

Board of Adjustment Meeting

May 5, 2015

Minutes

In Attendance: Julian Council, Lucius S. Jones, Mike Harrison, Art Whittington, Gayanell Gull

Staff in Attendance: David Bergmark, Allison Rice

Others Present: Jeff Guernier, Operations Partner with True Homes; Jeff Rifkin, Project Manager with True Homes; Commissioner Gina Gray, Esmir Batista.

Mike Harrison opened the meeting at 6 pm.

Lucius Jones made a motion to accept the minutes from the April 7, 2015 Board of Adjustment meeting. Gayanell Gull seconded the motion. The motion passed 5-0.

Resume Public Hearing for Variance Case ZA15-01

Mr. Harrison resumed the public hearing. He said that anyone in attendance and sworn in at the public hearing on April 7th was still sworn in. He said anyone who was not in attendance on April 7th but wanted to speak at the present meeting would have to be sworn in. Nobody came forward.

Mr. Bergmark gave a brief summary of the information that was presented at the previous meeting. He said at the last hearing, the applicant did provide some examples of some of the models he could build, but he didn't have an analysis of the existing constraints on each lot. He said that the applicant had provided that information to him that morning. Mr. Bergmark said that some of the other avenues the applicant could take to resolve this issue, such as rezoning and recombining the lots, might create more problems. He reiterated the 3 facts of finding that would need to be met by the applicant for the Board to decide in his favor: creation of a hardship, affected public safety or welfare, whether it addressed the intent of the ordinance.

Mr. Harrison asked if there were any questions for Mr. Bergmark.

Jeff Geurnier and Eric Riftkin presented a powerpoint to address some of the issues the Board had mentioned at the previous meeting. Mr. Geurnier said, regarding on street parking, that he had been to the development several times and noted that all of the street parking was from the subcontractors. He said the residents weren't parking in the street at all. He said that True Homes would require subcontractors to park only on one side of the street, and that True Homes would voluntarily police that. He said they would also put up "drive slow" and "children at play" signs, to help with any perceived traffic problems. He said that all homes built in the neighborhood

would have a 2 car garage and room for parking in the driveway, so that it wouldn't encumber any of the sidewalks.

Mr. Geurnier said that the other issue the Board had concerned the nature of the hardship. He described the issues with the shallow lots and said the hardship was created by the original developer. He said that True Homes had inherited that problem. He said that True Homes was only requesting a variance on the lots with the most problems, not on every lot in the subdivision. He said True Homes' product had a 40' deep footprint that was market-tested and successful. He said that most new homes on the market today were much deeper, but they had found their product to be very effective.

Mr. Geurnier said that their proposal provided certain benefits to the Town of Wendell. He said it would provide a uniform streetscape with similar setbacks. He said it would provide 5-6 feet larger backyard, allowing for structures and patios. He said it provided a larger buildable area so that they could be marketable and competitive. He said this would enhance the appraisable value of the neighborhood, bringing more tax value to the town.

Mr. Geurnier showed a map of the development that showed the stream buffer and a vegetative buffer around the neighborhood so that the Board could see how little buildable area there was. Mr. Rifkin said they had removed lots 63 and 64 from the variance request since they found that they would have enough buildable space on those lots. Mr. Jones said that the homeowners could use that area in the stream buffer as part of their backyards. Mr. Rifkin said that was true, but that it couldn't be a part of their lawns since bushes and trees had to be maintained. He said they were requesting a variance on some of the lots because there was no way they could build a 40' x 40' lot on the building envelope. They were requesting a variance on others to provide more yard space.

Mr. Harrison asked if the applicants were aware of the small building envelope size when they bought the property. Mr. Geurnier said not lot specific. He said on several lots, a 40' x 40' unit encroached 5-6' into the setbacks. Mr. Jones asked if they would build the same 40' x 40' house throughout the neighborhood. Mr. Geurnier said no, they had many different elevations and homes.

Someone asked if this request was consistent with the UDO. Mr. Bergmark said that the setbacks can go down to 10' in some zoning districts, although most setbacks were at 20-40'.

Mr. Jones said that a developer applied to have the land subdivided this way, the town approved the subdivision and made concessions to the developer. Mr. Jones said he would have a hard time voting for this variance because the hardship was created by the original developer. He said that a true hardship was if the builder couldn't build any unit on that property, but the applicant was saying they couldn't put a 40' x 40' unit on that property. He said the applicant didn't buy this blind, they knew what they were getting when they bought it.

Mr. Whittington said he agreed that the applicant knew about the issues up front, but he had other concerns. He asked if the applicant had a product with a smaller footprint but with equal value. Mr. Geurnier said that they didn't have any products at all with smaller footprints in their

portfolio. He said he felt confident that any other builder would have the same problem. Mr. Whittington asked if the previous builder had indicated what the value of his homes supposed to be. Mr. Geurnier said that the only lots in the subdivision that had been built were on the deeper lots that could accommodate a 40' x 40' home.

Mr. Harrison asked why the applicant was asking for a variance on all of the lots when only a small number had issues with sizes. Mr. Geurnier said it was really to maintain a unified neighborhood aesthetic, so that all of the houses had similar front setbacks.

Mr. Jones took issue with the idea that they could only build 40' x 40' units. He said that there were plenty out house plans that didn't have that footprint. Mr. Rifkin said that the houses built wouldn't all be 40' x 40'. He said there were some units that were 50' or 60' wide that they would be using. He said the real issue was the depth of the house. He said it was very difficult to find any hose plan that had less than 40' depth, and some of these lots had a smaller than 40' building apron.

Mr. Jones said that not all of the houses needed to be granted a variance. He said he could understand granting a variance to a block of 5-6 homes. Mr. Rifkin said the intent with requesting a variance for all of the lots was to ensure uniform setbacks, but they wouldn't have any problem with variances being granted only to the lots with issues. Mr. Harrison said that some of the lots were on a cul-de-sac, so the facades wouldn't be in a straight line and the difference in setbacks wouldn't be as noticeable.

Mr. Rifkin and Mr. Geurnier showed the Board all of the lots that were unbuildable. Mr. Rifkin pointed out that lot 3 had a definite hardship because it was encroaching into all 4 setbacks. The said it was difficult because it was on a corner lot. Mr. Bergmark said that a front setback applies to both sides of a corner lot. Mr. Geurnier said that even if the corner setback was reduced to 20', that would make it a lot easier to find a product to fit on that lot.

Mr. Harrison said that they were trying to be as amenable to the applicant as possible while still being accountable to the taxpayers of Wendell. He said, with that in mind, maybe the applicant should find some building plans that fit a smaller footprint, and use this lot to experiment with for the next time this came up.

The Board of adjustment members reviewed the site plan presented by the applicants and identified 12 lots that warranted a variance in their opinion. The Board went through the findings of fact and determined that there were practical difficulties in carrying out the ordinance for the following 12 lots that were not a result of the applicant's own actions.

Setback Requirement Modifications Approved as Part of this Request (by lot):

- A. Front Setback of 20 ft. and Rear Setback of 15 Feet – Lot 3 (PIN 1784537335)
- B. Rear Setback of 15 Feet – Lots 36, 37, and 39 (PIN #'s 1784635013; 1784635092; 1784637042)

C. Front Setback of 15 feet, with Garage Front Setback of 20 feet – Lots 12, 13, and 43-48 (PIN #'s 1784630113, 1784631048, 1784637243, 1784636280, 1784636128, 1784635168, 1784635118, 1784634159)

The Board voted 5-0 to approve a variance to allow the modifications listed above.

Mr. Jones made a motion to adjourn. Mr. Council seconded the motion. The motion passed 5-0.

The meeting adjourned at 7:15.

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