

**MINUTES  
BOARD OF ADJUSTMENT  
WEDNESDAY, OCTOBER 4, 2018  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Jim Jiles; Members Jeanne Moore, Cecil Sumners, and Steven Lee; Alternate Members Gary Smith and Lee Jenson; Attorney Robert Blythe; Senior Planner Jay Camp; Senior Administrative Specialist/Deputy Town Clerk Shana Robertson

**ABSENT:** Vice Chairman Jerry Meek, Alternate Member Peter Tuz

**CALL TO ORDER/INVOCATION:**

Chairman Jim Jiles called the meeting to order at 7:00 pm.

Mr. Jiles appointed Gary Smith as a voting member for the night's meeting.

Steven Lee gave the invocation.

**APPROVAL OF THE MINUTES:**

Jeanne Moore made a motion to approve the minutes of the September 19, 2018 meeting. Cecil Sumners seconded, and the motion passed four to one with Mr. Jiles not voting because he was not in attendance on September 19, 2018

**VARIANCE REQUEST: BA 2018-8 Camping Trailer in Front Setback at 13333 Kintyre**

**SWEARING IN:**

Senior Planner Jay Camp, Jim Weisberg, and Kay Weisberg were sworn in by Mr. Jiles

**STAFF REPORT:**

Mr. Camp said that the applicant was requesting a variance to allow a camping trailer to be stored in the front setback of a home in the R-12 district. The property is located at 13333 Kintyre Court and Mr. Camp said that there was currently a recreational camping trailer located in the driveway, in front of the garage, within the established front setback. The Town's Code Enforcement Officer had received a complaint about the trailer and had issued a Notice of Violation on August 23, 2018. Mr. Camp reviewed the Matthews Unified Development Ordinance and said that there were specific requirements for a recreational trailer on residential property. Storage of camping trailers was defined as an accessory use and had to be stored unoccupied and behind the established setback. Mr. Camp explained that the established setback was defined as the distance between a street line and the front building line of a principal structure, projected to the side of the lot. He added that the trailer would need to be stored beside or behind the home. Mr. Camp then reviewed the Unified Development Ordinance Table of Uses, the photographs that were provided in the agenda package and aerial views of the home.

Mr. Lee asked how many feet the trailer was over the setback. Mr. Camp said that the established setback runs in a line across the front facade of the structure. Mr. Jiles said that by looking at the survey that the applicant provided, the front of the home was 38.3 feet from the property line and the setback was 30 feet. Mr. Jiles asked if that would mean that the trailer allowed inside of the 8.3 feet and Mr. Camp said that was correct, the building facade line and behind would be allowable for storage.

Mr. Jiles asked if the trailer was parked on the side, would there be a side yard setback and Mr. Camp said that there was not as it would be the same as a driveway.

Jim Weisberg, 13333 Kintyre Court, explained to the members of the Board that on one side of the property there was a water meter and water lines and on the other side there was the presence of electrical boxes, telecommunication boxes, cable boxes, and a light pole. Mr. Weisberg said that due to those elements they were unable to have a drive on either side of the home for the camping trailer. Mr. Weisberg said that the camper had been in their driveway for two and a half years and he had neighbors that were willing to speak on his behalf. Mr. Weisberg said that the complaint to Code Enforcement was not regarding their trailer but was caught as a violation during the officer's inspection of the area. Mr. Weisberg said the he and his wife moved to Matthews 20 years ago and they supported their community and was on the Board of Directors for Matthews Alive for several years. He added that they had contributed to the Town and were asking for a little bit back by the granting of the Variance.

Mr. Jiles asked what the dimensions were for the camping trailer and Mr. Weisberg said that the Trailer was 28 feet long and 9 feet wide.

Ms. Moore asked if the trailer was there all the time or sporadically. Mr. Weisberg said that it was there off and on. He added that they could find a place to store the camping trailer during the winter but during the spring, summer, and fall months it was used more frequently.

Kay Weisberg, 13333 Kintyre Court, said that they had looked into having a driveway poured on the left side of the home but there were two water meters that service four homes and were located in the way of the proposed driveway. She said that on the other side of the home there was a tree that would need to be removed, electric, gas, and telephone services for multiple homes and a light pole that were in the way of any storage option. Ms. Weisberg said that the camper sat on the driveway in a way where they were able to also get their truck into the driveway and a car in and out of the garage without having to move the camping trailer.

Mr. Lee asked if the neighborhood had a Home Owners Association or any covenants or restrictions and Ms. Weisberg said that she was not aware of anything and only became aware of the Unified Development Ordinance recently.

Mr. Jiles asked if there was anyone else in the neighborhood that had a similar situation with boats or campers. Ms. Weiser said there was another camper that was located three houses down that impeded 10 feet from the established front setback, there was a home on O'toole Drive that had a camper 15 feet outside established front setback. Mr. Weiser said there were also several boats and small trailers.

Ms. Moore asked if the Code Enforcement Officer had looked into these other violations in and around the neighborhood. Mr. Camp said that it was a large neighborhood and he was unsure but could request that others be looked into. Ms. Weisberg said that it was just not their neighborhood and it could be a problem for other Matthews citizens that were not aware of the ordinance. Ms. Weisberg said that the reason they purchased the camper was to have somewhere to live with their pet during a home flood repair that lasted for nine months. She said that now they use the trailer for Speedway Children's Charities.

Mr. Lee asked if other communities had the same or similar ordinance standards in regards to recreational trailers. Mr. Camp said that the reason behind the code was to keep in character of single-family residential homes and neighborhoods. Mr. Camp added that larger vehicles, such as large commercial vehicles were restricted and he could understand how in some R-12 neighborhoods it could be difficult to requiring camping trailers to be stored beside or behind the house due to the lots size.

## DELIBERATION

APPROVED  
11/1/2018

Mr. Sumners said that the Unified Development Ordinance was written to discourage this kind of situation and asked if that was that the intent with the way it was written.

Mr. Lee said that he can see where this is emotional because of the engagement to the community but the Board of Adjustment was a Quasi-Judicial Board and the decision needed to be based on facts and this would set a precedent if a Variance was granted.

Mr. Jiles and Mr. Lee both said that there were covenants and restrictions within their neighborhoods that prohibits storage of campers within the driveway similar to the Town's Unified Development Ordinance.

Ms. Moore said that there was no HOA in the applicant's neighborhood so they would have to refer to the Town's Unified Development Ordinance. She added that she felt bad for the home owners and she wanted to see the others in violation come into compliance. Ms. Moore said there should be a continuance to see what was going on in that neighborhood as she did not feel right to deny one when the rest of the neighborhood was getting away with violations.

Mr. Jiles said that the Board needed to act on the finding of fact and what the ordinance said.

Ms. Moore said that she would not want a recreational camper in the driveway next to her home but she did want Code Enforcement to review the other violations that were in and around the neighborhood. Mr. Camp said that the applicant had counted 31 boats and trailers in their area. Mr. Jiles said that maybe the Ordinance needed to be looked at but the Board of Adjustment was not the modifier. Ms. Moore said that they were in violation of the ordinance currently and she stressed that other violators in the area come into compliance with the Ordinance.

Mr. Lee asked if a period of time could be added so that the applicants could find a safe and suitable storage location.

Mr. Jiles made a motion that the variance be denied that with the condition that the applicant be allowed to maintain the present condition location for nine months until another location could be secured.

## **FINDINGS OF FACT**

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

The applicant could choose to store the camping trailer at an offsite location.

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

There are no unique conditions at the property. Improvements could be made but may be somewhat difficult. The lot is similar in size and shape to other lots in the neighborhood and throughout town.

3. The hardship did not result from actions taken by the applicant or the property owner. 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.

The hardship results from actions taken by the applicant, who purchased a large camping trailer with the knowledge that it could only be stored in the driveway in the established setback.

4. The requested variance is not consistent with the spirit, purpose, and intent of the Title, because public safety is secured and justice is achieved.

The intent of code is to allow personal property, such as a camping trailer, to be stored beside or behind a home, so as to not detract from the single-family character of the front of a residential property and the overall community. The requested variance is not consistent with the spirit and purpose of the title.

Ms. Moore seconded and the motion to denied was unanimous

Mr. Jiles made a motion that the Code Enforcement Officer investigate other possible violations in and around the area and Mr. Sumners seconded the motion. The motion passed unanimously.

#### **ADJOURNMENT**

Mr. Lee made a motion to adjourn the meeting at 7:45 pm. Mr. Jiles seconded the motion and the motion passed unanimously.

Respectfully submitted,



Shana Robertson  
Senior Administrative Specialist/Deputy Town Clerk