



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

J a n u a r y 2 0 , 2 0 1 0

MEMBERS PRESENT		TOWN ATTORNEY	STAFF
David Collins		Bob Hornik	James Thomas
Thomas Arnel			Jane Tuohey
John Gant			Marty Roupe
Richard Ellington			
Robert Kirschner			
Sriv Navaratnum			
Absent/Excused: Catherine DeVine; Mark Brantley			

MINUTES APPROVAL

MOTION MADE BY JOHN GANT AND SECONDED BY RICHARD ELLINGTON TO APPROVE MINUTES FROM AUGUST 19, 2009 MEETING WITH THE FOLLOWING CHANGE: Page 3 – Under Old/New Business voting, remove the word VOTE which was written two times.

VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

PUBLIC HEARING: Special Exception Permit at 101 Sue Ann Court

Applicant/owner, Robert Lincoln, is requesting two (2) Special Exception Permits to allow the following:-

1. A deck on the ground floor (approximately 8ft x 24ft) that will have a privacy wall in the center in order to serve unit A and unit B of the condos.
2. A deck on the 2nd floor (approximately 8ft x 24ft) that will have a privacy wall in the center in order to serve unit C and unit D of the condos.

In essence, there are four (4) condos within this building and the length of the decks will allow each unit to have an 8ft x 12ft deck. Both the Special Exception Permits will encroach approximately five (5) feet into the required ten (10) foot rear yard setback.

Jane Tuohey, notary public swore in staff member James Thomas, applicants and neighbors. James Thomas gave the staff presentation and informed the Board that he sent notifications to adjacent property owners who live within 150' of this property; he has not received any phone calls. Mr. Thomas explained that the 4 condos were being renovated, so a fire escape will be removed and a deck installed. Mr. Ellington asked if there were any screening issues and about the difference in sizes, one deck being 6 x 24 and the other 8 x 24, it was noted that both decks will be 8 x 24'. Mr. Kirschner asked if there were any screening issues or newer fire codes, Mr. Thomas said that the applicant had talked to the Inspections Division and a secondary exit is not mandatory. Fire suppression is also not needed. Building materials and egress were mentioned but, Mr. Thomas said that the building materials are under building code and are inspection issues not zoning.

Bob Lincoln, applicant, said that he wanted to address the question from Mr. Ellington regarding screening, a 6' wooden fence will be installed next week and that only an additional 4' will be added to the existing pad.

Board members spoke in agreement of this project. Mr. Ellington said that if there is not a problem with the Inspections Division with the removal of one set of stairs then he is ok with this project.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY JOHN GANT THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY THOMAS ARNEL THAT THE APPLICATION COMPLIES WITH ALL (A-F) APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY SRIV NAVARATHAT THE APPLICATION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

1. the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance

2. if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect
3. that the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house is permitted by this special exception permit.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY JOHN GANT THAT THE APPLICATION BE GRANTED SUBJECT TO THE ABOVE CONDITIONS. VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

PUBLIC HEARING: Variance Request at 101 Pine Hill Drive

Applicant/owners, Eric and Martha Kuo have submitted an application requesting a variance to allow encroachment into “Zone 2” Riparian Buffer per Section 15-269.3(a)(3) of the Land Use Ordinance for the construction of a single-family residence that will have a footprint of approximately 800 square feet and an associated driveway that will be ten(10) feet in width and flare out to accommodate two parking spaces (8.5ft x 18ft) for a driveway footprint of approximately 450 square feet.

Mr. Thomas gave his presentation to the Board; this triangular property is vacant with a 30’ wide OWASA easement behind it. The lot is 11,555 sq ft including the easement. The plat that Mr. Thomas has does not show the easement but it is still recognized as being 30 ft in width. The applicant drew lines to show the setbacks and where the house will be built within the setback. The house will be 40’ by 20’ with a driveway for 2 parking spaces. There are two zones which total 120’ in width; Mr. Thomas stated that the house will encroach into the “Zone 2” Riparian Buffer. The greatest encroached area is the NW corner, it will encroach 17’ there, it will encroach 13’ in the NE corner. Mr. Thomas explained the 5 findings of fact to the Board and said that staff recommends this variance be granted. The questions of changes being made to stream buffers was mentioned, these changes came into affect approximately six months ago, but for this case a variance is still needed. If a house is in the buffer today it is grandfathered in, all lots have been developed on Pine Hill Drive except for this lot. More questions were asked about streams, buffers, violation of setbacks, second variances, a shed and expansion of the house after this variance if it is approved, it was stated that basically only one variance is given. Mr. Ellington noted that the plat states P/O Lot 1 for the property next door, and said that he was told by a developer that the lot is unusable and not a separate lot and that it appears to not be a lot also because of the numbering. Mr. Thomas said that Mr. Kuo owns the lot and has been paying taxes on this for years. Mr. Hornik said that it is a lot and is residentially zoned, unless there is another reason under the LUO or something on record that says it is not a residential lot, it is fair game.

Mr. Collins asked if anyone from the public would like to speak, Mr. Julian Sereno whose property adjoins the lot, came forward and addressed his concerns regarding this project; he had a signed letter of opposition from himself and his wife who live at 213 Simpson Street and their neighbors who live at 211 Simpson Street. The letter has become part of the record.

Mr. Ellington asked Mr. Sereno if he has spoken to Mr. Kuo, to which he said that he hadn't but he had spoken to staff member James Thomas.

Mr. Kuo, property owner came forward and said he wanted to answer Mr. Ellington's question regarding the lot. He said that originally the lot was part of Lot 1, they were called section A & B, but it was all Lot 1. The County Tax Office recommended building to him and said that it was a waste not to build on this lot, so they reset the border line. They said for him to see an attorney and get it petitioned, the County approved it and made it a buildable lot to which he has been paying for it as a buildable lot for 15 years. They had discussed the building of a house with a builder but he moved, so if they had built before March 2009 there would not have been an issue and wouldn't affect anything. All surrounding houses were built before the buffer increased in size. Mr. Kuo showed the board the original county approved plat. Mr. Thomas said that he hadn't seen the original before and pointed out that it was approved for separation by Roy Williford on 9-11-85 as an exempt subdivision.

There being no other questions a MOTION WAS MADE BY JOHN GANT AND SECONDED BY THOMAS ARNEL TO CLOSE THE PUBLIC HEARING. VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

Mr. Kirschner and Mr. Ellington expressed concerns about this but stated that he understands the applicants point. Mr. Kirschner said that it is not fair for the applicant to have property that is not unusable. Mr. Navaratnum said that with the fact that the owner has been paying taxes for a number of years and the ordinance only came into effect last year, it would be a hardship for Mr. Kuo not be to able to build. Mr. Arnel was in agreement with Mr. Navaratnum and Mr. Gant said that staff had done their job to interpret the situation. Mr. Hornik, Town Attorney said that if the Board goes through the 5 questions, and answers them, they would come to a conclusion. Mr. Collins said Town Staff has done their job, this is a variance question, not a zoning question and that if the Board agrees with the findings of the Town Staff, then they are left with a clear choice. Mr. Hornik said that the 5 questions are standards of a variance not made up questions. Mr. Collins agrees with granting the variance.

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY JOHN GANT THAT THE APPLICATION COMPLIES WITH ALL FINDINGS (1-6) REQUIRED BY SECTION 15-92 OF THE LAND USE ORDINANCE. VOTE: AYES 6 (David Collins, Thomas Arnel, John

Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY SRIV NAVARATNUM THAT IF THE APPLICATION IS GRANTED, THE PERMIT SHALL BE ISSUED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall complete the development strictly in accordance with the presentation submitted to and approved by the Board on January 18, 2006, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in this presentation must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY JOHN GANT THAT THE APPLICATION IS GRANTED, SUBJECT TO THE CONDITIONS AGREED UPON UNDER SECTION III (See Above). VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)

OLD/NEW BUSINESS

Mr. Collins talked upcoming terms expiring for himself, Thomas Arnel and John Gant. Mr. Collins has recommended all three including himself to be reappointed. At the next meeting a new Chair has to be elected, Mr. Collins is in communication with the Town Clerk, Sarah Williamson.

Richard Ellington asked if there is anything pending. Mr. Roupe said that Won Buddhism want to expand and this will be coming to the Board of Adjustment at some point, but not at the moment. Also another person has been speaking to staff about applying for a Special Use Permit but they not have submitted the application as of yet.

There being no other business, MOTION MADE BY RICHARD ELLINGTON AND SECONDED BY JOHN GANT THAT THE MEETING BE ADJOURNED. VOTE: VOTE: AYES 6 (David Collins, Thomas Arnel, John Gant, Richard Ellington, Sriv Navaratnum, Robert Kirschner). NOES 0; ABSENT/EXCUSED 2 (Catherine DeVine, Mark Brantley)