



CITY OF NEWNAN
Board of Zoning Appeals
Meeting Minutes
August 1, 2023
10:00 a.m.

Board Members in Attendance: Kris Lovell, Ken Parker, Skin Edge, Cliff Smith, Frank Flournoy
Board Members Absent: Sally Hensley, Willie Walton
Others in Attendance: Tracy Dunnavant, Planning & Zoning Director
Samantha Wood, Planning & Zoning Administrative Assistant
Dean Smith, Senior Planner
Chris Cole, Senior Planner
Brad Sears, City Attorney

CALL TO ORDER

Chairman Lovell called the meeting to order at 10:00 a.m. in the Richard A. Bolin Council Chambers, City Hall, 25 LaGrange Street.

READING OF THE MINUTES

Chairman Lovell asked the Board if they had reviewed the July 11, 2023, meeting minutes. Flournoy motioned to approve the minutes. Edge seconded the motion.

MOTION CARRIED (5-0)

Variance Request – 32 Waverly Circle – 2023-16

Chairman Lovell opened a public hearing on a variance request for a request to exceed the maximum residential driveway width from the required 24 feet to 36 feet.

Chris Cole gave the staff report: The applicant recently completed construction of a new home at 32 Waverly Circle and has not received a Certificate of Occupancy yet. The applicant poured the driveway before inspection by the Engineering Department and this resulted in a 36-foot driveway width instead of the required 24 feet. Staff Note - The “driveway width” refers to the driveway’s maximum width at the right-of-way. In this case, the entire driveway has a 36-foot width from the street to the garage. It should also be noted in general that once past the right-of-way, a driveway’s width can be expanded over the required maximum of 24 feet towards a house.

Regarding the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property, the applicant indicated, “The Applicant desires to build his personal residence on the undeveloped lot and have a three (3) car garage with a driveway width of thirty-six (36) feet instead of the twenty-four (24) feet in the Ordinance.” Regarding the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance, the applicant indicated, “The undeveloped lot was recorded on August 9, 2005 with a plat that shows the lot as 0.379 acres. The Applicant/Owner purchased the lot and desires to build his personal single-family residence on the lot with a three (3) car garage.”

Regarding the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property, the applicant indicated, “The Applicant/Owner would be unable to build his proposed design that would enhance the neighborhood and allow for parking multiple family vehicles.” Regarding the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property, the applicant indicated, “The minimum Variance is twelve (12) feet.”

According to the Engineering Department, the driveway-approval element of the Certificate of Occupancy for this property will be conditioned on the applicant obtaining this variance. If the variance is approved, the applicant will still need the final driveway inspection from Engineering Department. Michael Klahr, Director of Engineering, added, “From an Engineering perspective, permitting a driveway of 36-feet wide, at the Right-of-Way, will not impact traffic safety on this local, residential street. Therefore, I would have no objections in granting the request.” Regarding the variance request to exceed the maximum residential driveway width from the required 24 feet to 36 feet, staff believes the constructed driveway is appropriate and will present no negative impacts (especially in light of Mr. Klahr’s opinion above). Staff also believes the constructed driveway works within the confines of the natural restrictions of the lot’s size and shape.

Staff also believes that there are extraordinary and exceptional conditions related to the topography of the subject property. For purposes of this report, topography is defined as “the arrangement of the natural and artificial physical features of an area.” As shown on the attached Project Location Map, the subject property contains utility easements in the eastern and northern yards. The eastern-yard easement also contains a storm pipe.

In this case, staff believes the placement of the house was likely affected by the location of the utility easements. Even though these utility easements (or any other potential hardship) do not seem to relate to the decision to construct the 36-foot wide driveway as measured at the right-of-way, staff believes relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance. In addition, staff received two phone calls seeking general information. Staff also received emails from two individuals regarding the request and these emails are attached in this packet. Staff also believes that this is the first “maximum residential driveway width” variance case that has been brought before the Board in at least 10 years.

After reviewing the information presented by the applicant and comparing it to the basis for granting variances, as outlined in the Zoning Ordinance, staff recommends approval of the variance request based on the following reasons. The strict application of the terms of the Ordinance would unreasonably restrict utilization of the property because the application of the

Ordinance to the particular piece of property would create a nonfinancial, unnecessary hardship. Also, as stated earlier, relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

Cole went through all of the photos and explained each to the board.

Chairman Lovell asked if any of the board had questions for staff.

Edge asked if there was any pushback from any of the neighbors.

Cole stated that the city has not received any negative feedback from anyone in the neighborhood.

Melissa Griffis came forward for the applicant. Griffis stated that this will be the personal home of the applicant. That he is known in the community and that he has been a builder in the area for a while.

Parker asked how far the ROW is into the driveway.

Dean Smith explained that the ROW is 50' from the center of the road and that the variance is only for 4-5' of this driveway.

Parker asked if he (Mr. Freeman, applicant) has built so many homes in the city of Newnan, how did this get build without being inspected.

Todd Freeman came forward and was sworn in by Brad Sears. Mr. Freeman stated that he built in the city years ago. He believed that this property was grandfathered in.

Parker asked if the options were: 1. Leave it or 2. Change it?

Cole stated that yes that was the 2 options.

Mr. Lee Hammond was sworn by Brad Sears. Mr. Hammond stated that he lives in Hollis Heights right by Waverly Circle and this driveway does not bother him at all.

Chairman Lovell closed the public hearing.

Flournoy made a motion to approve the Variance Request at 32 Waverly Circle. Smith seconded the motion.

MOTION CARRIED (4-0 [Ken Parker Abstained])

Variance Request 44 Canyon View View Drive – 2023-17

Chairman Lovell opened the public hearing

Dean Smith gave the staff report the purpose of this request is for a variance to reduce the setback for the water surface for a swimming pool and to reduce the setback for a pool deck because of the 10 foot property line setback, the proposed pool will not fit in the allowed area when considering the 10 foot setback. ...the construction of the pool has been

approved to be built with the 20 foot drainage easement that runs parallel to the rear property line....There is only 30 feet from the rear corner of house to the rear property line....the pool could be installed 5 feet from the rear property line with 5 feet of concrete decking installed taking it up to the rear property linethe area behind the property line is a 50 foot undisturbed buffer, so no other residential property would be hindered by its proximity to the rear property line.

Staff agrees with the applicant's assertion that the size of the subject property (in particular the back yard in question) is a limiting factor for building a swimming pool with decking. This size issue affects both the pool distance and pool decking variance requests.

The BZA has approved a similar request in the past: 26 Sherwood Drive in 2019

Staff recommends to support the variance with the condition that the scope of work does not exceed beyond the property owner's rear property line and that no work encroaches in the undisturbed buffer behind the rear property line.

The strict application of the terms of the Ordinance would unreasonably restrict utilization of the property because the application of the Ordinance to the particular piece of property would create a non-financial, unnecessary hardship. Also, relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

Staff agrees with the applicant's assertion that the size of the subject property (in particular the back yard in question) is a limiting factor for building a swimming pool with decking. This size issue affects both the pool distance and pool decking variance requests.

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The strict application of the terms of the Ordinance would unreasonably restrict utilization of the property because the application of the Ordinance to the particular piece of property would create a non-financial, unnecessary hardship. Also, relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

The applicant Ashley Gray came forward and was sworn in by Brad Sears. Mrs. Gray stated that she wanted the variance to be able to build this pool for family enjoyment. She stated that they were told that a community pool would be built in their subdivision and it never has, so they want to be able to have one so that their family can enjoy time together.

Chairman Lovell closed the public hearing.

Edge made a motion to approve the Variance request at 44 Canyon View Drive with the condition that the pool not go in the buffer. Flournoy seconded the motion.

MOTION CARRIED (5-0)

Variance Request 7 Parks Avenue – 2023-18

Chairman Lovell opened the public hearing.

Chris Cole gave the staff report.

Applicant's Position: The applicant proposes to build an addition to the existing house that will be located 5 feet from the western side property line, instead of the required 12 feet. This building addition along the western side property line is a 5-foot extension of the existing wall area. The renovation project also involves building an addition to the front of the home that will meet the setback requirements. Staff Note – Please see the attached proposed elevations and floor plans that the applicant plans to construct. The side of the home involved in the setback request is labeled Left Elevation. Also, please see the attached site plan showing the location of the proposed addition.

Regarding the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property, the applicant indicated, "The minimum 12' side setback requirement would prevent the proposed construction and limit our ability to create additional useful interior space. It is our intention to extend the exterior side wall (west) of our home to be within 5' of the property line. We also intend to extend the front of the home within the prescribed RS-15 front setback limitations."

Regarding the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance, the applicant indicated, "The current parcel and home configuration prohibits extension toward the rear of the house (north) due to existing detached structures and limited yard space. The topography and street side setback prohibit us from extending on the opposing side (east). Given these existing limitations our only options for creating additional living space are as follows; extend the property on the side (west) and front (south) exteriors."

Regarding the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property, the applicant indicated, "Without variance approval the home would be inadequately sized for our growing family. In addition to the two exterior wall extensions, it is our intention to build out the upstairs attic. In order to complete the attic addition, we need to incorporate an interior staircase while maintaining an adequate living room, dining room, and master bedroom size. We would be unable to accomplish this without increasing our exterior footprint."

Regarding the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property, the applicant indicated, "The current side setback for RS-15 is 12'. Our drawings and design layout would have us extend to a 5' setback."

The applicant also added, “It is of the utmost importance to us that the home maintains its existing charm and historic character, like other homes in the neighborhood. We intend to employ local architects, designers, and builders who are familiar with the historical importance to downtown Newnan and are familiar with preserving it.”

Basis for Granting Variances:

The Board of Zoning Appeals shall base its required findings of fact upon particular evidence presented to it in each specific case where the property owner can show all of the following to be true:

A. The strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict utilization of the property because of all of the following:

There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and, Such conditions are peculiar to the particular piece of such property involved; and, Such conditions were not imposed by the action or will of the owner of the property; and, The application of the Ordinance to the particular piece of property would create an unnecessary hardship other than a financial hardship in which the applicant would receive a lower rate of financial return on the use of the property if the variance is denied; and, Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.

B. In addition, the Board of Zoning Appeals shall affirmatively determine that:

The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant. The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Regarding the variance request to reduce the distance requirement to the adjacent western side property line from 12 feet to 5 feet, staff believes the placement of the proposed house addition is appropriate and will present no negative impacts. Staff also believes this proposal works within the confines of the natural restrictions of the lot's size and shape. Staff agrees with the applicant that expansions to the west (towards the neighbor at 9 Parks Avenue) and south (towards the front yard along Parks Avenue) exteriors are rational as the lot size, as well as the placement of the house and detached garage, provide limited space for expansion. Overall, the factors involving the size, shape, and topography of the subject property provide sound reasons for the applicant to seek the variance.

The applicant previously received a setback reduction variance on June 2, 2020 to construct a new detached garage. Regarding other variances approved for nearby properties, the Board recently approved a side setback variance for an attached covered parking structure at 2 Parks Avenue on April 4, 2023. The Board also approved a rear setback variance for a home addition at 15 Parks Avenue in 2015. Also in 2015, the Board approved a side setback variance for an attached carport at 22 Parks Avenue.

After reviewing the information presented by the applicant and comparing it to the basis for granting variances, as outlined in the Zoning Ordinance, staff recommends approval of the

variance request based on the following reasons. The strict application of the terms of the Ordinance would unreasonably restrict utilization of the property because the application of the Ordinance to the particular piece of property would create a nonfinancial, unnecessary hardship. Also, relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

The applicant Andrew Hansen was sworn in by Brad Sears. Mr. Hansen stated that they have lived in the neighborhood for 6 years and they do not want to leave. They want to add on to the house and make more room for their growing family. Mr. Hansen also stated that the only logical spot to put the staircase is on the side of the house that requires this variance.

Parker asked if the neighbor was okay with the addition on that side.

Mr. Hansen stated that they rent that home but that they are completely fine with the addition and he also stated that there has been no negative feedback from any neighbors.

Edge asked who was doing the work. Mr. Hansen stated that Brad Elliott with Revive Construction is doing the work.

Chairman Lovell closed the public hearing.

Edge made a motion to approve the Variance request. Flournoy seconded the motion.

MOTION CARRIED (5-0)

New Business

Dunnavant stated that there will be a September meeting. It was also stated that there is a case for October and possibly November.

ADJOURN

Smith motioned to adjourn the meeting at 10:32 a.m. Flournoy seconded.

MOTION CARRIED (5-0)

Chairman Kris Lovell