

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
AUGUST 26, 2024**

The meeting of the Greensboro Board of Adjustment was held on Monday, August 26, 2024, at 5:40 p.m. in-person in the City Council Chamber. Board members present were: Chair Leah Necas, Vice Chair Vaughn Ramsey, Chuck Truby, Ted Oliver, Cory Randolph, Tifanie Rudd, and Deborah Bowers. City staff present were Mike Kirkman, Shayna Thiel, Carla Harrison and Andrew Nelson (Planning Department), and Emily Guarascio (Assistant City Attorney).

Chair Necas welcomed everyone to the meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a quasi-judicial Board, meaning that all testimony will be under oath. Findings of fact will be made and final action of the Board is like a court decision. Anyone appearing before this Board has a right to offer evidence, cross-examine witnesses, and inspect documents. The Board will proceed according to the agenda, a copy of which was provided. Chair Necas further explained the way the Board conducts its hearings and methods of appealing any ruling made by the Board. Chair Necas advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time. Chair Necas went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and she explained how to appeal decisions.

Chair Necas advised that all testimony and evidence from applicants or opposition speakers must be relevant to the case(s) before the Board and the four criteria it uses to make decisions.

APPROVAL OF MINUTES (July 22, 2024 Meeting)

Vice Chair Ramsey made a motion to approve the July 22, 2024 minutes, seconded by Ms. Rudd.

The Board voted 6-0-1 in favor of the motion, (Ayes: Truby, Oliver, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None; Abstention: Randolph). Chair Necas advised the minutes were approved.

SWEARING IN OF STAFF

Mike Kirkman and Shayna Thiel of the Planning Department were sworn in for their testimony in the following cases.

CONTINUANCES / WITHDRAWALS

Ms. Guarascio advised that there was no legal representation present for BOA-24-38 at 5502 West Friendly Avenue.

Vice Chair Ramsey moved to continue BOA-24-38 to the September regular meeting, seconded by Mr. Randolph. The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

OLD BUSINESS

a. BOA-24-33: 519 Muirs Chapel Road (DENIED)

Ms. Thiel stated in BOA-24-33, Christian Browne and Thomas Browne request two variances: (i) To allow a home occupation to be conducted outside the residence; and (ii) To allow outdoor storage of items related to a home occupation. Evidence provided by the applicants was Exhibit A. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance references were Section 30-8-11.5(C)(2): A home occupation must be conducted entirely within the residence. The home occupation must be clearly incidental and secondary to the residential use of the dwelling and may not change the outward appearance of the residence; and Section 30-8-11.5(B): Outdoor storage of items related to the home occupation is prohibited.

Background and Site Information: The subject lot is located on the west side of Muirs Chapel Road, north of Tower Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 18,731 square feet, and the house was constructed in 1920. The applicants operate a vehicle rental business from their home. Zoning investigations determined that multiple vehicles for rent are parked at the property and customers regularly come to the property to pick-up and return the vehicles. These activities are in conflict with the City's home occupations regulations. On February 14, 2024, a zoning enforcement officer issued a Notice of Violation regarding the operation of a home occupation on the subject property. The Land Development Ordinance states that home occupations must be conducted entirely within the residence; persons who are not occupants of the dwelling may not go by the dwelling to pick up orders, supplies, or other items related to the home occupation; and outdoor storage of items related to the home occupation is prohibited. Additionally, the Land Development Ordinance states that one commercial vehicle associated with the home occupation, up to 30 feet in length, may be kept onsite. A second vehicle may also be allowed if it is located behind the front building line of the principal structure and within a covered structure that is fully screened from adjacent residential uses. The applicants timely appealed the Zoning Enforcement Officer Decision contained in the Notice of Violation, and the appeal was heard by the Board of Adjustment. At its May 28, 2024 meeting, the Board of Adjustment upheld the Zoning Enforcement Officer decision, so the applicants were required to discontinue the existing home occupation and comply with provisions of the Land Development Ordinance. At the July 22, 2024 Board of Adjustment meeting, the applicants sought variances from the three ordinance provisions cited in the Notice of Violation. The Board approved a request to continue the matter after the applicants noted plans to move vehicle pick-up and drop-off to a different location, away from the home that could not be verified by staff at that time. Staff has since confirmed that the applicants have made arrangements so persons do not have to come to this property to pick-up or drop-off vehicles. As a result, the applicants are now only seeking variances from two of the ordinance provisions cited in the Notice of Violation. If the two variances are granted, the applicants will be able to continue to have more vehicles associated with the home occupation than allowed by the ordinance and to store those additional vehicles outside on the subject property.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Necas asked the applicants to provide their name/address for the record and swore in Christian Browne for his testimony.

Christian Browne, 519 Muirs Chapel Road, stated that he has moved his rental vehicles to a commercial property, and there is no pick-up or drop-off at the subject property. The variance request is to permit him to park rental vehicles at the property for his personal use.

Chair Necas asked about the variance requests, and Mr. Browne stated that the requests are to avoid citations for having rental cars at the property for personal use.

Vice Chair Ramsey asked how many cars the applicant wished to have on the property, and Mr. Browne stated that he hoped to have around three vehicles.

Ms. Rudd stated she visited the subject property on the day of the hearing and observed 8 vehicles with out-of-state and expired license tags. Mr. Browne stated that all the vehicles on his property now are titled to either him or his roommate and are not being offered for rental.

Chair Necas asked about the offsite location that the applicant uses, and Mr. Browne stated it was 109 Muirs Chapel Road.

Ms. Rudd asked about vehicles with out-of-state registration tags, and Mr. Browne stated that those vehicles are not driven often, but some of them are used for towing or other intermittent utility use and are not offered for rental.

Vice Chair Ramsey asked for clarification on how many vehicles the applicant wishes to store uncovered on the subject property, and Mr. Browne stated up to two, as he does not have space to cover more. Mr. Browne stated that he has five or six personal vehicles on the property.

Ms. Guarascio stated that the variance request was only for vehicles listed for rental and in business inventory.

Vice Chair Ramsey asked if there was a limit on personal vehicles, and Mr. Kirkman stated there was no zoning restriction as long as they were operable.

Chair Necas asked if another variance was required to account for outdoor storage of items related to a home occupation, and Mr. Kirkman stated that the variance requested would address those issues and provided zoning standards associated with home occupations.

Mr. Oliver asked about the 24-month period included as part of the request, and Ms. Guarascio stated that the previous time limit is no longer a part of the variance request, and advised against the Board agreeing to a time condition as part of a variance. Variances should be particular to the property, and not the property owner. Mr. Browne confirmed that he has commercial space for his business operations and does not need that element of the original request.

Chair Necas asked how the hardship claimed by the applicant was peculiar to the subject property. Mr. Browne stated that his vehicles are used for both business and personal purposes.

Mr. Truby asked if the home occupation standards change in the future, would outdoor storage of any other home occupation use be permitted. Mr. Kirkman stated that a separate home occupation use would not necessarily have the same rights if the Board granted a variance. Ms. Guarascio stated that the Board could limit a variance by condition to the current home occupation.

Ms. Rudd asked if the vehicles with out-of-state tags were used for business, and Mr. Browne stated that they were not offered for rental.

Mr. Randolph asked how to determine if the vehicles were used commercially or personally. Ms. Guarascio stated that the vehicles become part of the business inventory when listed for rental, even if not in active commercial use at the moment.

Chair Necas asked if there was any opposition to the request and swore in Jerilynn and Chris Bathgate and Daniel Benotti for their testimony.

Jerilynn Bathgate, 517 Muirs Chapel Road, stated that she lives directly adjacent to the subject property and they have a shared driveway. Moving the transactions off-site have helped significantly, but the current Ordinance limitations on two vehicles is reasonable. She stated that any repairs that needed to be done on the vehicles are possible with the limitation, particularly given the large number of other vehicles on the subject property.

Vice Chair Ramsey asked if one commercial vehicle on the subject property would be acceptable, and Ms. Bathgate stated she believed the applicant could already have one uncovered vehicle associated with the home occupation, which she believed would be reasonable and did not present an undue hardship. Vice Chair Ramsey asked if there were problems with the shared driveway. Ms. Bathgate stated that there are not current issues due to the discontinuation of pick-up operations on the subject property.

Mr. Randolph asked if there are other shared driveways in the neighborhood, and Ms. Bathgate stated it was unique to the area.

Chris Bathgate, 517 Muirs Chapel Road, stated that he supported enforcing the Ordinance requirements and opposed the Board granting a variance.

Daniel Benotti, 506 Pleasant Drive, stated that he was located behind the subject property, and that he has seen an increased level of traffic in the area due to the home occupation use. The area has been residential for a very long time, and the applicant was aware of this when he purchased the

property. He stated that the Ordinance requirements create no hardship for the applicant, as the business operations are not suitable for the residential character of the neighborhood. Mr. Benotti stated that the applicant's history of zoning violations should give the Board pause about allowing an increase in commercial activity on the subject property, and that the level of activity has increased even as the applicant has been appealing the determinations of the Zoning Enforcement Officer. Neither Kingswood Drive nor Meade Drive can support cross traffic when the applicant parks his vehicles on the side of the street on them. Mr. Benotti stated that he has seen as many as five vehicles parked by the applicant on Kingswood Drive, creating traffic safety issues.

Mr. Oliver asked if those vehicles were going to be moved, and Mr. Benotti stated that there are still vehicles present parked off-site.

Ms. Rudd stated that egress from the subject property is difficult.

Ms. Guarascio stated that there are not experts available to testify and advises caution for the Board to consider what it determines to be competent and relevant testimony.

Mr. Oliver stated that the Board has no control over the applicant's personal vehicles, and Mr. Kirkman stated that was correct for purely personal vehicles.

Ms. Rudd asked about inoperable vehicles, and Mr. Kirkman stated that the City code has other provisions regarding junked motor vehicles, but that is outside zoning authority.

Vice Chair Ramsey asked to confirm that vehicles were being parked on Kingswood Drive and Meade Drive and Mr. Benotti stated that was correct.

Chair Necas advised that the applicant had five minutes to speak in rebuttal.

Mr. Browne stated that he has not parked vehicles on the street for two weeks and that he has been relocating vehicles to the commercial property for the last few weeks.

Vice Chair Ramsey asked if the applicant had ever parked rental vehicles on the cross streets, and Mr. Browne stated that he had.

Mr. Randolph asked why the repair work could not happen at the off-site business location, and Mr. Browne stated that the commercial space is an office and parking, it cannot support vehicle repairs.

Vice Chair Ramsey asked if the applicant had a covered space to store the commercial vehicles, and Mr. Browne stated that the garage present on the subject property is insufficient for such use.

Mr. Randolph asked if the repair work was done outside, and Mr. Browne stated that was correct.

Ms. Bowers asked about photographs of vehicles parked on Kingswood Drive, and Mr. Browne stated that those vehicles were his.

Chair Necas closed the public hearing.

BOARD DISCUSSION

Vice Chair Ramsey asked to confirm that the applicant can have one vehicle associated with the home occupation uncovered without the variance, and Mr. Kirkman stated that was correct.

Mr. Randolph asked if the home occupation did not have to occur wholly inside the residence, and Mr. Kirkman stated that was correct.

Mr. Truby stated that he cannot support the variance, as the Ordinance already permits sufficient commercial vehicles for a home occupation.

Ms. Bowers stated that the applicant did not provide support for a hardship peculiar to the subject property.

Vice Chair Ramsey stated that the Ordinance already allows for a reasonable limit to commercial vehicles associated with home occupations.

Mr. Randolph stated that there has not been evidence presented of a hardship given the unique shared driveway situation with the subject property.

MOTION

Chair Necas moved that in BOA-24-33, 519 Muirs Chapel Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be upheld and the variances denied based on the following: (1) 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 LDO already allows up to two vehicles on the property and that is sufficient for the business; (2) 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 all homes within the R-3 district are expected to comply with the LDO and the property is similar to others in the neighborhood. Ms. Rudd seconded the motion.

The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

NEW BUSINESS

b. BOA-24-34: 1905 Elwood Avenue (DENIED)

Ms. Thiel stated in BOA-24-34, Modeste Tchouaso requests a variance to allow a short term rental to be separated 261 feet from another short term rental at 1812 Elwood Avenue when a minimum of 750 feet is required. Evidence provided by the applicants was Exhibit A. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance reference was Section 30-8-10.4(U): A short term rental must be separated from any other short term rental by a minimum of 750 feet, as measured from property lines.

Background and Site Information: The subject lot is located on the south side of Elwood Avenue, east of Coliseum Boulevard, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 6,970 square feet, and the house was constructed in 1946. The applicant uses the existing home on the subject property as a short term rental. After applying for the required zoning permit, City staff advised the applicant that another short term rental was located at 1812 Elwood Avenue, which is within 750 feet so the permit could not be issued unless a variance is approved for reduced separation. At this time, the applicant seeks a variance to allow a proposed short term rental to be separated 261 feet from another short term rental. If the variance is granted, the applicant will proceed with the short term rental zoning permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Necas asked the applicants to provide their name/address for the record and swore in Modeste Tchouaso for his testimony.

Modeste Tchouaso, 1905 Elwood Avenue, stated that he purchased this smaller residence to house family members who visit, and he offers it for short term rental when family is not using it.

Mr. Oliver asked if the applicant lives at the property, and Mr. Tchouaso stated he does not.

Ms. Rudd asked about the applicant's knowledge of other short term rentals operating in proximity to the subject property.

Ms. Guarascio asked if Ms. Rudd had any material discussion with the applicant regarding the request. Ms. Rudd stated that while visiting the site, she was attempting to clarify the address and was unaware she was speaking to the applicant.

Vice Chair Ramsey asked how long the applicant has offered it for short term rental, and Mr. Tchouaso stated since March of this year. Vice Chair Ramsey asked how long the other property in proximity had been operating, and Mr. Kirkman stated that it had been operating during 2023 and was granted nonconforming use status.

Ms. Bowers asked about the separation requirement in the LDO. Mr. Kirkman stated that it was an element of the short term rental text amendment adopted by City Council. Vice Chair Ramsey stated that it was to prevent saturation of residential neighborhoods with short term rental activity.

Mr. Oliver stated that Greensboro had a need for longer term rental properties.

Mr. Randolph asked if there was information in the ordinance regarding the separation requirement. Mr. Kirkman stated that there was conversation about balancing limited commercial uses in a residential setting relative to an established residential area.

Ms. Guarascio stated that the Board can interpret the intent and meaning of the Ordinance.

Mr. Oliver stated that the intent of the limitation in the Ordinance is to limit the number of short term rentals, and that the Convention and Visitor's Bureau indicates there is high availability of hotel occupancy in Greensboro.

Mr. Tchouaso stated that his properties are smaller, and he needs additional space for visiting family members. Making the property available when family is not present helps him afford the properties.

Ms. Guarascio stated that the Board is only considering the subject property.

Chair Necas asked if there was any opposition to the request and swore in Patricia Wisneski, Colin Cutler, Tim Leisman, Blair Kolb, and Debra Marek for their testimony.

Patricia Wisneski, 1607 Bailiff Street, stated that she opposes the variance request because it is harmful to the neighborhood. The new short term rental zoning regulations are intended to ensure the level of activity related to short term rentals does not create significant negative impacts on adjacent residential uses, and the spacing requirement is directly associated with that. She stated that the requested distance is less than half of the Ordinance requirement. Ms. Wisneski stated that the applicant's address associated with County tax records is in Maryland, not Greensboro, and that the Glenwood area has issues with property owners outside of the area.

Colin Cutler, 1506 West Florida Street, stated that there has been an increase in short term rental properties in the Glenwood neighborhood, which has damaged it. He stated that he has witnessed housing affordability be damaged by speculative real estate activity such as short term rental operation, and is concerned about his community being eroded.

Tim Leisman, 1708 Boyden Street, stated that the variance request does not fit within the character of the Glenwood neighborhood. He stated that he was concerned that granting this request would encourage conversion of more housing stock in the area into short term rentals, limiting or preventing younger growing families from settling there.

Ms. Guarascio reminded the Board that it must only consider competent and relevant evidence directly related to the subject property and the specific criteria of the variance request before it.

Blair Kolb, 1812 Marion Street, stated that there are unpermitted short term rentals operating in the neighborhood. Chair Necas advised the speaker that reports should be made to the Zoning Enforcement Officers to investigate.

Debra Marek, 1311 Marion Street, stated that she opposes the variance request.

Mr. Randolph asked about the hardship of the applicant. Ms. Wisneski stated that the applicant has not presented evidence of a hardship not of his own making. She stated that he purchased the subject property after the Ordinance was amended and should have known about the requirements.

Vice Chair Ramsey asked about the operator proximity requirement of the Ordinance. Mr. Kirkman stated that operators must be in Guilford County or an adjacent county. Vice Chair Ramsey asked about the Maryland address, and Mr. Tchouaso stated that he lives at 2409 Yanceyville Street.

Chair Necas advised that the applicant had five minutes to speak in rebuttal.

Mr. Guarascio stated that the operator issue has not come up yet, and Mr. Kirkman stated that if a Zoning Enforcement Officer determined there was a violation to that requirement, then enforcement action would begin.

Mr. Tchouaso stated that the subject property is at the corner of the street near Coliseum Boulevard, and he has constructed a fence to reduce the impact on the neighborhood. He stated that no other cities in North Carolina have a separation requirement and that the operation of the short term rental helps him economically support ownership of the subject property. Mr. Tchouaso stated that there have been no reported incidents at the subject property.

Ms. Rudd asked if the applicant was aware of the other short term rental, and Mr. Tchouaso stated he was not, and he was not aware of the zoning permit requirement.

Mr. Randolph stated that he had not heard any evidence or testimony submitted to justify determination of a hardship imposed on the subject property by the distance to the permitted short term rental. Mr. Tchouaso stated that his property is close to the corner of Coliseum Boulevard, which supports his request for the variance. Mr. Randolph stated that there were other properties in proximity that were similarly situated, and the subject property does not have peculiar circumstances justifying the determination of a hardship.

Mr. Oliver asked if the applicant had considered long term rental, and Mr. Tchouaso stated that he wished to use the property for family when they visit, and he did not find hotel accommodations acceptable for his family's extended visits.

Chair Necas closed the public hearing.

Ms. Guarascio asked to clarify the conversation Ms. Rudd had with Mr. Tchouaso.

Ms. Rudd stated that she was unaware she was speaking to the applicant.

Ms. Guarascio stated that the Board could determine if it finds that unacceptable to allow Ms. Rudd to deliberate on the request. She detailed standards of ex parte communications and impermissible bias for quasi-judicial board members and stated that the Board is interpreting the Ordinance as it is written.

BOARD DISCUSSION

Mr. Randolph stated that the intent of the short term rental regulation is to prevent neighborhood saturation with commercial activity, but the specific 750 foot distance is arbitrary. He stated that his issue with this variance request is that it has not been supported by competent and relevant evidence to establish a hardship determination.

MOTION

Mr. Randolph moved that in BOA-24-34, 1905 Elwood Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be upheld and the variance denied based on the following: (1) 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 situated in a neighborhood and while it is close in proximity to a thoroughfare, there are other similarly situated residences and properties that are also situated in the same manner that the property is in relation to both Coliseum Boulevard and the other properties within the neighborhood; (2) The variance is not in harmony with the general purpose and intent of this ordinance and does not preserve its spirit and does not assure public safety, welfare and substantial justice because the current Ordinance requires a spacing of 750 feet, the applicant is requesting a 489 foot variance, the density of which the applicant did not show any evidence that that density would still maintain the residential character with the neighborhood, notwithstanding the short term rental. Mr. Oliver seconded the motion.

The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

Chair Necas advised the Board would take a break at 7:13 p.m., and the Board resumed at 7:23 p.m.

c. BOA-24-35: 1812 Huntington Road (APPROVED)

Ms. Thiel stated in BOA-24-35, Ryan and Danielle Gioffre request a variance to allow a proposed addition to encroach 19.3 feet into a required 50 foot front setback. The addition will be 30.7 feet from the front property line. Evidence provided by the applicants included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-7-1.4(A)(1)(b): Where 50% or more of the lots on the same block face as the subject lot are occupied by single family detached dwellings, buildings on the subject lot must comply with the minimum street setback determined by calculating the average setback that exists on the lots on either side of the subject lot.

Background and Site Information: The subject lot is located on the east side of Huntington Road, south of Pembroke Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 16,988 square feet, and the house was constructed in 1955. The applicants propose to construct an 879 square foot two-car garage addition at the side and front of the existing house. While average front setback requirements would normally apply to the subject property, a legal memo provided to the Planning Department Director confirms the option to use the front setback shown on a recorded subdivision plat if the setback shown on the plat is less than the calculated average. For the subject property, the 50 foot front setback shown on the recorded plat is less than the calculated 80 foot average front setback. The proposed addition will encroach 19.3 feet into the required 50 foot front setback and be 30.7 feet from the front property line. If the variance is granted, the applicants will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Necas asked the applicants to provide their name/address for the record and swore in Ryan Gioffre for his testimony.

Ryan Gioffre, 1812 Huntington Road, stated that location of the proposed addition is the best possible place on the property due to the shape of the parcel.

Mr. Oliver asked if other properties in the area had garage, and Mr. Gioffre stated there were many.

Chair Necas closed the public hearing.

BOARD DISCUSSION

Mr. Truby stated that the subject property was unique and the average front setback requirement made other locations for the addition impractical.

MOTION

Mr. Oliver moved that in BOA-24-35, 1812 Huntington Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) 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 shape of the lot makes adding a garage almost impossible without a variance; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the home was in place, built in 1955, when the applicant purchased it, the shape of the lot has been established since at least 1955; (3) The hardship is not the result of the applicant's own actions because the narrowing of the lot is 150 feet on the front and 35 feet along the back, that makes it very difficult to fit a garage on the property; (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the property will be improved with this addition of a garage, it will be in harmony with the Ordinance and public safety will not be harmed. Mr. Randolph seconded the motion.

The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

d. BOA-24-36: 2204 Red Forest Road (APPROVED)

Ms. Thiel stated in BOA-24-36, John and Pamela Porter request a variance to allow the total building coverage of all accessory structures on the lot to be 1,694 square feet when no more than 1,200 square feet is allowed. Evidence provided by the applicants included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-8-11.1(A)(3): In R- districts, the maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principal structure on the lot or 600 square feet, whichever is greater.

Background and Site Information: The subject lot is located on the north side of Red Forest Road, east of Pebble Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 17,424 square feet, and the house was constructed in 1970. The applicants propose to construct a 1,034 square foot addition to the back of an existing 660 square foot detached carport that will include a workshop and storage space. The 1,694 square foot building coverage of the expanded accessory structure will exceed 50% of the principal's building coverage, which is 1,200 square feet. The applicants seek a variance to address this issue and, if granted, will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted the applicable overlay.

Chair Necas asked the applicants to provide their name/address for the record and swore in John and Pamela Porter for their testimony.

John Porter, 2204 Red Forest Road, stated that he has been woodworking for 50 years and they needed the added space for a woodworking workshop. They have owned three homes in Greensboro and this property is the most suitable for their accessory structure while balancing their family's needs, property values, and the conditions of the property allowing the structure to be compatible with the neighborhood.

Pamela Porter, 2204 Red Forest Road, stated that they discussed the request with their neighbors to ensure it was appropriate for the area, and they have not heard any objections.

Chair Necas closed the public hearing.

MOTION

Mr. Truby moved that in BOA-24-36, 2204 Red Forest Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) 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 1,694 square foot accessory structure; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing house area controls the maximum area of the accessory structure; (3) The hardship is not the result of the applicant's own actions because the house was built in 1970 and the square footage was determined at that time and is what is used to determine the maximum area of the accessory structure; (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the accessory structure will back up to Bryan Boulevard which will not have an impact on the public and the accessory structure will add to the property value. Ms. Rudd seconded the motion.

The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

e. BOA-24-37: 4234 Ashland Drive (APPROVED)

Ms. Thiel stated in BOA-24-37, JCMNC LLC requests three variances: (i) To allow a proposed house to encroach 7.8 feet into a required 27.8 foot front setback. The house will 20 feet from the front property line; (ii) To allow a proposed house to encroach 6.6 feet into a required 20 foot rear setback. The house will 13.4 feet from the western rear property line; (iii) To allow a proposed house to encroach 14 feet into a required 20 foot rear setback. The house will 6 feet from the eastern rear property line. Evidence provided by the applicants included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8s. The Land Development Ordinance references were Section 30-7-1.4(A)(1)(b): Where 50% or more of the lots on the same block face as the subject lot are occupied by single family detached dwellings, buildings on the subject lot must comply with the minimum street setback determined by calculating the average setback that exists on the two lots on either side of the subject lot; and Section 30-7-3.2 – Table 7-2: In the R-5 District, the minimum rear setback is 20 feet.

Background and Site Information: The subject lot is located on the north side of Ashland Drive, east of Cornell Avenue, and is zoned R-5 (Residential Single-Family). Survey records indicate the vacant lot contains approximately 6,043 square feet. Based on the average front setback calculations using 4240 and 4242 Ashland Drive, the applicable front setback for the subject property is 27.8 feet. Because of its configuration, the subject lot has two rear property lines and, as a result, two rear setbacks. The applicant proposes to construct a single-family house with a footprint of 875 square feet on the subject property that will encroach 7.8 feet into this required 27.8 foot front setback and will be 20 feet from the front property line. The proposed house will also encroach into both rear setbacks and will be 13.4 feet from the western rear property line and 6 feet from the eastern rear property line. The applicant seeks variances to address these three issues and, if granted, will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted the applicable overlay.

Chair Necas asked the applicants to provide their name/address for the record.

Nick Blackwood, 804 Green Valley Road, Suite 200, applicant's attorney, stated that the peculiar triangular shape of the subject property necessitates the variance requests. Building a viable residence within the required setbacks would be impossible, application of those requirements would render the subject property unbuildable, thus imposing a hardship by strict application of the ordinance. He stated that the proposed residence's encroachment is limited and provides for adequate spacing between it and the existing homes in the neighborhood, supporting the character of the area.

Chair Necas closed the public hearing.

MOTION

Vice Chair Ramsey moved that in BOA-24-37, 4234 Ashland Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and all three variances granted based on the following: (1) 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 will be impractical or impossible to construct a house on the lot and comply with the setback rules; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because of the unique triangular shape of the applicant's lot; (3) The hardship is not the result of the applicant's own actions because the lot was in its current shape prior to the applicant's purchase of the lot; (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the proposed house will fill in a vacant lot, be consistent with the neighborhood, and increase tax values. Mr. Oliver seconded the motion.

The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

ACKNOWLEDGEMENT OF ABSENCES

Chair Necas acknowledged the absence of Mr. Wofford.

OTHER BUSINESS

Vice Chair Ramsey moved to elect Chair Necas as Chair and Mr. Randolph as Vice Chair of the Board of Adjustment, seconded by Ms. Rudd. The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Rudd, Bowers, Vice Chair Ramsey, Chair Necas; Nays: None).

ADJOURNMENT

The meeting was adjourned at 7:53 p.m.

Respectfully submitted,

Leah Necas, Chair
Greensboro Board of Adjustment
LN/arn