

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, DECEMBER 3, 2015  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Members Cecil Sumners, and Jeanne Moore; Alternate Members Thomas Lawing, Gary Smith and Peter Tuz; Attorney Robert Blythe; Senior Planner Jay Camp and Administrative Assistant/Deputy Town Clerk Betty Lynd

**ABSENT:** Chairman Jim Jiles; Members Jerry Meek and Jim Mortimer

**CALL TO ORDER/INVOCATION:**

Mr. Sumners called the meeting to order at 7:00 p.m.

Alternates Thomas Lawing, Gary Smith, and Peter Tuz will act as voting members for the meeting.

Attorney Robert Blythe gave the invocation.

**APPROVAL OF THE MINUTES:**

Ms. Moore made a motion to approve the minutes of the July 9, 2015 meeting as submitted. Mr. Lawing seconded the motion and it passed unanimously.

**SWEARING IN:**

Mr. Sumners swore in all potential speakers.

**VARIANCE REQUEST: BA2015-5, Rear Yard Variance, 1400 Four Lakes Dr**

**STAFF REPORT:**

Mr. Camp stated the request is a variance to the rear yard to construct a single family home. The applicant is requesting a 15 yard variance. This site is zoned R-15 and is bordered by similar residential lots and East Independence Boulevard (U.S. 74). The site is larger than a typical R-15 lot, measuring 21,000 square feet. Mr. Camp showed the board the submitted survey on the projector screen.

Planning staff notes that it is possible to build a home on this lot without the variance. Staff has provided measurements of similar size homes on nearby lots.

Ms. Moore asked if the whole area outlined in green is the applicant's lot. Mr. Camp stated that it is. Ms. Moore asked if this would encroach on his neighbors. Mr. Camp stated that he could not legally encroach on neighboring properties. The variance request will place his home closer to neighboring lots.

Applicant Bob Rahilly, of John Street stated that the problem is the lot shape. He stated that he requested the variance in order to center the home on the lot. Mr. Rahilly explained that his home would sit closer to his neighbor's home than other adjacent homes so it would not look similar to the rest of the neighborhood without the variance. He stated that his lot is approximately 8 foot higher than the adjacent commercial building.

Ms. Moore asked how far away from the rear lot line would the home be located.

Luis Albiza, the contractor building the home, stated that to the right side of the property the neighbor has built their home almost on the side setback line. If Mr. Rahilly were to fit the home into the required

setbacks, he would also have to build very close to the side yard setback and the two homes would be closer together visually than other homes in the neighborhood. Mr. Albiza stated the variance would allow Mr. Rahilly's home to conform to the rest of the neighborhood's visual appearance.

Ms. Moore asked if the applicant had considered floorplans that would fit the current allowed building pad. Mr. Albiza stated that it would increase the cost of construction and stop Mr. Rahilly from building a ranch floor plan that he desires.

Mr. Albiza presented photos of the site, which have been included in the record.

Brandy Cox, of Forest Drive came forward to speak for the neighbors. She stated there is no opposition from the neighborhood in granting the variance.

Mr. Rahilly stated that he appreciated the board's consideration.

**DELIBERATION:**

Mr. Sumners stated that from his perspective, the variance would allow the home to conform to the neighborhood. Ms. Moore stated she believe it was a reasonable request.

**Findings of Fact**

1. There would be unnecessary hardship from strict application of the ordinance.
2. Hardship results from the conditions that are peculiar to the property, without granting the variance.
3. The hardship did not result from actions taken by the applicant or property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the title, because public safety is secured and justice is achieved.

Mr. Smith stated that the shape of the lot and the required setbacks restrict the size of the building pad. Mr. Tuz stated the property owner is coming forward now as opposed to this matter being discovered by staff once the home is built. The shape of the lot would still be an issue no matter who the property owner is. Mr. Tuz also stated that it will enhance the neighborhood by allowing the home to not be so close to neighboring homes.

Ms. Moore made a motion to approve BA2015-5, variance to the rear yard setback. Mr. Tuz seconded the motion and the motion passed unanimously.

**ADJOURNMENT:**

Mr. Smith made a motion to adjourn the meeting at 7:32 p.m. Mr. Lawing seconded the motion and the motion passed unanimously.

Respectfully submitted,



Betty Lynd  
Zoning Technician/Deputy Town Clerk