



MINUTES OF
CITY OF CREEDMOOR
BOARD OF ADJUSTMENT
AUGUST 24, 2020
7 P.M.

Present in Person at City Hall Boardroom

In attendance were Chair Dennis Daniel, Vice-Chair Hugh Robertson, and Kevin Brown. Also present were Community Development Director Michael Frangos, City Clerk Terry Hobgood, and City Planner Michael Malecek.

Present via Zoom Videoconference

Nicole Martin and City Attorney Brady Herman.

Absent

None

Call to Order

Chair Dennis Daniel called the meeting to order at 7:00 p.m.

Continued Petition for Variance (VAR-2020-01): 714 N. Durham Ave.

Discussion of VAR-2020-01 resumed when City Planner Michael Malecek reported that he had emailed the four questions from the Board of Adjustment to the applicant, Lisa Parrott, and requested that those emailed questions be entered into the official meeting record.

1. Provide dimensions of the deck and existing aboveground pool.
2. Specify the type of fence to be installed on the deck.
3. Specify the total fence height on the deck.
4. Provide approximate distances between the proposed deck and the nearest property lines, and provide approximate distance from the edge of the access ramp/bridge to the front of the house.

At 7:05 p.m. on August 24, 2020, Chair Dennis Daniel reconvened the recessed evidentiary hearing from August 10, 2020.

City Clerk Terry Hobgood swore in Lisa Parrott, the applicant for VAR-2020-01: 714 N. Durham Ave. Ms. Parrott appeared virtually via Zoom and then addressed the four questions emailed to her prior to the meeting.

Ms. Parrott reported that the existing above-ground pool dimensions were 18' x 33'. Ms. Parrott then elaborated on how the pool would fit into the deck design based on the layout drawing given to the Community Development Department.

Ms. Parrott then stated that the fence height would be determined based on the approval granted by the Board of Adjustment. Ms. Parrott clarified that the type of fence installed would be a solid fence, with open slats at the top. The drawing submitted to Community Development shows a 4.5' fence, but the applicant is considering a 6' fence.

The Board, the applicant, and city staff discussed how the pool deck design adheres to North Carolina Building Code, and Mr. Malecek stated that most of these considerations were beyond the purview of this Board and the Community Development Department. Mr. Malecek stated that the Board may decide what fence height to allow as

a condition of approval. The Board also discussed the specific nature of the variance, which was a request to allow a permanent pool deck structure in the front yard instead of the back or side yard.

Ms. Parrott then addressed the question related to the distance of the pool deck ramp to the front of the house, which she reported as being 55', and she also stated that the pool was 40' to the closest neighboring property and significantly more than 40' to the other adjoining property owner. Ms. Parrott did not supply a definitive measurement for the next closest neighboring property.

The Board then requested that Ms. Parrott present her case as described in the application. Ms. Parrott stated that the pool serves a therapeutic purpose for her husband, Lanny Parrott. The proposed deck will provide a ramp access to the pool, allowing her husband ease of access. Ms. Parrott then requested clarification on the reasoning behind her need to obtain a variance, which Community Development Director Michael Frangos clarified to the applicant was due to her desire to build a permanent pool structure in the front yard, which does not comply with the Creedmoor Development Ordinance (CDO). Ms. Parrott and Mr. Frangos discussed the reasoning behind the current provisions of the CDO, which prohibits a permanent pool in the front yard, and Mr. Frangos surmised that the ordinance provision was established for both safety and aesthetic reasons.

Ms. Parrott then discussed the reasoning for her request to permanently place the pool in her front yard. Ms. Parrott stated that there was not enough room in the side or back yards due to the existing wrap-around asphalt driveway, an outbuilding in the back yard, and the short distance from the rear of the house to the property line.

At 7:46 p.m., Vice-Chair Hugh Robertson moved to close the evidentiary hearing; seconded by Kevin Brown. The motion was approved by roll call vote 4-0.

Dennis Daniel: Yes
Hugh Robertson: Yes
Kevin Brown: Yes
Nicole Martin: Yes

Chair Dennis Daniel led discussion of the four statutory requirements that must be met to issue a variance.

1. ***Unnecessary hardship would result from the strict application of the ordinance.***
 - a. ***It shall not be necessary to demonstrate that in the absence of the variance, no reasonable use can be made of the property.***

Discussion: Chair Dennis Daniel and Vice-Chair Hugh Robertson stated that in their judgment, the strict application of the ordinance would cause an unnecessary hardship for the applicant. Nicole Martin stated that it could be argued that the applicant would be required to make a significant financial investment to comply with the ordinance, and Kevin Brown stated that he believed that the ordinance was not forcing an unnecessary hardship on the applicant.

2. ***The hardship results from conditions that are peculiar to the property, such as location, size, or topography.***
 - a. ***Hardships resulting from personal circumstances may not be the basis for granting a variance.***
 - b. ***Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance.***

Discussion: Kevin Brown stated that he believed that the property does pose peculiar topographical conditions that do create a hardship in this instance. Chair Dennis Daniel stated that the location of the home on the property, particularly so close to the rear property line, posed a peculiar location hardship.

3. ***The hardship did not result from actions taken by the applicant or the property owner.***
 - a. ***The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.***

Discussion: Kevin Brown stated that the property owner did not cause the hardship due to any decisions they made regarding modifications to the property. Vice-Chair Hugh Robertson concurred. Chair Dennis Daniel discussed the storage shed that was installed by the property owner, that may be unrelated to the request, but could have ultimately impacted where the pool was placed.

4. *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

Discussion: Chair Dennis Daniel discussed the spirit of the ordinance that requires permanent pools to be in the rear or side yard, and if the Board considered a front yard, pool designed in this manner, to be in the interest of public safety. Vice-Chair Hugh Robertson stated that he believed that the current design does provide for public safety, and is designed and placed as best as possible under the circumstances. Nicole Martin stated that the design of the pool deck and the information provided by Ms. Parrott at tonight's hearing does provide for adequate public safety.

Community Development Director Michael Frangos discussed the variance application, which is specific to 714 N. Durham Ave., but the decision that the Board makes regarding this application could set precedent for similar applications reviewed by the Board of Adjustment in the future.

Vice-Chair Hugh Robertson moved to consider each variance standard individually.

Kevin Brown offered a substitute motion to consider all four variance standards as a group. Chair Dennis Daniel ruled the motion out of order, because the Chair had not yet ruled that the original motion had failed due to a lack of a second.

Nicole Martin then seconded the original motion by Vice-Chair Hugh Robertson. The motion was approved by roll call vote 4-0.

Dennis Daniel: Yes
Hugh Robertson: Yes
Kevin Brown: Yes
Nicole Martin: Yes

Kevin Brown moved to vote on Standard One: unnecessary hardship would result from strict application of the ordinance; seconded by Vice-Chair Hugh Robertson. The motion failed by roll call vote 1-3.

Kevin Brown: No
Dennis Daniel: No
Hugh Robertson: Yes
Nicole Martin: No

Chair Dennis Daniel asked for clarification on the intent of Kevin Brown's motion, which Kevin Brown confirmed he intended as a vote in the negative to mean that Standard One had not been met. Mr. Daniel asked the other Board members to confirm that they had voted as they intended, and the rest of the Board confirmed that their votes were tallied as intended.

Chair Dennis Daniel then ruled that there was no need to vote on Standard Two, Standard Three, or Standard Four, since the determination that the Standard One had not been met would result in denial of the variance request even if all other standards were satisfied.

Community Development Director Michael Frangos then outlined the next steps to the Board and the applicant, Lisa Parrott, who was still in attendance. Mr. Frangos stated that a decision document with the findings of fact and

the conclusions of law would be drafted and presented to the Board Chair for signing. This final document would be supplied to Ms. Parrott, and if she wishes, she may appeal the decision to Granville County Superior Court.

Ms. Parrott stated on the record that she planned to build her deck structure despite this decision, and plans to appeal to Granville County Superior Court.

Adjourn

Kevin Brown moved to adjourn the meeting at 8:46 p.m.; seconded by Nicole Martin. The motion was approved by roll call vote 4-0.

Dennis Daniel: Yes
Hugh Robertson: Yes
Kevin Brown: Yes
Nicole Martin: Yes


Terry A. Hobgood, Jr., City Clerk

