971. On or around January 13, 2017, the applicant applied for a building permit to construct a sunroom addition to the rear of the house. The applicant was made aware that there were two carport additions that encroached into the 5-foot setback and possibly onto the adjacent lot. The applicant had the side lot line surveyed and the result of that survey was that he needed to obtain a few inches of the adjacent lot to have the carports to be on his lot, along with obtaining variance encroachments. By moving the side lot line a few inches allowed the applicant to request the side encroachment variances. (A property owner may not request an encroachment variance onto someone else's property).

The GIS Aerials reflect the carport labeled as Carport B was on the property in 1995. Carport A shows up on the 2007 aerial map. They are both attached to the house. The applicant made mention that the carport labeled as carport B is used as a covered patio area for them to store outdoor items and to have a place to sit outside, out of the sun. Carport A is used to cover the car. The lot is oddly shaped. It is wider at the front and becomes more narrow as the depth increases. The side lot lines are angled and unequal in length. The existing house is also constructed at an angle. The applicant made mention that he is the original owner of the house and that he thought the carport installers had obtained the proper permits. He stated that Carport B was placed on the lot more than 20 years ago. Carport A was placed on the lot about 10 years ago. The applicant, Richard Young requested if staff could help him with the application. We discussed his property and encroachment concerns and staff wrote his answers in the application for him. The preliminary plat is pending approval for recording per the decision of the variance request. The R-5, Residential Single-Family District is primarily intended to accommodate low density single-family detached residential development.

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

Richard Young, 8 Bywood Court, the applicant, was sworn in and stated that he has lived at this house for over 40 years and he purchased the first carport from Sears over 20 years ago. He thought they would do everything that was necessary to be able to put it up. He had no idea it was illegal and put up without a permit. He mentioned that he purchased the other carport shortly thereafter to provide a covered sitting area outside. He presented a notarized note from his neighbor who stated that he did not have a problem with the carport in their locations. In response to questions, Mr. Young stated that the driveway has been in place since the house was built. The tree roots from the neighbor's yard tore up part of the driveway and it had to be re-done because it was buckling up. He did not change the width of the driveway, it stayed the same when they fixed it.

Solomon Bocraine, 2404 Glenhall Drive, stated that the applicant has already explained the work that was done. He did reiterate that the neighbor has no problem with the location of the car port and actually gave 7 inches of his land to Mr. Young so there would not be any problems.

Counsel Kelly stated that there has not been a deed recorded even though there has been a plat recorded which would show this is the two party's intentions and this is how it can be done and provides the opportunity for someone to draw a metes and bounds description of the area to be transferred. To the Board's knowledge, that has not been done yet and it would be appropriate to condition a variance approval, based on Mr. Young completing the deed being recorded for that property that was given to him.

There being no other speakers and no one speaking in opposition to this matter, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request.

Ms. Eckard moved that in regard to BOA-17-26, 8 Bywood Court, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted based on a deed to be recorded in the name of the applicant, Mr. Young, and 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 if the variance is not approved, the property owner will not be able to keep the carports in their current location due to the side encroachments. 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 and driveway were previously existing and the car port locations are the best for accessibility and the car ports have been in place for 20 and 10 years, respectively. The owner is

the original owner and thought that the installers of the carports had installed the carports correctly with the proper permits. The hardship is not the result of the applicant's own actions because the owner did think they were installed correctly and was not aware until recently that there were no permits for the carports. 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 intent is to preserve the Ordinance and there will be no harm that comes to the neighbors. There is a condition of this approval that the deed will be recorded, seconded by Ms. Skenes. The Board voted 6-0-1 in favor of the granting the variances. (Ayes: Hayworth, Skenes, Truby, Waddell, Eckard, Blackstock. Nays: None.)

OTHER BUSINESS:

None.

ACKNOWLEDGEMENT OF ABSENCES

The absence of Ms. Williams was acknowledged and excused.

There being no further business before the Board, the meeting adjourned at 6:33 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
JULY 24, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday July 24, 2017 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, James Waddell, Enyonam Williams and Mary Skenes. Representing the Planning Department staff was Loray Averett, Jeff McClintock and Mike Kirkman; and Terri Jones 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 June 26, 2017 meeting minutes, as written, seconded by Ms. Williams. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Truby, Eckard, Blackstock, Skenes, Waddell and Williams. Nays: None.)

SWEARING IN OF STAFF

Loray Averett, Mike Kirkman and Jeff McClintock were sworn in for their testimony for matters coming before the Board.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that there has been a request by Counsel representing the applicant for the first item, BOA Case # 17-27, 421 Eugene Court, to be considered for a continuance.

Chair Hayworth asked if the applicant would come forward to speak on this matter.

Don Carter, attorney representing the applicant, came forward and stated that they would like to continue this item until the August meeting so they can have more conversation with City staff.

Counsel Jones clarified by stating that that this is an appeal of a Notice of Violation for failure to obtain a permit. A continuance would give them time to explore whether they want to apply for a permit. She had no objection to a continuance.

Mr. Truby moved that BOA-17-27, 421 Eugene Court, be continued to the August 28, 2017 meeting, seconded by Ms. Blackstock. The Board voted 7-0 in favor of the motion.

NEW BUSINESS

APPEAL OF A NOTICE OF VIOLATION

- (a) BOA-17-27: **421 EUGENE COURT** Allan Blackwell, Attorney for Free U Bail Bonds, Inc. (tenant) and James and Carolyn Steed, (property owners), appeal a Notice of Violation concerning ordinance requirements which regulates wall signs. The applicant did not obtain required sign permits for the wall signage currently located on the building. Section 30-14-7 & Table 14-3, Present Zoning-CB (Central Business), Cross Street – West McGee Street. **(CONTINUED TO AUGUST 28, 2017 MEETING)**

VARIANCE

- (a) BOA-17-28: **3510 DOGWOOD DRIVE** Dogwood Trust (to be represented by Counsel) requests a variance from a required average front setback. **Variance:** A proposed front porch addition will encroach 10.39 feet into a required average front setback of approximately 60.5 feet. The porch addition is proposed to be constructed 50.11 feet from the front property line. Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street - Beverly Place. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed front porch which will encroach 10.39 feet into a required average front setback of approximately 60.5 feet. The porch will be setback 50.11 feet from the front property line. The lot is located on the north side of Dogwood Drive east of Beverly Place. Tax records reflect the lot size is approximately 13,939 square feet. The lot is rectangular in shape and the house was originally built in 1949. The existing house is located approximately 60 feet from the front property line. The applicant is proposing to construct a front porch. The front porch will be 9.8 feet by 20.7 feet for a total area of 202 square feet. There were a total of four houses that were used to calculate the average front setback for the subject property. They are addressed as 3602, 3604, 3508 and 3506 Dogwood Drive. Their combined setbacks averaged 60.5 feet. Effective April 4, 2014 infill standards for residential front setbacks were implemented. Prior to that implementation, the front setback for the R-3 zoning district was 25 feet. The applicant is requesting to be allowed to construct a front porch which will be 50.11 feet from the front property line instead of the averaged setback of 60.5 feet. The photo exhibits show the fronts of the lots along this block area are heavily landscaped. 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.

Mary Jack, 3510 Dogwood Drive, stated that they propose to renovate and update the house in character with other houses in the neighborhood. The house was purchased with that intent. This house has not been renovated at all, except for possibly a kitchen update, maybe in the 1960s. They would also like to add a front porch because this particular neighborhood does not have sidewalks and this would add a little more character of the neighborhood. There are several other houses in the neighborhood that have front porches. They are very limited on what they can do because of the side setback and that want to make the front of the house more in keeping with the neighborhood. The original house was built in 1949 and had no major updates. They are already in violation of the setback because of the carport that was previously closed in. This house pre-dates the 2014 Ordinance which mandates this request to occur. The base setback for R-3 is 25 feet and the proposed front porch will be 11 feet from the front property line and they are not altering the character of the neighborhood. The front porch addition would make the house more welcoming to the neighbors and present a friendlier atmosphere. In response to questions, Ms. Jack stated that they have spoken with several of their neighbors and no one has indicated that they are opposed to the request.

Tom Wright, attorney representing the Trust, 301 N. Elm Street, presented handouts that showed a diagram of the house and the proposed renovation. On the right side of the house there is an existing nonconforming area that juts into the side setback by about 5 feet. The actual stoop of the porch juts out even more than the other, so there is already a nonconforming use, all of which pre-dated the 2014 change in the Ordinance. The proposed front porch will entail enclosing the foyer and the exiting stoop to make that the foyer and then bring the front porch out another 5 feet and 20.7 feet in width along the front of the house. The Ordinance works against this property and that is the reason for the request. He presented photographs of several other houses in the area that have front porches added to their property.

There being no one speaking in opposition, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would not cause any issues with the other homes in the neighborhood. The only affected neighbors support the request.

Ms. Eckard moved that in regard to BOA-17-28, 3510 Dogwood 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 hardship will result to the property by applying strict application of the Ordinance because if the applicant complies with Ordinance, they cannot have improvements with the addition of a front porch. 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 1949 and no major updates have been done. The front of the house and the elevations do need updates and by doing so could add more character to the front of the house. The hardship is not the result of the applicant's own actions because the house pre-dates the current Ordinance and setback requirements. 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 granting the variance will allow the addition to enhance this home, add value to the neighborhood, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Williams, Waddell, Eckard, Blackstock. Nays: None.)

- (b) BOA-17-29: **5705 SPANISH OAK DRIVE** Steven T. Hamm, Sr. requests variances for a swimming pool and a detached covered patio to be located in front of the front building line of the existing house. **Variance #1:** A proposed in-ground swimming pool (as well as the decking and equipment associated with the pool) is required to be located behind the principal structure (when viewed from a road or street). The pool is proposed to be located in front of the front building line of the existing dwelling. Section 30-8-11.9. **Variance #2:** A detached covered patio is proposed to 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. Present Zoning-R-3 (Residential Single-family), Cross Street - Stoney Glen Loop. **(GRANTED)**

Loray Averett stated that the applicant is requesting variances for: Variance #1: A proposed in-ground swimming pool (as well as the decking and equipment associated with the pool) is required to be located behind the principal structure (when viewed from a road or street). The pool is proposed to be located in front of the front building line of the existing dwelling. Variance #2: A detached covered patio is proposed to 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. The lot is located at the southeastern intersection of Stoney Glen Loop and Spanish Oak Drive. Tax records reflect the lot size is approximately 12,632 square feet. The existing house was originally built in 1984. In 1985, the Board of Adjustment granted a variance to the property for a rear encroachment, thus establishing the front and rear lot lines for the property. Even though the house is oriented to Spanish Oak Drive, for zoning purposes the front lot line was determined to be Stoney Glen Loop. This determination places the proposed pool and a proposed covered patio in front of the front building line of the house. Both structures will meet street setbacks adjacent to Stoney Glen Loop, which is a minimum of 25 feet. The applicant has shown that the entire proposed pool, decking and patio area will be enclosed with privacy fencing. The existing house was constructed deeper onto the lot which does not provide for detached structures in the remaining yard space, unless variances are considered. Corner lots may choose their orientation and address at the time of construction. The house is required to meet minimum front, side and rear setbacks. As mentioned in the previous BOA Case Minutes, the shorter lot line will typically be the front lot line. Once the front lot line is established, the other lot lines are more easily defined. 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.

Steve Hamm, the applicant, was sworn in and presented photographs and other information related to the property. He stated that he has lived in this house for 26 years. He also presented notarized documents from his neighbors who are in support of the request. There is a significant area on the lot that would be unusable because of the setback restrictions and a previous 1985 BOA ruling that determined the front and rear setbacks. His neighbors have also lived in this area for a very long. The pool would provide low impact exercise for his wife and he has grandchildren that are looking forward to enjoying the pool. He pointed out that the neighbors had the signatures notarized, he did not do that on his own.

There being no one speaking in opposition, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would not cause any hardship or harm to the area. All the affected neighbors have provided support of the request.

Ms. Williams moved that in regard to BOA-17-29, 5705 Spanish Oak Drive, that the findings of fact for both variances 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 applicant would not be able to construct a swimming pool or the covered patio structure. 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 corner lot is oriented so that the a pre-determined side yard is larger than the pre-determined rear yard. The house was constructed deeper into the lot which would not allow for detached structures in the remaining yard space. The hardship is not the result of the applicant's own actions because the applicant purchased the property after the house was built and is not responsible for the placement of the house or the designation of which property line is the front on this corner 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 it allows the property owner to use the property for its highest and best use, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Williams, Waddell, Eckard, Blackstock. Nays: None.)

- (b) BOA-17-30: **605 WOODLAND DRIVE** James and Marianne Bennett request a variance from the requirement that utilities to detached accessory buildings be provided by branching service from the principal building. **Variance:** The applicant is proposing to have a single electrical meter on a recently constructed detached accessory garage. This meter will service both the principal structure and the garage. Section 30-8-11.1(G), Present Zoning-R-3 (Residential Single-family), Cross Street-Dover Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance to place a meter on a detached garage. There will only be one meter and the service will be branched in reverse, from the detached garage to the house. The property is located on the south side of Woodland Drive, north of Dover Road and is zoned R-3 (Residential Single Family). The applicant's lot is rectangular shaped. The lot contains approximately 17,500 square feet. The house footprint on the ground contains approximately 2,160 square feet. The garage dimensions are 27 feet x 40 feet and contain 1,080 square feet. The lot is developed with existing infrastructure consisting of the dwelling, a detached accessory garage, driveway, landscape features, fencing, vegetative growth and trees. The lot is heavily landscaped along the sides and rear of the property. The proposed meter will be located on the back of the detached garage and will connect to a power pole located at the rear of the subject site. The photo exhibits show the power line and power poles in reference to the existing lines and pole locations at the rear of the property behind the applicant's recently constructed garage. This meter is also proposed to be used to branch service to the principal dwelling. Exhibit 5 contains summary minutes for the variance that was heard on January 23, 2017. That variance was granted for building side and rear setback encroachments. The applicant was unaware at the time that the electrical would have to be reevaluated to best serve the entire property. The R-3 Residential Single-Family District is primarily intended to accommodate low-density single-family 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.

Marianne Bennett, the property owner, was sworn in and stated that the hardship comes if they have to abide by the Ordinance and there would be a loss of several mature trees that would have to come down to allow Duke Power to have access at the rear of the yard. This is an old neighborhood with old trees and they would like to preserve those trees if possible. She presented letters from two of her neighbors showing their support of the request. Her contractor, Keith Smith, is also available to answer any questions Board members may have.

There being no one speaking in opposition, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would not cause any issues with the mature trees behind the house. The affected neighbors have provided support of the request.

Mr. Waddell moved that in regard to BOA-17-30, 605 Woodland 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 hardship will result to the property by applying strict application of the Ordinance because the most reasonable place to power the property is from the attached garage. 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 constructed in 1930 and service poles to the rear of the property may be difficult to access. The hardship is not the result of the applicant's own actions because compliance with the Ordinance will cause unnecessary destruction of existing and mature trees. 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 intent is to preserve the property in its actuality and no harm will come to the public and this design would be safer and more efficient, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Williams, Waddell, Eckard, Blackstock. Nays: None.)

- (d) BOA-17-31: **504 STATE STREET** Salem Thacker, Attorney for State Street Tennis Corporation requests a variance from the minimum street setback. Variance: A proposed addition to the front of an existing building will encroach 15 feet into a 15-foot street setback adjacent to State Street. Section 30-7-5.1 Table 7-14, Present Zoning-C-M (Commercial-Medium), Cross Street-Palm Street. **(GRANTED)**

Loray Averett stated that the applicant represented by Counsel Salem Thacker is requesting a variance for a proposed addition to the front of an existing building. The addition will encroach 15 feet into a 15-foot street setback adjacent to State Street. The property is located at the southeastern intersection of Palm Street and State Street. The property is a corner lot with the front orientation facing State Street. The tax record reflects the original building was constructed in 1969. The existing building is located 10 feet from the front property line. It contains 8,640 square feet. The proposed addition will be located adjacent to State Street. The drawing reflects the addition will be 10 feet by 36 feet and will contain 360 square feet. The proposed additional area is planned for a taproom/tasting room for a planned microbrewery operation. The property is unique in shape. The width of the property along the State Street frontage is greater than the depth of the property. The change in use plan for the property will require staff reviews through the City's Development Services Division. The commercial medium zoning 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.

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

Bruce Cantrell, Architect for the applicant, stated that Mark Gibb is his client, who plans to purchase the property. He presented some visuals of the property indicating the plans for the project. This area is one of the best pedestrian shopping areas in Greensboro. The metal building located on the property was built as a private tennis court. During renovations of the building to change it to the proposed micro-brewery, the scale needs to be changed to make it more inviting. This is a unique shaped property as State Street curves around going toward Church Street. They wish to add 10 feet to the building to make it more accessible for the proposed use. This would be in harmony with other businesses on State Street. Although there will be the loss of a few trees along State Street, there is a beautiful grove of trees to the east of the property and create a really nice outdoor environment.

There being no one speaking in opposition, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would be an addition to other businesses in the area. Ms. Skenes moved that in regard to BOA-17-31, 504 State Street, 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 applicant would not be able to expand this business. The irregular shaped lot and placement of the existing building dictates that the expansion needs to be in the front of the property. 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 is irregular in shape and the existing building was constructed several years ago 10 feet from the front property line. The hardship is not the result of the applicant's own actions because they did not build the existing building. 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 elimination of the front setback would allow the applicant to expand the business and will create pedestrian-friendly frontage along State Street, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Williams, Waddell, Eckard, Blackstock. Nays: None.)

- (e) BOA-17-32: **2219 WEST FRIENDLY AVENUE** Tammy D. Lee requests a variance from the requirement that utilities to detached accessory buildings be provided by branching service from the principal building. **Variance:** The applicant is proposing to have a separate electrical meter for a recently constructed detached garage. Section 30-8-11.1(G), Present Zoning-R-5, (Residential Single-family), Cross Street-West Greenway Drive North. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance from the requirement that utilities to detached accessory buildings be provided by branching services from the principal building. The applicant is proposing to locate a separate electrical meter on a recently permitted detached accessory garage. The property is located on the south side of West Friendly Avenue, west of West Greenway Drive North and is zoned R-5 (Residential Single Family). Tax records indicate the house was originally constructed in 1941. The survey shows the lot contains 18,000 square feet. The R-5 zoning district requires 7,000 square feet in area for each lot. The property consists of two 9,000 square feet lots that were combined by deed into one lot. The property contains a 1.5 story dwelling. The house is located centered on the lot and the recently constructed accessory garage is built behind the house closer to the rear lot line. Exhibit 4 shows that on June 1, 2017, the applicant applied for and received a permit to construct a 24x25-foot detached accessory garage. The location for the detached garage is 6 feet from the north (rear) property line. The property is developed with infrastructure consisting of the home, driveway, fencing, landscaping and trees. There are existing areas of development located between the house and the recently constructed garage. The applicant has mentioned that there is a power supply location for the building that will be best served from a power pole located at the north property line a few feet from the detached building. The applicant is aware that the detached building must serve the property as a personal use accessory building. 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 on this matter.

Tammy Lee, the applicant, stated that the biggest issue is cutting through a lot of concrete to get to the back of the property and the structure to the rear. Duke Power has looked at this proposed project and they agree that this would be the best solution for this project.

There being no one speaking in opposition, the public hearing was closed.

Board Discussion:

The Board members all stated that they would support this request as it would not cause any issues to other property owners in the area.

Ms. Blackstock moved that in regard to BOA-17-32, 2219 West Friendly 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 if the applicant complies with the Ordinance, a separate meter would not be allowed. 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 detached garage is located to the rear of the lot, adjacent to the rear lot line and power lines. The hardship is not the result of the applicant's own actions because there is concrete that exists in the infrastructure on the lot which creates the hardship to connect to the house power meter. 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 intent is to preserve the spirit of the Ordinance and if the variance is granted no harm will come to the public, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Truby, Williams, Waddell, Eckard, Blackstock. Nays: None.)

OTHER BUSINESS

Loray Averett stated that nominations for Chair and Vice Chair will take place during the August 28, 2017 meeting.

Mike Kirkman stated that staff met with TREBIC Homebuilders Association, as well as members of the Neighborhood Congress to talk about front porch encroachments related to the front setbacks. They feel they have the framework together for making some allowances for additional encroachments for covered, open-air porches. Their plans will be going through the public hearing process in the very near future.

Mr. Truby stated he would like to thank Ms. Averett and recognizes the public reliance in her position is a compliment to her and the role she serves in the Board of Adjustment process.

Ms. Skenes asked that some curtains or some kind of something that would help with the echo in the room as it is difficult to hear speakers and there is a glare on the monitors. Staff agreed to pass the concerns on.

ACKNOWLEDGEMENT OF ABSENCES

None.

There being no further business before the Board, the meeting adjourned at 7:33 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT**

AUGUST 28, 2017

The regular meeting of the Greensboro Board of Adjustment was held on Monday August 28, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Laura Blackstock, Chuck Truby, Patti Eckard, Enyonam Williams, James Waddell and Mary Skenes. Representing the Planning Department staff was Loray Averett, Mike Kirkman; 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

Mr. Waddell moved approval of the July 24, 2017 meeting minutes, as written, seconded by Ms. Eckard. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Waddell. Nays: None.)

SWEARING IN OF STAFF

Loray Averett and Mike Kirkman were sworn in for their testimony in the following cases.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that BOA-17-27 has been withdrawn from the agenda. No Board action is required.

OLD BUSINESS

APPEAL OF A NOTICE OF VIOLATION

- (a) BOA-17-27: **421 EUGENE COURT** Allan Blackwell, Attorney for Free U Bail Bonds, Inc. (tenant) and James and Carolyn Steed, (property owners), appeal a Notice of Violation concerning ordinance requirements which regulates wall signs. The applicant did not obtain required sign permits for the wall signage currently located on the building. This request was continued from the July 24, 2017 meeting. Section 30-14-7 & Table 14-3, Present Zoning-CB (Central Business), Cross Street – West McGee Street. **(WITHDRAWN)**

NEW BUSINESS

VARIANCE

- (a) BOA-17-33: **602 MEADOWOOD STREET** Ada M. Castro requests a variance from a required average front setback. **Variance:** A proposed front addition will encroach 6.12 feet into a required average front setback of approximately 84.87 feet. The addition is proposed to be constructed 78.75 feet from the front property line. Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street – Sagebrush Trail. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed front addition which will encroach 6.12 feet into a required average front setback of approximately 84.87 feet. The addition will be setback 78.75 feet from the front property line. The property is located on the west side of Meadowood Street north of Sagebrush Trail. The survey reflects the lot size is approximately 25,264 square feet. The lot is rectangular in shape with the exception of an angled portion of a side lot line. The house was originally built in 1963. The existing house is located approximately 84.75 feet from the front property line. The applicant is proposing to construct a front addition consisting of enlarging a bedroom, living space, front foyer and porch area. The addition will be 6 feet by 49 feet for a total area of 294 square feet. There were two houses in this portion of the block that have the same orientation to Meadowood Street. They are the subject site and the house located at 600 Meadowood Street. The house at 600 Meadowood Street is setback approximately 85 feet. This house and the subject site's combined setbacks averaged 84.87 feet. Effective April 4, 2014 infill standards for residential front setbacks were implemented. Prior to that implementation, the front setback for the R-3 zoning district was 25 feet. The applicant is requesting to be allowed to construct a front addition which will be 78.75 feet from the front property line instead of the averaged setback of 84.87 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 on this matter.

Ada Castro, 602 Meadowood Street, stated that when she first purchased the house in 2011, and it is a very small single family house. She only had 2 children at that time and now she has 4 children and she needs more space within the house as well as some updates. She likes this neighborhood and the children like the school they go to and she does not want to move. The neighbors do not have any objection to this addition and renovation at the property.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

All the Board members stated their intention to support the request for the proposed addition. Ms. Eckard moved that in regard to BOA-17-33, 602 Meadowood Street, 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 if the applicant complies, current setback requirements prohibit the 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 addition will be 6 feet in size and would allow the updating of the house built in 1963, according to the setback ordinance in effect at that time. The hardship is not the result of the applicant's own actions because the setback will be 78 feet when the current setback is 84.87-foot setback. 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 will allow for updating of the house and will be in harmony with the general purpose and intent of the ordinance and preserves the spirit and assures public safety and welfare along with maintaining property values, seconded by Ms. Blackstock. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- (b) BOA-17-34: **1001 GREENHAVEN DRIVE** Sterling Nicholson, Trustee President for Southside Baptist Church requests variances for a freestanding identification sign. **Variance #1:** An existing sign which is proposed to be redesigned will exceed an allowable square footage of 50 square feet by 50 square feet for a total sign area of 100 square feet. Table 14-2 and Section 30-14-16.1(C). **Variance #2:** A proposed electronic message board being added to the sign requires a hold time of 6 hours between messages. The applicant is requesting to reduce the hold time to 1 minute. Section 30-14-8.1 (Table 14-4). Present Zoning-R-5 (Residential Single-family), Cross Street - Rehobeth Church Road. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a re-design of an existing freestanding identification sign which exceeds the maximum area of 50 square feet by 50 feet square feet and for the hold time on the portion of the proposed electronic message board to be reduced from six hours to one minute. The property is located on the south side of Greenhaven Drive and Business 85 South east of Rehobeth Church Road and is zoned R-5 (Residential Single-family). The site contains approximately 6.31 acres. The applicant is proposing to re-design an existing freestanding identification sign, which exceeds the maximum area of 50 square feet by 50 square feet. The multi-faced sign already exists and the applicant is proposing to re-design and modernize the sign. The parallel separation exceeds 30 degrees of separation; therefore, each panel is counted as sign area. The R-3 (Residential Single-family) zoning district permits freestanding signs for each zoned lot to be 6 feet tall and contain 50 square feet. This sign has two panels exceeding 30 degrees of parallel separation and has been calculated to contain 100 square feet. The sign will use the same base and be located in the same location. Greenhaven Drive fronts along a major thoroughfare which is Business 85 North and South. The applicant is proposing to add in an electronic message board as part of the sign function. In the residential district the message board is required to hold the message for 6 hours. The applicant would like to reduce this time to one minute, which is the same for the non-residential uses and the non-residential zoning districts along this portion of Greenhaven Drive. The properties located east of the subject site contain a vacant lot, commercial hotel use and a funeral service business. 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. 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 foundation in the same location as the previous sign. The sign height will remain the same as the previous sign. Staff will note that there is a freestanding pole sign located in the northwest section of the subject site. The applicant will remove this sign from the property. 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 on this matter.

Glen Clark, Clark Sign Corporation, 1150 Main Street, Archdale, NC, stated that they have been contracted to remove the existing sign and construct a new sign for Southside Baptist Church. The variance is needed because the existing sign is V-shaped and exceeds 30 degrees in panel separation. The parallel separation is actually 60 degrees when measured. They are allowed 50 square feet of signage and realized that there were problems with the shape and dimensions of the original sign. The height of the proposed new sign will not increase. The original structure is very sound and very intact so they intend to use that base for the proposed new sign. They also wish to modernize the sign with changeable electronic messaging within the new sign on a more frequent basis. The property is near the highway and there is no residential property in front of the sign location, so everything is behind the church and anyone viewing the sign would not be impacted by the lighting from the sign. He produced a drawing and photograph of the proposed sign, to update it and bring it up to modern conditions.

Sterling Nicholson, 103 Sagewood Road, Jamestown, NC, stated that he supports this request.

Pastor Howard McNeil, 110 Clydesdale Drive, Archdale, NC, stated that they want to update their sign to have more communication with the community as a whole. They feel that updating the sign would enable them to have more communication. They will also remove the existing pole sign that is on the property. The electronic messaging will allow them to promote services and times, and events that are going on within the church. It would also allow them to inform the public if there is a weather alert such as a tornado or flash flood warning, or amber and silver alerts when necessary, as well as any other notifications for the neighborhood. There are a lot of benefits that could be made available to the community with the use of this type of sign.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this proposed signage would not be intrusive to the surrounding neighborhood.

Ms. Williams moved that in regard to BOA-17-34, 1001 Greenhaven 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 hardship will result to the property by applying strict application of the ordinance because the if the variance is not granted the church would not be allowed to update and modernize their signage. With regard to variance #2, the church would not be allowed to add a changeable message board that changes at a reasonable time of 1 minute. 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 property faces a major interstate highway and is comprised of 6.31 acres. Also the property does not face a residential area. The hardship is not the result of the applicant's own actions because the church has been on this property for 30 years and needs to update the existing signage. 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 for a modernized sign to increase visibility to the community and allow for promotion of church programs, essentially allowing the church to use the property to the highest and best use, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- (c) BOA-17-35: **1705 SOUTH 40 DRIVE** Anna McLamb, Attorney for Tripp T. LLC requests a variance from the minimum spacing requirement that an indoor shooting range must maintain from residentially zoned property. **Variance:** The building for a proposed shooting range building is 119.48 feet from the nearest residentially zoned property, when no such establishment may be located within 200 hundred feet of residentially zoned property. Section 30-8-10.3(H), Present Zoning-CD-C-H (Conditional District-Commercial-Heavy). A proposed rezoning for this property to CD-C-M (Conditional District-Commercial-Medium) is scheduled to be heard at the August 21, 2017 Zoning Commission meeting. Cross Street-Koger Boulevard. **(GRANTED)**

Loray Averett stated that the applicant requests a variance from the minimum spacing requirement that an indoor shooting range must maintain from residentially zoned property. A proposed shooting range will be 119.48 feet from the nearest residentially zoned property, when no such establishment may be located within 200 feet of residentially zoned property. The spacing distance is measured from the building wall nearest the residentially zoned property line. The property is located on the western side of South 40 Drive north of Koger Boulevard and is currently zoned CD-C-H. There is a pending rezoning request from CD-C-H to CD-C-M which is scheduled to be heard at the August 21, 2017 zoning commission meeting. The property contains a building that was previously used for furniture showroom and sales. The Guilford County tax record indicates the building was constructed in 2006 and the property consists of 3.10 acres. The applicant is proposing to change the use to an indoor shooting range. Indoor shooting ranges are permitted with standards in the Commercial-Medium zoning district. The applicant is requesting a variance from a separation standard that a portion of a rear building wall is required to meet from the adjacent residentially zoned property. The spacing requirement is 200 feet from the nearest point of the building to the residential zoning using the shortest distance. The shortest distance measured is 119.48 feet. The rear lot line of the subject site is severely angled. The building setback varies due to the rear angle. The shorter distance is 119.48 feet and the greatest distance is 220 feet. There are also slope buffer easements along with drainage, maintenance and utility easements platted and required between the subject site and the adjacent residentially zoned property. The spacing requirement is not from building to building, but as part of the equation for consideration, staff will note that the indoor gun range building separation to the nearest residential multi-family building is approximately 338 feet. The subject site has driveway accesses from South 40 Drive. The parking and travel flow areas are located on the side and behind the building. If the variance is granted, the owner will be required to submit a change in use plan for the proposed use. The Development Services review points will provide reviews for compliance with additional standards. The C-M, Commercial-Medium District: 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 on this matter.

Anna McLamb, 9613 Cross Mill Place, Raleigh, NC, stated that she represents the applicant, Tripp T. LLC. The applicant's rezoning was approved a week ago by the Zoning Commission and assuming that no appeal is filed, then but for Section 30-8-10.3(H) requirement of a 200-foot separation between an indoor shooting range and existing residential, the applicant would be able to repurpose the existing big box store, currently a furniture showroom, and use it as an indoor shooting range. Because of the recently developed Thomas Estates apartments on the adjacent parcel and how that boundary is angled with respect to the existing store on the subject property, the store would sit just under 120 feet to the closest boundary with Thomas Estates, as shown on the survey that was submitted with the application. The hardship is peculiar to the property because of how sharply the property line angles toward the existing furniture store. Because the subject property adjoins another existing building, a Lowe's Home Improvement center, to redevelop the property in a way consistent with the separation requirement, would require demolition of this building and damage to a neighboring property. The building was constructed 11 years ago and the adjacent Thomas Estates property was only rezoned in 2015 and developed much more recently. She urged the Board to give consideration to granting the requested variance. They have reached out to the owners of the apartment complex and Lowe's Home Improvement Center and there have been no objection to the proposed development of this property for a shooting range.

Jeff Karfoe, 8401 Norpella Lane, Raleigh, NC, stated that the proposed shooting range is a planned sister company to an already existing shooting range located in Raleigh, NC., Triangle Shooting Team. It took them over 4 years to put that facility together and they have researched the entire industry and feel that this will be a state-of-the-art form. He presented photographs of the inside and outside of the existing facility. This is a place where people come for enjoyment and education. There are classes that cover everything from basic firearm skills, basic for women only, youth classes teaching gun safety, and also offer conceal to carry classes and other classes to help the community. They also serve the federal government by the EPA, who certified 150 officers there and the largest women's group in NC with 140 members, and growing weekly. NC State University has recently asked them to be the home of their practice for their Rifle Team. In regard to construction, this is a building within a building, which offers more noise reduction. They are excited to begin the construction and move forward with their plans. There will be opportunities for part-time and full-time positions made available with the new facility.

Matt Robinson, 1209 Duncreek Crossing, Wake Forest, NC, stated that he met with the General Manager of Lowe's Home Improvement center and in an effort to be a good neighbor they reached out to them and he met with Daniel Koury, the store manager and there was no opposition to their plans for the shooting range. There are re-enforced concrete walls and ceilings so there is no danger of any bullets penetrating and escaping the area.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this proposed development of the property as a shooting range would not be intrusive to the surrounding neighborhood.

Ms. Skenes moved that in regard to BOA-17-35, 1705 South 40 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 hardship will result to the property by applying strict application of the ordinance because the property cannot be used as the proposed indoor shooting range. 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 rear property line angles which significantly reduces the distance to the residentially zoned property on the right rear corner to 119 feet rather than the required 200 feet. The hardship is not the result of the applicant's own actions because the building was constructed in 2006 and the applicant wants to repurpose the existing building. In addition, this building adjoins another existing building. 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 building will be reused and occupied, in addition, the building will be repurposed with additional insulation and sound-proofing and the closest residential building will be 338 feet from the rear corner of this building, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- (d) BOA-17-36: **2513 ASTER DRIVE** Latarsha Baker requests a variance from a required rear setback. **Variance:** A proposed house addition will encroach 7.3 feet into a required 20-foot rear setback. The addition will be 12.7 feet from the rear property line. Present Zoning-R-5 (Residential Single-family), Table 7-2, Cross Street – McConnell Road. **(WITHDRAWN)**

Loray Averett stated that the applicant is requesting a variance for a proposed attached addition to a single-family dwelling which will encroach 7.3 feet into a 20-foot rear setback. The property is located on the north side of Aster Drive 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 1973. The lot contains approximately 8,276 square feet. The lot is oddly shaped containing more width than depth. In July 2017, the applicant was approved for a permit to construct an addition that stopped 7.3 feet short of the length of the house. This allowed the addition to meet the rear 20-foot setback and to gain approval for a building permit. The applicant is now proposing to extend the addition to the depth of the existing house.

The applicant determined that the addition would be more in character if it was in line with the wall of the house in its entirety and filed for a variance for the addition to be allowed to encroach into the rear setback. The applicant will maintain the same setback as the existing house. The existing house is nonconforming because it does not meet the 20-foot rear setback requirement. City records show the property was annexed into the City limits in July 1957. The plat was recorded in 1973, the same year the house was constructed. The house was constructed 12.7 feet from the rear lot line. The zoning was Residential 75S at that time and the rear setback was 25 feet. Staff looked at the variance records for the time period and no variances are on record for this property or the other two lots that also have houses built very close to the rear. Both of those lots were built on in 1969 and 1973 and were also required to be 25 feet from the rear. Since the properties were built out 44 to 48 years ago, there are no permits on record. During that particular time frame, the residential permit process was completed through the Building Inspectors office. The Zoning and Ordinances from 1969 through June 30, 1992 required the Residential 75S zoning district to provide a 25-foot rear setback. In 1992, the zoning district names were changed and the Unified Development Ordinance was adopted. The subject site was renamed to RS-7 and had a 20-foot rear setback requirement. In 2010, with the adoption of Land Development Ordinance, the subject was renamed to R-5 and retained the 20-foot rear setback requirement. Ordinance changes through the years has helped to reduce this non-conformity encroachment. 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. The footing/foundation was installed when staff was present on the property on August 10, 2017. The contractor made mention that he would remove the rear addition portion of the footing/foundation until the variance is heard and reapply for that permit if the variance is granted. On August 14, 2017 I received an email from the City's Building inspector that the footing/foundation portion that was not covered by the original permit has been removed.

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

Latarsha Baker, the applicant, stated that she purchased the house in 2011 in the neighborhood that she grew up in, right across the street from her mother. This is a small house and she has 3 children and it is an older house and she wants to modernize the house and upgrade it a little bit and make the community look better. This would give her and the children more room.

Billy Graham, G&G Properties, 304 Grant Street, contractor for the applicant, stated that he needs a variance for 9 feet 4 inches. The application was filled out incorrectly instead of the stated 7.3 feet. He has ordered a free-standing truss for the addition, which is 9.4 so he can put the exterior wall there and the footing.

Loray Averett stated that this would have to be re-advertised to be able to move forward. The Board cannot hear a case for additional increased variance without it being re-advertised. If it were less, then it could move forward.

Therefore, Ms. Baker asked that this item be withdrawn to allow the contractor to obtain more information. No motion was necessary for the withdrawal.

OTHER BUSINESS

(a) Board Members Terms and Elections

Mr. Truby nominated Ms. Hayworth to continue as Chair of the Board of Adjustment. The Board members voted unanimously in favor of the nomination.

Mr. Truby nominated that Ms. Williams continue as Vice Chair of the Board of Adjustment. The Board members voted unanimously in favor of the nomination.

In response to questions about an alternate position for the Board, Mike Kirkman stated that Council has been made aware of this need and staff is waiting to obtain an update from City Council.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

There being no further business before the Board, the meeting ended at 7:24 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
SEPTEMBER 25, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday September 25, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Laura Blackstock, Chuck Truby, Patti Eckard, Enyonam Williams, James Waddell and Mary Skenes. Representing the Planning Department staff was Loray Averett, Lucas Carter; City Attorney's Office - Andrew Kelly and Teri Jones; City Collections - Richard Hawk; and Police Division - Officer A.W. Aquilina.

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 28, 2017 meeting minutes, as written, seconded by Ms. Williams. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Waddell. Nays: None.)

SWEARING IN OF STAFF

Loray Averett, Lucas Carter, Richard Hawk and Officer Aquilina were sworn in for their testimony in the following cases.

CONTINUANCES/WITHDRAWALS

Loray Averett stated that the applicant in the matter of BOA-17-37 at 4401-106 West Wendover Avenue has submitted a written request that this matter be continued to the November 27, 2017 meeting.

Robert Benson, attorney representing the applicant, CY International Corporation, stated that he was recently hired by his client and has not had time to fully prepare his case. They have received Revocation of their business permit and an appeal has been filed for CY-International. He pointed out that no one has been convicted of any criminal or other violations. He is aware that the criminal matter is set for November 22, 2017. At this time, he does not know whether it will be heard on that date or not and he does not represent any of the defendants in the criminal matter. He is asking that this matter be continued to the November 27, 2017 meeting, which would be after the date of the criminal case and he would have had time to review the State's evidence. In response to questions, he stated that he has not seen a Police Investigative Report to date.

Counsel Terri Jones, Deputy City Attorney, stated that she represents City staff in this appeal. With a business permit revocation, as soon as the appeal is filed, it stays the enforcement action of the revocation,

so the business may remain open until the conclusion of the Board of Adjustment's and any potential Superior Court action after that. As Mr. Benson stated, the City's Ordinance Standard does not require a conviction, it requires the City to show that the City Manager's designee, Mr. Hawk, determines that activity that is unlawful or prohibited under State law occurred on the premises of the massage establishment. While she understands his request for the continuance, she cannot, on behalf of the City, join in that request as it is up to the Board's discretion. The City is prepared to go forward today.

Ms. Skenes asked if all the paperwork and the arrest report, the investigation report, has already been entered into evidence? Counsel Andrew Kelly stated that copies of all the paperwork has been made available to Mr. Benson. Mr. Benson stated that he received those copies last Wednesday so he has not had time to go over this information, speak with his client, at length, to try and get their case information together. Counsel Jones stated that for criminal cases like this the public record may not be complete, especially in a case like this, there is going to be a report that is not public record and has all the details of the prostitution charges, and so that may be what Mr. Benson has. Mr. Benson stated that he does not see any harm to the City by having this case postponed and/or continued to the November meeting.

Mr. Truby stated that he is torn on this one because there are a lot of facts that are not known and the business is still in operation during the proceedings. The lady involved has not been proven guilty of anything and it appears that the attorney is not prepared and has not done the case work that he needs to do to promote a defense. He does not think the Board can assume that she is guilty of the charges.

Counsel Kelly stated that a criminal conviction is not necessary for the City to go forward with respect to this particular case. Counsel Jones stated that the City is not in control of the criminal process and the business may remain open during the pending time it is continued. Chair Hayworth stated that she has a problem with the business remaining open during the process. She feels that it may be important to hear what the Police Officer has to say and go ahead with the case. Ms. Skenes stated that her concern that, apparently, this is the second incident that happened within 3 ½ months, because of the arrest in April and then again in August. The Board has been given that information and feels that it becomes pertinent knowledge. Counsel Jones stated that there are two charges, one from April and the other from August and the Tax Collector was not informed of the April incident until August. The April incident has not yet gone for trial. It is her understanding that she was charged on August 9th for both incidents.

After a lengthy discussion, Mr. Truby moved to continue the matter to the November meeting, seconded by Ms. Williams. **The Board voted 3-4 and it was determined that this matter would go forward and be heard at today's hearings.** (Ayes: Truby, Skenes and Williams, Nays: Waddell, Hayworth, Blackstock and Eckard.)

NEW BUSINESS

APPEAL OF A NOTICE OF REVOCATION OF A GREENSBORO BUSINESS PERMIT

- (a) **BOA-17-37: 4401-105 WEST WENDOVER AVENUE** Robert A. Benson, Attorney at Law, on behalf of CY-International Corporation, T/A Oriental Massage, appeals a Notice of Revocation by the City Tax Collector of the Business Permit for Oriental Massage. The business is licensed for Personal Service Massage Therapists. However, it was determined the business operates in violation of Section 13-48 of the City Code of Ordinances, specifically that massage therapists may not engage in any activity which is prohibited or unlawful under state law. Present Zoning-CM (Commercial Medium), Cross Street – Stanley Road **(REVOCATION UPHELD)**

Loray Averett stated that the applicant, through attorney appeals the revocation of a business permit for Oriental Massage. The business is licensed for Personal Service Massage Therapists. However, it was determined the business operates in violation of Section 13-48 of the City Code of Ordinances, specifically that massage therapists may not engage in any activity which is prohibited or unlawful under state law. The property is located at the southwestern intersection of West Wendover Avenue and Stanley Road and is zoned CM (Commercial Medium). Massage Therapist are permitted in the CM zoning district with regards to the Land Development Ordinance including specific language that defines when any massage establishment is expressly prohibited as described in the Ordinance reference section as described above. City records reflect that on or around August 19, 2015, the applicant was approved through the business permit process to operate a massage therapy business at the subject site. Since that date, there have been recurring inspections with follow up comments. On August 9, 2017, staff received a complaint concerning illegal activity at this location and the business owner was issued a revocation letter to discontinue business operations. On August 16, 2017, the applicant through Counsel appealed the decision of the Deputy Tax Collector. The CM, 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.

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

Counsel Jones, Deputy City Attorney, stated that she has as a witness, the Deputy Tax Collector, Richard Hawk who is the City's designee with respect to business permits and privilege licenses. They will also hear from Officer Adam Aquilina, who is present to give testimony during questioning today. The relevant standard for this revocation hearing is found in Section 13-48 and is Exhibit 5, "If it shall be made to appear to the City Manager or his designee and the City Manager or his designee shall determine that any licensee is conducting or desires to conduct a business activity pursuant to the privilege license which activity is prohibited or unlawful under State law, or would be in violation of any provision of Chapter 30 with respect to permitted or prohibited uses or any significant provisions of the building regulations affecting public safety. . ." and 2) "In the case of a licensee, notify the licensee in writing that the license is revoked with a statement of the facts which provide a basis thereof." In the continuation request, a timely appeal was filed by the proprietor of this business known as CY-International Corporation, trading as Oriental Massage, specifically the principal, Charlotte Koh. If Mr. Benson does not have an opening, she can proceed with the first witness.

Mr. Bensen stated that he wanted to make sure that his objection is logged to holding this hearing at this point in time as there has not been sufficient notice to prepare the case.

Richard Hawk, Deputy Tax Collector, responded to questions posed by Counsel Jones by stating that he has been employed by the City of Greensboro for a little over four years. His job responsibilities include his being Assistant Manager of the Collections Division and the Deputy Tax Collector and he manages and supervises daily operations and staff for the Payment Processing Section and also the Business Permit and Business License Section. He is the City Manager's designee with respect to business permits and privilege licenses. He is familiar with the business known as CY-International Corporation and a business permit was issued to that company in the trade name of Oriental Massage. The owner and operator of Oriental Massage is Ms. Charlotte Koh. The business permit is attached to the staff report as Exhibit 3. The business permit covers a massage business within the City of Greensboro. The massage establishments in the City must have zoning and fire department approval, any of the therapists employed must have a North Carolina massage license issued by the NC State Board of Massage and Body Work Therapy, the business must conduct and complete a background application, operating a massage business in Greensboro as well as provide a list of any therapists there performing massage at the location and they have to include a NC issued DOB Identification number, as well as a copy of their current State of NC Board Massage License. In addition to that, there are questions that are asked on the background application, as well as general bookkeeping and paper keeping that would have to be submitted. These documents are attached to the application as Exhibits 5, 6 and 8. The State of North Carolina regulates massage and the State regulations are also attached as Exhibit 7. He is familiar with NC General Statute Section 90-623(d)4, with respect to massage and sexual activity. The practice of massage and body work therapy does not include sexual activity and that is specifically prohibited under State law. A Revocation letter was issued on the basis that CY-International Corporation, d/b/a Oriental Massage at 4401-106 West Wendover Avenue was conducting business activity that was prohibited and/or unlawful under State law. He relied upon a report received by the Greensboro Police Department that there was illegal activity within the business and that the owner, Charlotte Koh, had been arrested on August 9th, for prostitution. Section 13-48 of the City's Code of Ordinances governs revocation of business permits and privilege licenses. That Section does not require a conviction in order to revoke a business permit. Under that Section, he, as the City Manager's designee, if he determines that the licensee is conducting or desires to conduct a business activity which is prohibited or unlawful under State law, he is required to revoke the permit. In that case, he does not have discretion as to whether to revoke the permit or when to revoke the permit. Prostitution is prohibited and/or unlawful under NC State law. If the Board of Adjustment upholds the revocation, a massage establishment cannot be operated at 4401-106 West Wendover Avenue. No similar use as a massage therapist can be conducted at the property or would be allowed during the period of revocation or for six months afterwards. After that time, someone could apply to open a massage therapy establishment at that location.

Mr. Benson then asked Mr. Hawk what the Notice of Revocation said. Mr. Hawk read the Revocation Notice into the record. "Police identified illegal activity on site. Violation of Section 14-5 of the Greensboro Code of Ordinances." In response to further questions posed by Mr. Benson, Mr. Hawk stated that it does not state that anyone was charged with prostitution. According to this letter, Ms. Koh could not tell that she had been charged with prostitution and that would have been through the Greensboro Police Department who conducts the law there. Once he was informed that illegal activity happened on site, that is a violation of Chapter 14.5 of the Code of Ordinances. He was informed that Charlotte Koh had been arrested for prostitution. He does not have the full definition of prostitution in front of him at this time.

Counsel Jones asked in determining whether activity is prohibited or unlawful under State law, Mr. Hawk stated that he relies upon the Greensboro Police Department or a referring agency if there were other agencies involved, such as State agencies.

In response to follow-up questions posed by Mr. Benson, Mr. Hawk stated that he relies on the Greensboro Police Department to advise him if there is a violation or if there is illegal activity occurring at that business. He has not seen the Greensboro Police Department's full investigative report. He does not know whether Ms. Koh has seen the full investigative report.

Counsel Jones asked Officer Aquilina to come to the podium for questioning.

Officer A. W. Aquilina, Greensboro Police Department, stated in response to questions posed by Counsel Jones, that he has been with the City of Greensboro for about 8 years. His job responsibilities are: currently, he is assigned to CRT, Community Resource Team, and they are not patrol, they get assigned a wide range of different problems in the area, whether it is a robbery that is happening in the area, breaking and entering, vice, drugs and prostitution. He is familiar with the business known as Oriental Massage and Ms. Charlotte Koh because he was working undercover operation on April 25, 2017, and also August 9, 2017. He charged Ms. Koh with violation of State law for prostitution. He explained that there were two separate violations as he conducted an undercover operation on April 25, 2017 and during that time he got probable cause to charge with prostitution. During that time, his supervisors wanted him to surveille the business to follow where the money made was going at the time. Then they re-opened the case on August 9, 2017, and another undercover operation was held, and again, he got probable cause for the charge. During that time, Ms. Koh was given a written citation for both events which happened on April 25th and August 9th, 2017, which stated on the citation what the charges were for. Ms. Koh has violated the State law twice in the past year and prostitution is unlawful under State law. That information regarding Ms. Koh's charges were communicated to the City's Collection Division and Mr. Hawk was called that day by Detective Hollers and informed as to the charges against Ms. Koh. He reported to Detective Hollers that probable cause had been made for the charge of prostitution against Ms. Koh.

In response to a request to go into detail about the probable cause, Officer Aquilina stated that on April 25th, he was given a massage. He asked for a one-hour massage and also a shower table. During that time, she washed his entire body on the massage table and during that time she also washed his genital areas and buttocks. They finished that part and then went to the massage room and during that time, Ms. Koh massaged his back area, turned him over and asked if he wanted "more" by pointing to his genital area and during that time, he said, "Yes." and she walked over to the nightstand and put warming gel on her hands and proceeded to manipulate his penis. On April 25th, he told her to stop and she stopped. She asked for a tip and he gave her a tip. On August 9th, basically, it was the same details except during that time, he told her to stop and he alerted the arrest team that probable cause was made and they came in and detained Ms. Koh and she was arrested that day. When he has been involved with other massage establishments, sexual activity was offered to him on other occasions, but not all of them do.

Mr. Benson stated that Officer Aquilina had stated that Ms. Koh worked in the massage parlor and washing him down. Officer Aquilina stated that was correct. Mr. Benson asked if Ms. Koh had asked for any more money? Officer Aquilina stated that she did not. Mr. Benson stated that the allegations are that Officer Aquilina went for a massage, paid for and received a massage, and that Ms. Koh also washed his genitals. Officer Aquilina responded to further questions posed by Mr. Benson that he went to the establishment on April 25th and again on August 9th. He went back a second time because his Supervisors wanted a current probable cause for the charge. There was an initial charge on April 25th of \$80.00, including the shower table and the second time in August, it was \$80.00 for the massage and \$20.00 for the shower table.

Ms. Eckard asked if there was enough evidence at the April 25th incident to be considered probable cause on that date and why was there no charge filed on that date? Officer Aquilina stated that they could have charged her that day, but the Supervisors wanted to follow the money to see who picked up the money and who her boss was. Mr. Waddell asked if there were any other employees at the establishment and Officer Aquilina stated that she was by herself on both occasions. He feels that she does not have any employees, other than herself. He stated that this situation came to light through an anonymous complaint. Chair Hayworth asked if Officer Aquilina would go to these types of establishments multiple times to see if there is a pattern to these activities, and Officer Aquilina stated that usually go a few times. Ms. Blackstock asked Officer Aquilina to explain what happened again and he stated that Ms. Koh had pointed to his genitals and asked if he wanted, "more?" and the second time she asked him again, if he wanted "more", while pointing to his genitals. Ms. Eckard asked if there was suspicion that there were other illegal activities going on besides prostitution, like money laundering or something else, like the sex trade? Officer Aquilina stated that especially after the property was searched for evidence, they found the money trail. She made approximately \$28,000 per month and deposited \$28,000 per month. There is the possibility that there is some money laundering going on at the establishment.

Mr. Benson stated that he once again objects to the line of questioning and also the statement that there might be money laundering, as that has not been brought up previously in prior discussions or questions. Mr. Benson asked Officer Aquilina if they actually had sexual intercourse, and Officer Aquilina stated that they had sexual contact, which is also included in prostitution. When they went from the shower table to the massage room, after she did the massage and had him turn over on his back, she asked if he wanted "more" pointing to his genitals, she went to the nightstand and got the warming gel and put it on her hands and manipulated his penis in an up and down motion. That is the sexual contact.

Mr. Benson requested again, that the Board consider waiting for a final determination on this matter until November. He would like to make that a motion. Counsel Jones stated that she opposes that motion as there is no criminal standard of a conviction that makes a lesser burden and the burden is on the appellant to show that the City Manager's designee erred in his determination. There is ample evidence that has been presented to show that there was some type of unlawful or prohibited activity that occurred in the establishment.

Counsel Kelly stated that Mr. Benson's motion could be noted for the record.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

Ms. Eckard stated that she is inclined to uphold the decision as she feels there has been enough information provided to support the City's decision to revoke the business permit. She sometimes feels that people do not take this Board serious enough or the City Ordinances and she is concerned about the business being open the whole time during the process of this case and the criminal case which could take a very long time. Ms. Blackstock stated that she also would uphold the City's decision. Ms. Williams, Ms. Skenes and Mr. Waddell also stated that they would uphold the Revocation Notice. Mr. Truby stated that he is struggling with this one as in this country you are supposed to be innocent until proven guilty. He, personally, has not seen enough evidence even though he respects what the Police Office said, but he wishes there was some way to reverse the revocation if she is found to be not guilty.

Mr. Truby moved that in regard to BOA-17-37, 4401-106 West Wendover Avenue, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the Revocation of a Greensboro Business Permit be upheld based on the following: the Board accepts the testimony as true, based on the information provided by the Police Officer. The property located at 4401-105 West Wendover Avenue is within the corporate limits of Greensboro and subject to its jurisdiction and the application of its Ordinances. At the time the Revocation Notice was issued, a licensing requirement concerning the business did not meet the requirements to maintain a specific license for the specified address as defined in the Code of Ordinances. The City Tax Collector official did correctly interpret and apply the terms of the Ordinance and determined that the business was in violation of the Code of Ordinances and the approved privilege license as filed by the Appellant. The greater weight of the evidence presented shows that the Appellant's business does not comply with the Ordinance standards as supported in staff's exhibits with the inclusion of the Greensboro Code of Ordinances, seconded by Ms. Eckard. The Board voted 7-0 to uphold the Enforcement Officer and the Revocation Notice. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- (a) **BOA-17-38: 421 EUGENE COURT** James and Carolyn Steed request a variance concerning the maximum area of allowable wall signage. Variance: An existing wall sign exceeds the allowable square footage of 78 square feet by 178 square feet. The existing wall sign is 256 square feet and is required to obtain a sign permit. Section 30-14-7.4 & Table 1403. Present Zoning CM (Central Business), Cross Street – West McGee Street. **(DENIED)**

Loray Averett stated that the applicant requests a variance for an existing wall sign to exceed the allowable size of 78 square feet by 178 square feet. The sign contains 256 square feet of sign area. The sign is required to obtain a sign permit. The property is located in a triangular wedge south of West McGhee Street between Eugene Court and South Eugene Street. The property is located in the Downtown District and contains a Bail Bonding Business. The tract contains approximately 4,000 square feet and is zoned CB (Central Business). On or around April 28, 2017, the owners were issued a Notice of Violation for installing wall signs, prior to obtaining sign permits. The applicant chose to move forth with a variance request concerning the size of one of the signs. The Building has three signs on the exterior elevations. One window sign is located near the front entrance and is not required to obtain a sign permit; another wall sign is located on the exterior wall adjacent to South Eugene Street and a third wall sign is located on the south wall elevation in the upper right corner. The window sign and the two wall signs all advertise for Free U Bail Bonding business as shown in the recent field photos. The two attached wall signs are required to obtain sign permits. The signs are required to be in conformance with wall signage requirements in accordance to the CB (Central Business) zoning district. The wall sign adjacent to the South Eugene Street elevation exceeds the allowable sign area permitted by the ordinance. 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 the request.

John D. Carter, 313 S. Greene Street, attorney representing the applicant, stated on August 25, 2017, they applied for a variance for these signs. This business has been in operation since 2010 and the same sign parameters has been there since that time. Ms. Williams, the owner of the business, hired a professional sign installer, in 2010, and they were the ones that made the sign. That original sign has been on the building for approximately 5 years and the wear and tear on the sign required a new sign to replace the old one, which was done in March 2015. Ms. Williams has never been notified by the City or the sign company that she was required to have a sign permit. They feel that a competitor made the initial complaint. When they filed the variance, there were certain requirements; the first was that the applicant complies with the provisions of the Ordinance and unnecessary hardship results from the strict application of the Ordinance and it should not be necessary to demonstrate that in the absence of the variance, no reasonable use can be made of the property. Their response is that there is unnecessary hardship is both professional and financial as a new sign would have to be purchased and changing it after 7 years could affect their business. The sign has become a trademark and is part of the business for advertisement and how they make their money. The hardship is located off a main intersection on a one-way street and the front of the building does not face the main street and the back is obstructed by the bridge. The building sits below a billboard, which is shown in one of the exhibits, and that billboard is as large or larger than the building, itself. Applying this Ordinance to the property will result in costly replacement of another sign within a two-year period. The construction of the building limits the remaining advertising office space on the remaining sides due to the location related to the bridge, which limits any kind of advertising except for that small portion of the building where the sign is indicated. At no point was Ms. Williams made aware by anyone that a permit was required. There is another sign adjacent to the subject sign, extended from a building that shows that there are these types of signs in this area. The sign creates no visual or hazardous distractions or conditions. The fact that it has been in place since 2010 without any complaints or incidents proves that it does not detract from the character of the neighborhood because prior to competitive business, there were no complaints. It is felt that this is a public service business and in no way jeopardizes public safety or welfare and the business is essential to the downtown area, working hand-in-hand with the local jail and the Court system. It is important to note that on the opposite side, where the small window is located with the very small sign, is a one-way street and the only entrance to that is from Eugene Court. So there is very limited advertisement on that side of the building.

Alan Blackwell, Partnering Attorney with Counsel Carter stated that he was available to help answer any questions posed by the Board members. In response to a question posed by Chair Hayworth, he stated that across the street there are other signs that are similar in size, if not bigger. There was nothing that created any type of hazard or condition that would make an impact on the community.

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

Johnny Tart, owner of the property at 425 Eugene Court, stated that he feels that the signs are out of character in the downtown area. He has owned the property since January of 2016 and prior to buying the property he met with the Planning Board to make sure he could build a Mixed Use three-story building on that property. He is currently in the process of obtaining a building permit and then construction will begin. He is opposed to the variance because he and some other people in the immediate neighborhood are going to make a substantial investment. He has concerns about the City being overgrown with oversized signage. He takes the City Ordinances seriously and is opposed to this request.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

Truby stated that although he feels for the applicant, the sign is over three times the size that is allowed. He feels that the sign is just too big so he would not support the variance. Chair Hayworth stated that she agrees with the gentleman in opposition only because, if this variance is granted tonight and another business comes back in the future and wants a bigger sign, this would set a precedence to allow larger signs than allowed. Ms. Williams stated that she leans toward granting the variance. There are so many signs in the area and billboards and curb side so it is not like the sign stands out more than any other signs in this particular area. It is true that the sign company is not responsible for telling people about the Ordinance and ignorance of the law is no excuse here. But the Board's job is to decide whether or not the rules are being broken, and in this case, she would be willing to grant the variance for that purpose because it has been in place for so long and it is not in an area where it takes away from any type of aesthetic and it does help promote local business in the area and that is the purpose of this sign.

Ms. Skenes stated that she was part of the sign committee when the LDO was adopted. There was a sign committee established for signs in general and for billboards. The billboard signs are regulated differently than regular commercial wall signs. There were several signs, during that time that were not allowed because they were just too big, as this one is. Just like a builder has to come in and get a permit to build a building and he knows that, the sign people know they have to get permits. She is confused about the excuse that the sign company did not know about this particular sign. She feels that it is their job to let their clients know when they want a sign that is just too big for the area. Other organizations have had to adjust their signs because they came in and asked before installing their sign. This sign is out of proportion for the size of the building where it is located.

Mr. Waddell stated that when he first looked at this case he was in favor of upholding the Ordinance, but in looking at the structure of the building and the large billboard near it, he could see that the billboard would be all that you see when driving by. There will be financial impact with the loss of business if people cannot see the sign. He will support the sign remaining as it currently is. Mr. Waddell stated that he is ready to make a motion.

Mr. Truby stated that the Board is allowed to put conditions on variances and asked if a time-line could be put on it and say that the sign must be removed by 2019 or something like that to give the applicant time to come up with a smaller sign? Counsel Kelly stated that, in general, conditions on a variance must be based on bringing the project or property into compliance with the standards set by the ordinance. What he thinks of is getting closer to compliance and maybe not necessarily a dead-line. Based on the comments, he would say that financial hardship is not something the Board should consider when granting or denying a variance. The variance runs with the property so the Board needs to focus on those aspects of the property. Mr. Truby would like to see some kind of time-frame put on it, as he feels it would not be granted without that. Counsel Kelly pointed out that any conditions would have to be accepted by the applicant. Chair Hayworth stated that would probably be hard to enforce even though she agrees with Mr. Truby, that if it could be conditioned to remain for a certain time period. Chair Hayworth stated that she would like a more definitive answer from legal before the Board moves on this matter.

Thereupon, there was a break from 7:30 until 7:40 p.m. to allow legal Counsel for the applicant an opportunity to determine some information concerning the use of a time-line for granting the variance.

John Carter, representing the applicant, stated that they are willing to accept the condition that the variance be approved until January 1, 2020, as stated by Mr. Truby.

Mr. Waddell moved that in regard to BOA-17-38, 421 Eugene Court Street, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and a variance be granted until January 1, 2010, based on the following: When unnecessary hardships result from carrying out the strict letter of the zoning Ordinance, the Board of Adjustments shall carry any revisions of the Ordinance upon 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 unnecessary hardship could result by having to purchase and change a sign that has been in place for seven 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 the front of the building does not face the main street and the back of the building is obstructed by a bridge. The hardship is not the result of the applicant's own actions because the sign company installed the sign without receiving a permit. 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 presents no visual or hazardous conditions and the sign does not detract from the character of the area, seconded by Mr. Truby. The Board voted 5-2 in favor of the granting the variance. (Ayes: Williams, Truby, Waddell, Eckard, Blackstock. Nays: Hayworth and Skenes.) The variance failed because there were not enough favorable votes to grant the variance.

- (b) **BOA-17-39: 1293 NEW GARDEN ROAD** Quebec Associates, LLC (to be represented by Counsel) requests a variance from a rear setback requirement. *Variance:* A proposed addition to an existing single family dwelling will encroach 25 feet into a 30-foot rear setback. The addition is proposed to be constructed 5 feet from the rear property line. Zoning R-3 (Residential Single-family), Section 30-7-3.2, Table 7-1, Cross Street – West Vandalia Road **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed attached addition to a single-family dwelling which will encroach 25 feet into a 30-foot rear setback. The property is located west of New Garden Road and east of Fleming Road. The subject site is zoned R-3, (Residential Single-family). The property currently exist as two tax parcels under the same ownership. The applicant is proposing to combine the two parcels. The total area for the two parcels will be 15,019 square feet or equivalent to 0.34 acres. The small lot is not a buildable lot as it exists. It does not meet R-3 development standards. This lot was previously owned by Yitems Incorporated and was used by AT&T Utilities. The deed reflects the applicant purchased the property in April 2014. The property fronts on a thoroughfare street which has a front setback of 35 feet. When the lot combination occurs, the side and rear lot lines will be oddly shaped. As shown on Exhibit B, the applicant is proposing to add an addition to the existing single-family dwelling. Property records reflect the existing house was built in 2010. The addition will be approximately 27.5 feet by 54 feet. The applicant has the square footage of the addition shown as 1,550 square feet. The addition must contain a door which permits open travel flow throughout the entire single family dwelling. The property is located west of New Garden Road and east of Fleming Road. The subject site is zoned R-3, (Residential Single-family). The property currently exists as two tax parcels under the same ownership. The applicant is proposing to combine the two parcels. The total area for the two parcels will be 15,019 square feet or equivalent to 0.34 acres. The small lot is not a buildable lot as it exists. It does not meet R-3 development standards. This lot was previously owned by Yitems Incorporated and was used by AT&T Utilities. The deed reflects the applicant purchased the property in April 2014. The property fronts on a thoroughfare street which has a front setback of 35 feet. When the lot combination occurs, the side and rear lot lines will be oddly shaped. As shown on Exhibit B, the applicant is proposing to add an addition to the existing single-family dwelling. Property records reflect the existing house was built in 2010. The addition will be approximately 27.5 feet by 54 feet. The applicant has the square footage of the addition shown as 1,550 square feet. The addition must contain a door which permits open travel flow throughout the entire single family dwelling. The total proposed square footage for the addition and the existing dwelling will be 3,284 square feet. Once the properties are combined, the standards that govern the R-3 zoning district will be in compliance except for the rear setback encroachment. The property located immediately west and south of the subject site contains a Credit Union building and parking lot. That property is zoned CD-O (Conditional District-Office). Exhibit 4 shows that property was developed in 1998 and buildings were required to provide 25-foot setbacks from the residential zoning, along with required landscape buffers. The Land Development Ordinance (which was adopted in 2010 has reduced that setback for building locations to be 15 feet from the residential zoning district. Each case packet contains 3 GIS aerial views labeled as Exhibits 2. Staff would just note that these exhibits identify the 1995 aerial which shows shows the adjacent "Credit Union" property was scarcely covered and looked more like a field; the 2007 aerial shows an increase in growth and tree coverage and the 2014 aerial shows heavier and more dense trees and coverage. This property is sandwiched between office uses and Planned Unit Development consisting of mixed use and multi-family development. 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.

John Blust, 100 South Elm Street, Suite 500, stated that Quebec Associates, LLC is requesting a variance for a proposed attached addition to a single family dwelling which will encroach 25 feet into a 30-foot rear setback.

Kim Rettinger, P. O. Box 4003, Greensboro, NC, stated that that Staff summed up the request very well. They are dealing with an encroachment at the rear of the property. She presented photographs to the Board members for their review. She showed the survey of the property and the reason she is requesting the variance where she is, is because she cannot go forward because of the 30-foot thoroughfare setback. At the rear of the lot is a 25-foot buffer. There is also a 25-foot buffer at the side. This is a non-conforming lot that cannot be built upon by itself to be beneficial to fit. Nothing will fit without it being adjoined to the existing property. In developing it to the adjoined property, the existing property would be opened up to the attached proposed addition. Combining the two properties for reasonable use, would hopefully, make sense. They have maintained the property for many years and paid taxes on it and now they hope to make use of the property and it would make an enhancement to their property. There are no neighbors behind the site that would be impacted and there are no encroachments to any residential property. The structure will line up to match the existing home. She feels that this would be the highest and best use for that piece of property.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that this proposed addition would not be intrusive to the surrounding area.

Ms. Skenes moved that in regard to **BOA-17-39, 1293 New Garden 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 hardship will result to the property by applying strict application of the ordinance because the lot was part of larger adjoining lot and as a stand-alone lot is not buildable. The hardship is not the result of the applicant's own actions because the parcel was in existence and part of the adjoining parcel. 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 addition will back up to existing buffer areas required on the adjoining property and this would offer screening and assure public safety and welfare, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

SPECIAL EXCEPTION

- (c) **BOA-17-340: 3001 BOYLE AVENUE** Marjorie Keene (Property Owner) and Hawah Urey (Applicant) request 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. **Special Exception:** A proposed family care home (6 or less persons) will be 1.500 feet from another family care home (6 or less persons) located at 3909 Bears Creek Road when 2,640 feet is required. The homes will be 1.041 feet apart. Present Zoning – R-5 (Residential Single-family, Cross Street – West Vandalia Road. **(GRANTED)**

Loray Averett stated that the applicant requests a Special Exception and proposing to locate a family care home which will be too close to an existing family care home. Special Exception Request: A family care home (6 or less persons) is proposed to be 1,599 feet from another family care home (6 or less persons) located at 3212 Presley Way when 2,640 feet is required. The proposed home will be 1,041 too close to the existing family care home. The lot is located at the southeastern intersection of Boyle Avenue and Clark Avenue, south of West Vandalia Road 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 3909 Bears Creek Road. Privilege license records, along with telephone communications reflects the family care at 3909 Bears Creek Road is in operation. Exhibit 5 contains summary minutes concerning a variance that was granted to the subject site in 1989. The variance was for a side setback encroachment. The existing home is located 1,599 feet north of the proposed family care home. They are required to 2,640 feet apart. This proposed location will be 1,041 feet too close. The homes will be separated by a network of single-family and multi-family neighborhoods and by West Vandalia Road, which is classified as a major thoroughfare. The R-5, Residential Single Family District is primarily intended to accommodate low to moderate 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 the request.

Marjorie Keene, 3001 Boyle Avenue, the property owner, stated that she has owned the property since 1978. At one time they got a variance because they had a large family and were in need of additional space. They received that variance several years ago. When they purchased the property she operated a small licensed day care operation. In 1990, they were licensed as a day care center and a residence. She is going to retire soon and feels that they have served the community and the neighborhood because they have given working parents an opportunity to have their children in a small location and gave them excellent education, abiding by all the State rules. They now would like to continue being able to have that home serve the community, as Ms. Urey, proposed to open a family care center at this residence. This give families an opportunity to have their loved ones in a smaller place instead of a large nursing home setting. Ms. Urey has several letters of recommendation from people that she has cared for in the last several years.

Hawah Urey, 5 Livengood Court, the applicant, stated that she has been a CNA for 17 years and a medication administration for 4 years. She has worked in the nursing home field for many years and sees how the elderly people are treated and she wants to see a better environment for these people. She loves taking care of her residents and would like to open her own place to offer these services. She presented several reference letters for the Board members' review. There would be very little chance of any clients to cross a street and highway to go to the other nearby family care home.

There being no one speaking in opposition the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as it is felt that the proposed family care home would not be intrusive to the surrounding neighborhood.

Ms. Williams moved that in regard to **BOA-17-40, 3001 Boyle Avenue**, that the findings of fact be incorporated into the record and the Enforcement Officer be overruled and the 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 reduced separation will not create the clustering of homes based on the topography and the layout of the streets in the area. The granting of the Special Exception assures the public safety and welfare and does substantial justice because the reduced separation here would not lead the residents to cluster themselves and not interact with other members of the community, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None

OTHER BUSINESS

Loray Averett stated that October 31, 2017 would be her last day with the City Planning Department as she is retiring after 31 plus years with the City. The Board members all wished her well in her retirement. Ms. Averett stated that she has much respect for the citizens and the volunteer boards and deeply appreciates the service this Board provides to the citizens.

Chair Hayworth stated that she has served on numerous Boards as well as some of the other Board members, and she has never heard the citizens speak so highly of a City employee before.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

There being no further business before the Board, the meeting ended at 8:30 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
OCTOBER 23, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday October 23, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Laura Blackstock, Chuck Truby, Patti Eckard, Enyonam Williams, Deborah Bowers and Mary Skenes. Representing the Planning Department was Loray Averett, Mike Kirkman, Shayna Thiel, Lucas Carter; and Andrew Kelly, City Attorney's Office.

Chair Hayworth asked for the applicants' indulgence while she said a few words about Loray Averett. This will be Loray's last meeting with the Board, after 31 years of service to the citizens of Greensboro. She had 6 years with the Guilford County Planning Department and 25 years with the City of Greensboro. She helped rewrite the Land Development Ordinance and, most importantly, she is a 14-year cancer survivor. She is an avid golfer and a full-time grandmother. Without any reservation, Loray has displayed above and beyond customer service and there have been numerous citizens that have spoken very highly of her dedication and helpfulness. A floral token of appreciation was presented to Loray from the Board, showing their good wishes for her future.

APPROVAL OF MINUTES

Ms. Skenes moved approval of the September 25, 2017 meeting minutes, as written, seconded by Mr. Truby. 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, Shayna Thiel, Lucas Carter and Mike Kirkman were sworn in for their testimony in the following cases.

Loray Averett introduced Shayna Thiel, who will be transitioning to work with the Board of Adjustment, after her retirement. Mike Kirkman stated that Shayna has been working in the Development Services center and has been involved with discussions on many cases that eventually came before the Board for variance requests and is very familiar with the variance process. She has also been working closely with the Planning Board and managing some of the agendas, as well as having previous experience with multiple Boards and Commissions in previous jobs.



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
NOVEMBER 27, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday November 27, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Laura Blackstock, Chuck Truby, Patti Eckard, Enyonam Williams, James Waddell and Mary Skenes. Representing the Planning Department staff was Shayna Thiel, Mike Kirkman, Lucas Carter; 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. Eckard moved approval of the October 23, 2017 meeting minutes, as written, seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Waddell. Nays: None.)

SWEARING IN OF STAFF

Shayna Thiel, Mike Kirkman and Lucas Carter were sworn in for their testimony in the following cases.

CONTINUANCES/WITHDRAWALS

Shayna Thiel stated that BOA-17-46, 3808 Cameron Avenue will be withdrawn from the agenda. No action by the Board is required.

NEW BUSINESS

VARIANCE

- a) **BOA-17-47: 2605 BAYTREE DRIVE** John and Sharon Bennett request a variance from an average front setback requirement. Variance: A proposed garage addition will encroach 15 feet into a 46-foot average front setback. The garage will be 31 feet from the front property line. Zoning R-3 (Residential Single-Family); Section 30-7-1.4; Cross Street – Hounslow Drive.
(GRANTED)

Shayna Thiel stated that the applicants request a variance for a proposed garage addition to encroach 15 feet into a required average front setback of approximately 46 feet. The garage will be setback 31 feet from the front property line. The lot is located on the south side of Baytree Drive, north of Nantucket Drive, and is zoned R-3. Tax records indicate that the lot contains approximately 13,068 square feet. It is rectangular in shape, and the house was originally built in 1991. As part of the pending permit application for the garage addition subject to this

variance request, the applicant also intends to add two rooms to the rear of the house and convert the existing garage into a bedroom. The proposed garage will be constructed in the front area of the house and will align with the existing driveway. The existing house was built centered on the lot with minimal side setbacks. Four houses were used to calculate the average front setback for the subject property. They are addressed as 2601, 2603, 2607 and 2609 Baytree Drive. Their combined average front setback is 46 feet. The applicant requests to be allowed to construct a garage addition that will be located 31 feet from the front property line instead of the required average setback of 46 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 on this matter.

Sharon Bennett, the applicant, stated that they have lived in this home for 24 years and they love this neighborhood. They are looking to do some improvements and make remaining in the house a little easier for them. They are looking forward to the Urban Loop coming to this area. Staff has covered the request very well and she had nothing else to add. She submitted letters from the neighbors in support of the request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that this proposed garage addition would not be intrusive to the surrounding area.

Ms. Skenes moved that in regard to BOA-17-47, 2605 Baytree 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 without the variance, the addition could not be built. 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 LDO has changed to an average front setback. Prior to 2014, a variance would not have been needed because the front setback, at that time, was 25 feet. The hardship is not the result of the applicant's own actions because the house was built in 1991, and the LDO has been changed since the house was built. 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 garage is 31 feet from the front property line, will align with the exiting driveway and will be in harmony with the neighborhood, seconded by Ms. Eckard. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- b) BOA-17-48: 4 ROUNDTREE COURT** Vincent and Sharon Disandro request a variance from a rear setback requirement. Variance: A proposed screen porch will encroach 12 feet into a 30-foot rear setback. The porch will be 18 feet from the rear property line. Zoning R-3 (Residential Single-Family); Section 30-7-3.2 - Table 7-1; Cross Street – West Friendly Avenue. **(GRANTED)**

Shayna Thiel stated that the applicants request a variance for a proposed screen porch to encroach 12 feet into a required 30-foot rear setback. The screen porch will be 18 feet from the rear property line. The lot is located on the eastern side of Roundtree Court, north of West Friendly Avenue, and is zoned R-3. Tax records indicate that the lot contains approximately 12,632 square feet and that the house was constructed in 2003. The lot is uniquely shaped and different than others in the neighborhood, as its width is greater than its length. The applicants wish to construct a screen porch in the same footprint/dimensions as the existing patio. Tall evergreens line the property along the rear and on both sides, between the proposed screen porch and adjacent properties. 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 the request.

Vincent DiSandro, the applicant, stated that the staff report did a good job of outlining the request and some of the issues they are facing. They have owned the property since 2007 and since purchasing the property they have desired to turn the existing patio into a screened porch. They are very happy in the home and the neighborhood and would like to remain there. They feel that adding the screened porch would enable them to get more use out of this area of their property. This is one of the smaller lots within this area. Several of the neighbors already have screened porches, so this would not be anything unusual for the neighborhood. There were also letters from the neighbors submitted, supporting the request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that this proposed screened porch would not be intrusive to the surrounding area.

Ms. Williams moved that in regard to BOA-17-47, 4 Roundtree Court, 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 property owners will not be able to construct the screened porch in the desired location where a patio currently exists. 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 property has a shorter depth than width and rectangular shaped constrains the whole area. The hardship is not the result of the applicant's own actions because the patio was constructed by a previous 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 there is a significant tree area from this property and neighboring properties and the neighbors support the request. It also allows the owners to use their property to its highest and best use, seconded by Ms. Eckard. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- c) **BOA-17-49: 4207 HENDERSON ROAD** Timothy and Sally Marion request a variance from a side setback requirement. Variance: A proposed addition will encroach 1.93 feet into a 10-foot side setback. The addition will be 8.07 feet from the side property line. Zoning R-3 (residential Single-Family); Section 30-7-3.2 – Table 7-1; Cross Street – Farrar Drive.
(GRANTED)

Shayna Thiel stated that the applicants request a variance for a proposed addition to encroach 1.93 feet into a required 10-foot side setback. The addition will be 8.07 feet from the side property line. The lot is located on the western side of Henderson Road, south of West Friendly Avenue, and is zoned R-3. Tax records indicate that the lot contains approximately 17,424 square feet and that the house was constructed in 1953. The existing 2-story house is nonconforming as it currently encroaches into the 10-foot northern side setback. The applicants wish to demolish the rear part of the existing house and the existing deck to construct a 2-story addition containing a kitchen, sunroom and garage on the first floor, and a bedroom, bathroom, workout room and storage on the second floor. The proposed addition will align with the existing house, expanding the existing foundation towards the rear property line, and be no closer to the side property line than the existing 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 wishing to speak on this matter.

Tim Marion, the applicant, stated that he wants to remodel the house to include a new kitchen, sun room and garage on the first floor and a bedroom, bathroom and workout room and storage on the second floor. The remodeling plan requires that he extend the existing foundation approximately 25 feet. They could do it without a variance but the foundation would jog in and the roof line would be unappealing to the neighbors. He spoke with the neighbors and no one was in opposition. The next-door neighbor was in attendance to show his support of the request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that this proposed addition would not be intrusive to the surrounding area.

Mr. Waddell moved that in regard to **BOA-17-49, 4207 Henderson 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 hardship will result to the property by applying strict application of the ordinance because the existing structure is just under 2 inches to the side setback and the proposed addition will align with the existing house. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the application to the property because the existing structure was built in 1953 and the existing foundation will be used with the addition. The hardship is not the result of the applicant's own actions because the property is currently in its original state from 1953. 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 if the variance is granted it will improve the appearance of the property and restore it to its original state, the proposed addition will be no closer to the side of the property, seconded by Mr. Truby. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- d) **BOA-17-50: 605 S. ELAM AVENUE** James N. Reitzel requests a variance from the requirement that utilities to detached accessory buildings be provided by branching service from the principal building. Variance: The applicant proposes to have a separate electrical meter for a recently permitted detached accessory garage. Zoning R-5 (Residential Single-Family); Section 30-8-11.1(G); Cross Street – Walker Avenue. **(GRANTED)**

Shayna Thiel stated that the applicant requests a variance from the requirement that utilities to detached accessory buildings be provided by branching services from the principal building. The applicant proposes to locate a separate electrical meter on a recently permitted detached accessory garage. The lot is located on the east side of South Elam Avenue, south of Walker Avenue, and is zoned R-5 (Residential Single Family). Tax records indicate that the lot contains approximately 8,276 square feet, and that the house was originally constructed in 1930. The property contains a 1-story dwelling. The house is located centered on the lot and the recently permitted detached accessory garage is being built 34 feet behind the house, closer to the rear lot line. Exhibit 4 shows the approved building permit application for the construction of a 32 x 26.5-foot detached accessory garage. The detached garage will be 10 feet from the east (rear) property line and 14.75 feet from the north (side) property line. The property is developed with infrastructure consisting of the house, deck, fencing and landscaping. The deck, fencing and landscaping lie between the house and detached accessory garage. Vegetative screening exists between the detached garage and adjacent properties to the rear. The applicant indicated an existing utility pole is located approximately 12 feet to the north of the detached accessory garage. The existing house electrical meter is located farther away from the detached accessory garage, on the south side of the house towards the front property line. The applicant is aware that the detached building must serve the property as a

personal use accessory building. 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 the request.

James Reitzel, the applicant, stated that he would like a separate power meter that is closer to the house instead of coming off the front side of the house through existing deck and patio landscaping, it would be closer to go to the pole that is right next to the building. That building is strictly a garage with no water or plumbing.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that the proposed separate electrical meter would not be intrusive to the surrounding neighborhood.

Mr. Truby moved that in regard to **BOA-17-50, 605 S. Elam Avenue**, 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 to the ordinance because it would require digging a trench three times the length instead of just connecting to the existing pole which would avoid the existing deck and landscaping. The hardship of which the of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the application to the property because the pole is existing and is easier to connect to. The hardship is not the result of the applicant's own actions because the house, fence and landscaping were already in place before the property owner decided to build the garage. 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 garage is adjacent to commercial property and there is a closer source of providing electrical service without disturbing the existing landscaping, seconded by Ms. Eckard. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None

OTHER BUSINESS

Mike Kirkman stated that the December BOA meeting will be held Monday, December 18th because of the Christmas Holidays.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

There being no further business before the Board, the meeting ended at 6:12 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd

CONTINUANCES/WITHDRAWALS

Loray Averett stated that BOA-17-44, 4507 Foxcroft Road was withdrawn from the agenda. No action was necessary by the Board.

NEW BUSINESS

VARIANCE

- (a) BOA-17-41: **500 WOODLAWN AVENUE** Evan Goldstein and Emily Janke request a variance from a side setback requirement. **Variance:** A proposed covered porch will encroach 6 feet into a 15-foot side street setback. The porch will be 9 feet from the side lot line adjacent to Lakeview Street. Section 30-7-3.2 Table 7-2, Present Zoning-R-5 (Residential Single-family) Cross Street – Lakeview Street. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed covered porch which will encroach 6 feet into a 15 foot side street setback. The lot is located at the northeastern intersection of Woodlawn Avenue and Lakeview Street. Tax records reflect the lot size is approximately 7,500 square feet. The lot is rectangular shaped and shown as 50 feet wide and 150 feet deep. Records reflect that the plat was recorded in 1895, and the existing house was originally built in 1920. The applicant is proposing to enlarge an existing deck by 2 additional feet and then to cover the entire deck with a roof. The covered porch is proposed to lineup with the wall of the existing house adjacent to Lakeview Street. The new line of proposed construction is required to be 15 feet from the side street property line. It will be 9 feet from the property line adjacent to Lakeview Street. The addition is proposed to be constructed within the same line as the existing house. There is a privacy fence in place along the Lakeview Street property line. The original house was also constructed in a rectangular manner to best fit the shape of the lot. The house was constructed prior to minimum zoning setbacks. The applicant has mentioned the proposed location and design of the covered porch will complement the existing architectural style of the house. 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.

Emily Janke, the property owner, was sworn in and stated that her family moved into this house about 7 years ago and they really enjoy this lot and the neighborhood. This is an old 1920s home and is a Craftsman style bungalow with one floor. There was a deck on the rear of this house and they now wish to replace the deck with a screened porch to alleviate problems with bugs and mosquitos. The architect, Quinn Philsburgy, designed some plans for the new structure that will be in keeping with the characteristics of the exiting neighborhood.

There being no one to speak in opposition to this matter the public hearing was closed.

Ms. Skenes asked why this one was coming under a standard lot line as opposed to a traditional house lot line. Loray Averett stated that with the single-family home and the traditional house, the difference is that the traditional house typically has an alley located at the rear with access to the property from that alley. There is an existing alley behind this house and that would reduce the side street setback down to 10 feet, which would reduce the variance down to 1 foot. However, the alley is not maintained, there is no access from the alley to the property and no one has ever opened or maintained that alleyway. Therefore, this request was based on the single-family conventional development setback, which would be 15 feet from the side property line.

Board Discussion:

The Board members had no further questions and indicated support of the request as this proposed covered porch would not be intrusive to the surrounding area.

Ms. Skenes moved that in regard to BOA-17-41, 500 Woodlawn 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 property is on a corner lot and without the variance the covered porch could not be built. Hardships 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 property is located on a corner. In addition, the covered porch will not extend any further than the house is already extending on the lot. The hardship is not the result of the applicant's own actions because the property was platted in 1895. 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 covered porch will not extend any further into the side setback than the current house, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Bowers, Eckard, Blackstock. Nays: None.)

- (b) BOA-17-42: **1302 WESTRIDGE FOREST COURT** Douglas and Irene Farney request a variance from a rear setback requirement. **Variance:** An existing covered deck which is currently 10 feet from the rear lot line and is required to be 20 feet from the rear lot line is proposed to be altered into a sunroom which will remain 10 feet from the rear lot line instead of the 20 feet as required. Zoning-R-3 (Cluster Development) (Residential Single-family), Section 30-7-3.2 - Item 2, Specific Zoning Standard, Table 7-2, Cross Street – Hounslow Drive. **(GRANTED)**

Loray Averett stated that an existing covered deck, which is currently 10 feet from the rear lot line and required to be 20 feet from the rear lot line, is proposed to be altered into a sunroom that will remain 10 feet from the rear lot line instead of the required 20 feet. The property is located on the eastern side of Westridge Forest Court, north of Hounslow Drive. The lot is zoned R-3 and was developed using the Cluster option, which permits the structures to use the R-5 rear setback requirements. The building permit record reflects that the original house permit was approved in February 2016. At that time, permit records reflect that there was no covered deck proposed on the site plan. The house met the setbacks and the permit was approved. The applicant purchased the property from Keystone Group, Inc. in April 2017 as a new house. On

August 30, 2017, the owner applied for a permit to enclose the existing rear covered deck. Staff's review noted that a portion of the rear covered deck was encroaching into the required rear setback. The applicant/new owner filed the variance request to be allowed to enclose the existing porch into a sunroom. The applicant's lot is uniquely shaped. There are 2 rear lot lines and both lines are severely angled. The request to change the existing covered deck to an enclosed sunroom addition does not add to or increase the existing encroachment. The footprint will remain the same as what already exists. The applicant noted the contractor started construction to enclose the covered porch into a sunroom after applying for the permit. When he realized the permit was not approved, he immediately ceased construction. 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. The Cluster Density factor remains at 3 units per acre. However, the lots may develop using the R-5 standards in relation to the dimensional requirements including setbacks.

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

Douglas Farney, the property owner, was sworn in and stated that they purchased the home in April 2017. He presented additional information for the Board members' review. He stated that they enjoyed the porch at the rear of the house, which is in a largely wooded area. During the summer, they decided that they would like to enclose it and make it a year-round porch for their enjoyment. In applying for the building permit, they found that covering the porch triggers the need for the variance to go into the 20-foot rear setback. They would like the variance approved so they can fully enjoy their new home.

There being no one to speak in opposition to this matter the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated support of the request as this proposed covered porch addition would not be intrusive to the surrounding area.

Mr. Truby moved that in regard to BOA-17-42, 1302 Westridge Forest Court, 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 if the applicant complies with the ordinance they would not be able to construct the proposed covered porch. The hardship of which the applicant complains results from conditions that are peculiar to the property and in each circumstance related to the applicant's property because the lot has an unusual shape that has two rear lot lines at a severe angle. The hardship is not the result of the applicant's own actions because the house is existing and a sunroom structure is to be built on an existing deck. 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 sunroom addition will not have a negative effect on the surrounding area, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Bowers, Eckard, Blackstock. Nays: None.)

- (b) BOA-17-43: **1003 FOREST HILL DRIVE** Linda Gay Jenkins requests a variance from a required average front setback. **Variance:** A proposed front addition will encroach approximately 18 feet into a required average front setback of approximately 93 feet. The proposed addition will be setback 75 feet from the front property line. Present Zoning-R-3 (Residential Single-family), Section 30-7-1.4, Cross Street - Watauga Drive. **(GRANTED)**

Loray Averett stated that the applicant is requesting a variance for a proposed front addition which will encroach 18 feet into a required average front setback of approximately 93 feet. The front addition will be setback 75 feet from the front property line. The lot is located on the western side of Forest Hill Drive, east of Westminster Drive and is zoned R-3. Tax records reflect the lot size is approximately 34,000 square feet. The lot is rectangular in shape, and the house was originally built in 1955. The existing house is located approximately 101 feet from the front property line. The applicant is proposing to construct 3 areas of additions to the front of the house. The areas of construction proposed are a garage, a front porch and a bedroom. The bedroom addition will be the closest point to the front property line. The proposed bedroom addition will be 18 feet wide by 26 feet deep; the garage addition will be 22 feet deep by 22 feet wide and the front porch addition will be 8 feet deep by 27 feet wide. There were four houses that were used to calculate the average front setback for the subject property. They are addressed as 919, 1001, 1007 and 1009 Forest Hill Drive. Their combined front setbacks average 93 feet. The applicant is requesting to be allowed to construct the front additions, which will be approximately 75 feet from the front property line, instead of the average setback of 93 feet. The property contains an existing house that was originally constructed centered on the lot. The infrastructure and flow of the property have already been established, as this house is approximately 62 years old. The subject site, as well as the adjacent properties, are heavily landscaped. 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 matter.

Linda Gay Jenkins, the property owner, was sworn in and stated that she purchased this house about 12 years ago and not much has been done to it during that time. She would now like to upgrade and make more room inside in the house by making an addition to the front of the house, with a covered porch on the front. The house is currently a 2-bedroom house and the addition would give her a lot more room inside for a bedroom, bathroom and closet. There is currently very limited space in the bathroom and she is looking forward to having that additional space. She feels that the addition of a front porch would also add a lot of character to the house as well as different roof lines. There are other houses in the neighborhood that have been updated through the years. She also thanked Loray Averett for all her help and suggestions through the process.

Chuck Shaw, the contractor for the project, 4021 Liveoak Drive, was sworn in and presented some photographs for the Board members' review. He stated that the property owner has high expectations for the proposed project and she demands quality. She also wants the house to look really good for the neighborhood. The best quality materials will be used for the project.

There being no one to speak in opposition to this matter the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated support of the request as these proposed front additions would not be intrusive to the surrounding area.

Ms. Blackstock moved that in regard to BOA-17-43, 1003 Forest Hill 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 hardship will result to the property by applying strict application of the ordinance because the proposed front addition cannot be built without a 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 house was built deep on the lot. The lot is rectangular in shape and it is reasonable to want to expand and the applicant would like to maintain the flow of the existing home. The hardship is not the result of the applicant's own actions because all the infrastructure includes when the house was originally built in 1955. 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 reasonable to modernize and update the house by adding the bedroom master suite, bathroom, additional closet space and a garage and no harm will come to the public, seconded by Mr. Truby. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Bowers, Eckard, Blackstock. Nays: None.)

- (d) BOA-17-44: **4507 FOXCROFT ROAD** Janet M. Soyars requests a variance from the maximum fence/wall height requirement. **Variance:** No fence may exceed 4 feet in height within 15 feet of any public street right-of-way. A recently installed fence exceeds the maximum height of 4 feet by 1-foot. Section 30-9-4.6(A), Present Zoning-R-3 (Residential single-family), Cross Street-Starmount Drive. **(WITHDRAWN)**

SPECIAL EXCEPTION

- (a) BOA-17-45: **634 NORTH ELM STREET** Angelia Espinoza requests a Special Exception as authorized by Section 330-4-12.4(l) to allow a side setback encroachment. **Special Exception:** A recently constructed side staircase encroaches 1.2 feet into a 5 foot side setback. The staircase is 3.8 feet from the side lot line. Present Zoning-RM-12 (Residential Multi-family), Fisher Park Historic District Overlay, Cross Street-South Park Drive. **(GRANTED)**

Shayna Thiel stated that the applicant requests a Special Exception for a recently constructed side staircase addition to a single-family dwelling that encroaches 1.2 feet into a 5-foot side setback requirement. A special exception may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions: 1. The special exception is in harmony with the general purpose and intent of this ordinance and preserves its spirit; and 2. The granting of the special exception assures the public safety and welfare and does substantial justice. The property is located on the east side of North Elm Street, south of South Park Drive. The lot is zoned RM-12 (Residential Multi-family) and is located in the Fisher Park Historic District Overlay. The property contains a two-story single-family dwelling. Tax records reflect the house was constructed in 1905. The lot is rectangular shaped and contains 10,890 square feet. The original house was constructed closer to the north property line. The northeastern corner of the house is the location where the stair case was constructed for exterior access to the 2nd floor. In 2017, the previous owner (Michael Fuko-Rizzo) completed some interior upfit work and constructed the exterior staircase. The owner applied for the Certificate of Appropriateness and realized the staircase was encroaching. At its August 30, 2017 meeting, the Historic Preservation Commission recommended a Special Exception for the exterior staircase. The previous owner, Michael Fuko-Rizzo recently sold the property. The current deed on record shows Angelia Espinoza purchased the property on August 22, 2017. 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 wishing to speak in favor of this matter.

Angelia Espinoza, the property owner, was sworn in and stated that she closed on this property August 31, 2017 and was not aware at the time that there may be a zoning violation. She was aware that there was an issue with not obtaining a Certificate of Appropriateness from the Historic Preservation Commission. She has heard from the neighbors that they are very supportive of this request. She has an addendum with the previous owner that he would be responsible for making any changes to the stairway, post-closing on the property, as recommended by the HPC, to make the staircase look better and more in keeping with the neighborhood.

Mike Cowhig, representing the Historic Preservation Commission, stated that the HPC did place some conditions on the COA for this property, because the stairway is visible from the street. Some of the conditions include landscaping, staining the stairs a dark color to make them less noticeable, and treatment of the base of the stairs with some type of wood siding or ship-lap to make it darker. The details are to be worked out with staff and the property owner.

There being no one to speak in opposition to this matter the public hearing was closed.

Board Discussion:

The Board members had no further questions and indicated their support of the request as this proposed staircase would not be intrusive to the surrounding area.

Ms. Williams moved that in regard to BOA-17-45, 634 North Elm Street, 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: The Special Exception is in harmony with the general purpose and intent of the ordinance and preserves its spirit because it is a minimal encroachment and there is support from the Historic Preservation Commission and there is a plan for the aesthetic appearance of the stairs. The Special Exception assures the public safety and welfare and does substantial justice because it allows for another exit on the second floor of the house and allows the property owner to use the property to its highest and best use, seconded by Ms. Eckard. The Board voted 7-0 in favor of the granting the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Bowers, Eckard, Blackstock. Nays: None.)

OTHER BUSINESS

Loray Averett stated that she wished to express her thanks to the Board members. There have been many Board members through the years, but they have been really wonderful to work with.

Loray Averett stated that the 2018 meeting schedule is ready and will be emailed to each Board member later this week.

ACKNOWLEDGEMENT OF ABSENCES

The absence of Mr. Waddell was acknowledged.

ADJOURNMENT

There being no further business before the Board, the meeting ended at 6:42 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
NOVEMBER 27, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday November 27, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Laura Blackstock, Chuck Truby, Patti Eckard, Enyonam Williams, James Waddell and Mary Skenes. Representing the Planning Department staff was Shayna Thiel, Mike Kirkman, Lucas Carter; 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. Eckard moved approval of the October 23, 2017 meeting minutes, as written, seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Waddell. Nays: None.)

SWEARING IN OF STAFF

Shayna Thiel, Mike Kirkman and Lucas Carter were sworn in for their testimony in the following cases.

CONTINUANCES/WITHDRAWALS

Shayna Thiel stated that BOA-17-46, 3808 Cameron Avenue will be withdrawn from the agenda. No action by the Board is required.

NEW BUSINESS

VARIANCE

- a) **BOA-17-47: 2605 BAYTREE DRIVE** John and Sharon Bennett request a variance from an average front setback requirement. Variance: A proposed garage addition will encroach 15 feet into a 46-foot average front setback. The garage will be 31 feet from the front property line. Zoning R-3 (Residential Single-Family); Section 30-7-1.4; Cross Street – Hounslow Drive.
(GRANTED)

Shayna Thiel stated that the applicants request a variance for a proposed garage addition to encroach 15 feet into a required average front setback of approximately 46 feet. The garage will be setback 31 feet from the front property line. The lot is located on the south side of Baytree Drive, north of Nantucket Drive, and is zoned R-3. Tax records indicate that the lot contains approximately 13,068 square feet. It is rectangular in shape, and the house was originally built in 1991. As part of the pending permit application for the garage addition subject to this

variance request, the applicant also intends to add two rooms to the rear of the house and convert the existing garage into a bedroom. The proposed garage will be constructed in the front area of the house and will align with the existing driveway. The existing house was built centered on the lot with minimal side setbacks. Four houses were used to calculate the average front setback for the subject property. They are addressed as 2601, 2603, 2607 and 2609 Baytree Drive. Their combined average front setback is 46 feet. The applicant requests to be allowed to construct a garage addition that will be located 31 feet from the front property line instead of the required average setback of 46 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 on this matter.

Sharon Bennett, the applicant, stated that they have lived in this home for 24 years and they love this neighborhood. They are looking to do some improvements and make remaining in the house a little easier for them. They are looking forward to the Urban Loop coming to this area. Staff has covered the request very well and she had nothing else to add. She submitted letters from the neighbors in support of the request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that this proposed garage addition would not be intrusive to the surrounding area.

Ms. Skenes moved that in regard to BOA-17-47, 2605 Baytree 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 without the variance, the addition could not be built. 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 LDO has changed to an average front setback. Prior to 2014, a variance would not have been needed because the front setback, at that time, was 25 feet. The hardship is not the result of the applicant's own actions because the house was built in 1991, and the LDO has been changed since the house was built. 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 garage is 31 feet from the front property line, will align with the exiting driveway and will be in harmony with the neighborhood, seconded by Ms. Eckard. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- b) BOA-17-48: 4 ROUNDTREE COURT** Vincent and Sharon Disandro request a variance from a rear setback requirement. Variance: A proposed screen porch will encroach 12 feet into a 30-foot rear setback. The porch will be 18 feet from the rear property line. Zoning R-3 (Residential Single-Family); Section 30-7-3.2 - Table 7-1; Cross Street – West Friendly Avenue. **(GRANTED)**

Shayna Thiel stated that the applicants request a variance for a proposed screen porch to encroach 12 feet into a required 30-foot rear setback. The screen porch will be 18 feet from the rear property line. The lot is located on the eastern side of Roundtree Court, north of West Friendly Avenue, and is zoned R-3. Tax records indicate that the lot contains approximately 12,632 square feet and that the house was constructed in 2003. The lot is uniquely shaped and different than others in the neighborhood, as its width is greater than its length. The applicants wish to construct a screen porch in the same footprint/dimensions as the existing patio. Tall evergreens line the property along the rear and on both sides, between the proposed screen porch and adjacent properties. 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 the request.

Vincent DiSandro, the applicant, stated that the staff report did a good job of outlining the request and some of the issues they are facing. They have owned the property since 2007 and since purchasing the property they have desired to turn the existing patio into a screened porch. They are very happy in the home and the neighborhood and would like to remain there. They feel that adding the screened porch would enable them to get more use out of this area of their property. This is one of the smaller lots within this area. Several of the neighbors already have screened porches, so this would not be anything unusual for the neighborhood. There were also letters from the neighbors submitted, supporting the request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that this proposed screened porch would not be intrusive to the surrounding area.

Ms. Williams moved that in regard to BOA-17-47, 4 Roundtree Court, 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 property owners will not be able to construct the screened porch in the desired location where a patio currently exists. 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 property has a shorter depth than width and rectangular shaped constrains the whole area. The hardship is not the result of the applicant's own actions because the patio was constructed by a previous 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 there is a significant tree area from this property and neighboring properties and the neighbors support the request. It also allows the owners to use their property to its highest and best use, seconded by Ms. Eckard. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- c) **BOA-17-49: 4207 HENDERSON ROAD** Timothy and Sally Marion request a variance from a side setback requirement. Variance: A proposed addition will encroach 1.93 feet into a 10-foot side setback. The addition will be 8.07 feet from the side property line. Zoning R-3 (residential Single-Family); Section 30-7-3.2 – Table 7-1; Cross Street – Farrar Drive.
(GRANTED)

Shayna Thiel stated that the applicants request a variance for a proposed addition to encroach 1.93 feet into a required 10-foot side setback. The addition will be 8.07 feet from the side property line. The lot is located on the western side of Henderson Road, south of West Friendly Avenue, and is zoned R-3. Tax records indicate that the lot contains approximately 17,424 square feet and that the house was constructed in 1953. The existing 2-story house is nonconforming as it currently encroaches into the 10-foot northern side setback. The applicants wish to demolish the rear part of the existing house and the existing deck to construct a 2-story addition containing a kitchen, sunroom and garage on the first floor, and a bedroom, bathroom, workout room and storage on the second floor. The proposed addition will align with the existing house, expanding the existing foundation towards the rear property line, and be no closer to the side property line than the existing 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 wishing to speak on this matter.

Tim Marion, the applicant, stated that he wants to remodel the house to include a new kitchen, sun room and garage on the first floor and a bedroom, bathroom and workout room and storage on the second floor. The remodeling plan requires that he extend the existing foundation approximately 25 feet. They could do it without a variance but the foundation would jog in and the roof line would be unappealing to the neighbors. He spoke with the neighbors and no one was in opposition. The next-door neighbor was in attendance to show his support of the request.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that this proposed addition would not be intrusive to the surrounding area.

Mr. Waddell moved that in regard to **BOA-17-49, 4207 Henderson 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 hardship will result to the property by applying strict application of the ordinance because the existing structure is just under 2 inches to the side setback and the proposed addition will align with the existing house. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the application to the property because the existing structure was built in 1953 and the existing foundation will be used with the addition. The hardship is not the result of the applicant's own actions because the property is currently in its original state from 1953. 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 if the variance is granted it will improve the appearance of the property and restore it to its original state, the proposed addition will be no closer to the side of the property, seconded by Mr. Truby. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- d) **BOA-17-50: 605 S. ELAM AVENUE** James N. Reitzel requests a variance from the requirement that utilities to detached accessory buildings be provided by branching service from the principal building. Variance: The applicant proposes to have a separate electrical meter for a recently permitted detached accessory garage. Zoning R-5 (Residential Single-Family); Section 30-8-11.1(G); Cross Street – Walker Avenue. **(GRANTED)**

Shayna Thiel stated that the applicant requests a variance from the requirement that utilities to detached accessory buildings be provided by branching services from the principal building. The applicant proposes to locate a separate electrical meter on a recently permitted detached accessory garage. The lot is located on the east side of South Elam Avenue, south of Walker Avenue, and is zoned R-5 (Residential Single Family). Tax records indicate that the lot contains approximately 8,276 square feet, and that the house was originally constructed in 1930. The property contains a 1-story dwelling. The house is located centered on the lot and the recently permitted detached accessory garage is being built 34 feet behind the house, closer to the rear lot line. Exhibit 4 shows the approved building permit application for the construction of a 32 x 26.5-foot detached accessory garage. The detached garage will be 10 feet from the east (rear) property line and 14.75 feet from the north (side) property line. The property is developed with infrastructure consisting of the house, deck, fencing and landscaping. The deck, fencing and landscaping lie between the house and detached accessory garage. Vegetative screening exists between the detached garage and adjacent properties to the rear. The applicant indicated an existing utility pole is located approximately 12 feet to the north of the detached accessory garage. The existing house electrical meter is located farther away from the detached accessory garage, on the south side of the house towards the front property line. The applicant is aware that the detached building must serve the property as a

personal use accessory building. 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 the request.

James Reitzel, the applicant, stated that he would like a separate power meter that is closer to the house instead of coming off the front side of the house through existing deck and patio landscaping, it would be closer to go to the pole that is right next to the building. That building is strictly a garage with no water or plumbing.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as they felt that the proposed separate electrical meter would not be intrusive to the surrounding neighborhood.

Mr. Truby moved that in regard to **BOA-17-50, 605 S. Elam Avenue**, 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 to the ordinance because it would require digging a trench three times the length instead of just connecting to the existing pole which would avoid the existing deck and landscaping. The hardship of which the of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the application to the property because the pole is existing and is easier to connect to. The hardship is not the result of the applicant's own actions because the house, fence and landscaping were already in place before the property owner decided to build the garage. 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 garage is adjacent to commercial property and there is a closer source of providing electrical service without disturbing the existing landscaping, seconded by Ms. Eckard. The Board voted 7-0 to grant the variance. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None

OTHER BUSINESS

Mike Kirkman stated that the December BOA meeting will be held Monday, December 18th because of the Christmas Holidays.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

There being no further business before the Board, the meeting ended at 6:12 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustments

CH/jd



PLANNING

**MEETING OF THE
GREENSBORO BOARD OF ADJUSTMENT
DECEMBER 18, 2017**

The regular meeting of the Greensboro Board of Adjustment was held on Monday December 18, 2017 at 5:30 p.m. in the Council Chamber of the Melvin Municipal Office Building. Board members present were: Chair, Cyndy Hayworth, Laura Blackstock, Chuck Truby, Patti Eckard, Enyonam Williams, James Waddell and Mary Skenes. Representing the Planning Department was Shayna Thiel, Mike Kirkman, 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 27, 2017 meeting minutes, as written, seconded by Ms. Williams. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Waddell. Nays: None.)

SWEARING IN OF STAFF

Shayna Thiel, Mike Kirkman and Lucas Carter were sworn in for their testimony in the following cases.

CONTINUANCES/WITHDRAWALS

Mike Kirkman stated that a request has been made by the applicant to continue case BOA-17-53, 2500 Spring Garden Street.

Chair Hayworth asked if anyone wished to speak on the matter of a continuance.

Adam Spivey, 706 Green Valley Road, stated that he is here as the Vice Chair of the Lindley Park Neighborhood Association and as a resident of Lindley Park. The Association has been in contact with the applicant and the applicant's attorney, Marc Isaacson, and he has been given the authority and the directive to ask for a continuance in this matter so that the neighborhood and the residents may have more time to look into the nature of the variance requested.

Marc Isaacson, 804 Green Valley Road, attorney representing the applicant, stated that his client has no opposition to the request for the continuance. They believe this would allow adequate time for them to meet, talk and find out about any concerns of the residents of the neighborhood.

Mr. Truby moved to continue the item, as requested, seconded by Ms. Skenes. The Board voted 7-0 in favor of the motion. (Ayes: Hayworth, Williams, Truby, Eckard, Blackstock, Skenes and Waddell. Nays: None.)

NEW BUSINESS**VARIANCE**

- a) **BOA-17-51: 109 KEELING ROAD WEST** George M. Lawson, Jr. and Donna H. Lawson request a variance to allow a proposed detached garage to encroach 4.8 feet into a required 10-foot side setback. The detached garage will be 5.2 feet from the side property line. Zoning R-3 (Residential Single-Family); Section 30-8-11.1; Cross Street – Starmount Drive. **(GRANTED)**

Shayna Thiel stated that the applicants request a variance to allow a proposed detached garage to encroach 4.8 feet into a required 10-foot side setback. The detached garage will be 5.2 feet from the side property line. The lot is located on the western side of Keeling Road West, south of West Friendly Avenue, and is zoned R-3. Tax records indicate the lot contains approximately 16,117 square feet and the house was constructed in 1956. The applicants are currently constructing a deck, patio and 2nd floor addition to the principal dwelling as part of a building permit issued on May 25, 2017. The applicants also propose to construct a 600 square foot (24 feet x 25 feet) detached 2-story garage that will be the same height as the house after the additions are completed (approximately 26 feet). The applicants indicated their desire to construct the detached garage 5.2 feet from the side property line, instead of the required 10 feet, to preserve large trees in the yard and so the entrance to the garage aligns with the existing driveway. 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.

George Lawson, the applicant, stated that they are in the process of a major renovation and have put a second floor on their home, which was purchased in 1983. In the next step of the renovation, they would like to build a detached two-story outbuilding that would have a one-car garage on the first floor and a workshop on the second floor. There are two hardships related to the required 10-foot side setback. To meet the setback, they would have to remove a major tree in the back yard. Meeting the setback would also make it difficult to enter and exit the garage because the lot is very narrow and the driveway is on the left side of the lot, as you face the house from the street. If they are able to locate the garage/workshop 4.8 feet further in, it would make the exit and entry much easier and they could save the tree. In response to questions by the Board members, Mr. Lawson stated that there are three neighbors involved and they have spoken with them and there was no opposition to the completion of this project. They were shown a copy of the site plan and an explanation of the proposed building. There is a 6-foot fence and very dense foliage between the houses that provide a lot of screening.

Donna Lawson, the applicant, stated that she had some photographs to share that show other properties in the immediate area that have garages with second floors on them. The proposed garage will match the house on the property.

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

Board Discussion:

The Board members had no further questions and indicated their support of the request as this proposed garage addition would not be intrusive to the surrounding area and there are other neighbors who have constructed similar buildings in their rear yards.

Mr. Truby moved that in regard to BOA-17-51, 109 Keeling Road West, 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 if they comply with the provisions of the ordinance it would result in undesirable driveway position, which would make access to the garage very difficult. 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 property is deeper than it is wide with the existing driveway on the left side of the house, which is beyond the owner's control. There are also large trees that can be preserved by granting the variance. The hardship is not the result of the applicant's own actions because the existing house and driveway were built in 1956, prior to the current owner's purchase in 1983. 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 garage would not harm public safety and welfare and would increase the property's value and allow the owner reasonable use of their property, seconded by Ms. Blackstock. The Board voted 7-0 to grant the variance requested. (Ayes: Hayworth, Skenes, Williams, Truby, Waddell, Eckard, Blackstock. Nays: None.)

- b) **BOA-17-53: 2500 SPRING GARDEN STREET** Marc L. Isaacson, on behalf of Joe A. McKinney, LLC, requests two variances. **Variance #1:** The applicant requests a variance to allow an existing sex shop use and proposed expansion to be located within 708 feet from a public park and 0 (zero) feet from residentially-zoned property, when the required separation is 1,000 feet, as measured from property line to property line. Section 30-8-10.4(N)(2)(b). **Variance #2:** The applicant requests a variance to allow other principal uses to occupy the same building with a sexually oriented business. Section 30-8-10.4(N)(5). Zoning C-M (Commercial-Medium); Cross Street – Howard Street. **(CONTINUED)**

OTHER BUSINESS

Mike Kirkman stated that it is the Board's discretion as to whether to grant a continuance for cases so the Board is advised to direct any questions to staff and not have conversations on the cases with the applicant.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

There being no further business before the Board, the meeting ended at 5:57 p.m.

Respectfully submitted,

Cyndy Hayworth, Chair
Greensboro Board of Adjustment

CH/jd