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**CITY OF KANNAPOLIS, NC
BOARD OF ADJUSTMENT**

**Minutes of Meeting
Tuesday July 16, 2019**

The Board of Adjustment met on Tuesday July 16, 2019 at 6:00 PM at City Hall, 401 Laureate Way, Kannapolis, North Carolina.

Board Members Present: James Palmer, Vice-Chairman
Andrew Baker
Boyd Hardin
Colby Meadows
Jeff Parker
Joann Crosby
Ryan French

Board Members Absent: Jonathan Farmer, Chairman
Scott Trott
Ryan Craft

Staff Present: Ryan Lipp, Senior Planner
Gretchen Coperine, AICP Senior Planner
David Jordon, IT

Visitors Present: Amy Bankhead
Vicki Diggs
Anatoliy Solodyankin
Tatyana Solodyankin
Richard Atwell
Latika Pharr

SWORN-IN FOR REAPPOINTMENT

Board member Joann Crosby was sworn-in for reappointment to serve another term to the Board of Adjustment as approved by City Council at their July 8, 2019 meeting.

CALL TO ORDER

Vice-Chairman Mr. Palmer called the meeting to order at 6:00pm.

ROLL CALL AND RECOGNITION OF QUORUM

Recording Secretary Pam Scaggs, called the roll and presence of a quorum was recognized.

APPROVAL OF AGENDA

Mr. Palmer asked for a motion to accept the Agenda which was made by Mr. Parker, seconded by Mr. Meadows and the motion was unanimously approved.

APPROVAL /CORRECTION OF MINUTES

Mr. Palmer asked for a motion to approve the June 18, 2019 meeting minutes which was made by Mr. French, seconded by Mr. Baker and the motion was unanimously approved.

1 **SWORN IN FOR TESTIMONY**

2 Ryan Lipp, Gretchen Coperine, Anatoliy Solodyankin and Amy Bankhead.

3
4 **PUBLIC HEARING**

5
6 **BOA-2019-07 – Variance – Wilson Street**

7 Senior Planner Ryan Lipp gave a PowerPoint presentation regarding a request for a variance and
8 provided the application details for case BOA-2019-07 (Exhibit 1). He noted the applicant, Parcel
9 Identification Number, and dates that public notice was provided. Mr. Lipp stated that the applicant is
10 requesting a variance from Table 4.7-1 regarding minimum dimensional requirements for duplexes
11 located within the Residential Village (RV) zoning district.
12

13 Mr. Lipp directed the Board’s attention to the Vicinity, Zoning and Future Land Use maps further
14 detailing the location, zoning and future land use per the 2030 Plan. He stated that the applicant is
15 requesting variances from the lot width, lot area, and both the side and front setbacks in order to
16 subdivide the subject properties so that each parcel contains one structure. Mr. Lipp further explained
17 that there are two or more duplexes located on one parcel which creates a nonconforming use since
18 only one structure per parcel is permitted in accordance with the Unified Development Ordinance
19 (UDO). He directed the Board’s attention to site photos and a preliminary site plan showing the
20 proposed subdivision and reduced lot sizes for each property as shown in the table below:
21

Lot	Use	Area (ft2)	Width(ft)	Front Setback (ft)	Left Side Setback (ft)	Right Side Setback
2	Duplex	4,768	38.15		3.10	4.10
3	Duplex	5,138	41.11		4.20	6.20
4	Duplex	5,718	45.74		6.10	
6	Single-Family	4,774	43.46		0.90	6.00
7	Duplex	5,149	41.46		6.10	4.60
8	Duplex	6,225	49.95	15.00		
9	Duplex	6,243	49.95	15.00		
10	Duplex	6,243	49.95	15.00		

22 Mr. Lipp reviewed the Policy Issues and staff findings:

- 23 1. **Unnecessary hardship would result from the strict application of the ordinance.**

24 Staff Assessment

25 The subject properties have been in existence, under the same ownership, since 1938. The owner of
26 the property is requesting the variance in order to subdivide the parcel, with the intent of having each
27 existing duplex and single-family home on a single parcel. Without the proposed variance, the City
28 would be unable to approve the subdivision, as the existing duplexes and single-family homes violate
29 the requirement that each structure sits on an individual parcel.
30
31
32

- 1 2. **The hardship results from conditions that are peculiar to the property, such as location,**
2 **size, or topography.**

3 Staff Assessment

4 The subject properties each contain multiple dwellings on single parcels. Tax records indicate
5 that the conditions of the properties, including the configuration of the dwellings have been
6 unchanged since 1938.
7

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

9 Staff Assessment

10 The applicant purchased the lots in the current configuration. There is no record of any actions of
11 the owner that caused the hardship. The lots have existed since 1938.
12

- 13 4. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance,**
14 **such that public safety is secured, and substantial justice is achieved and will preserve its**
15 **spirit.**

16 Staff Assessment

17 The variance is consistent with the spirit, purpose, and intent of the UDO. Furthermore, the variance
18 will not increase the non-conformities existing on the parcels and will allow the applicant to place each
19 structure on its own parcel, eliminating the non-conformity of 1 or more structures on a single parcel.
20

21 Mr. Lipp indicated that staff is recommending approval of the variance request and reminded the Board
22 of the actions requested of them. He concluded his presentation and made himself available for questions.
23

24 Mr. Palmer asked for further clarification of what the applicant is requesting. Mr. Lipp responded that
25 two of the three parcels have three structures, and one parcel contains two structures. The Unified
26 Development Ordinance (UDO) states that there shall be one dwelling unit per parcel and in order for the
27 applicant to secure funding to purchase the properties, they must be brought into compliance with the
28 UDO. He continued that the applicant is proposing to subdivide the subject properties into eight parcels
29 so that each parcel contains one structure but in doing so, they will not meet the minimum setback
30 requirements for the RV zoning district which is why the variance is being requested.
31

32 Mr. Meadows asked if the Board could approve variances per parcel? Mr. Lipp responded that the
33 Findings of Fact presented by staff includes all of the parcels so that if the Board approved the submitted
34 Findings of Fact, then all parcels would be approved. He added that if the Board wanted to make a per
35 parcel approval, they would also need to make Findings of Fact per parcel. Senior Planner Gretchen
36 Coperine confirmed Mr. Lipp's response stating that the Board would need to revise the Findings of Fact
37 for each parcel that they approve or deny.
38

39 Mr. Parker referred to left side setback shown for lot #6 and asked if the Fire Department has minimum
40 distance requirements between buildings? Mr. Lipp replied that the distance between the buildings shown
41 on lot #6 is not created as a result of the proposed subdivision but is an existing distance. He added that
42 the Fire Department's minimum distance requirement is 3 feet. Mr. Palmer noted that the building located
43 on lot #6 appears to be located only .90 feet from the adjacent building and asked for clarification. Mr.
44 Lipp responded that the structure is located .90 feet from the property line, not from the adjacent structure.
45

46 There being no questions or comments for staff, Mr. Palmer opened the Public Hearing.
47

48 Anatoliy Solodyankin, 3100 Farrington Drive, Indian Trail, NC indicated that the subdivision request is
49 so that he can secure funds to renovate the properties to current City standards. Mr. Solodyankin stated
50 that he would be maintaining ownership of the properties and renting the structures. He addressed Mr.
51 Parker's concern regarding the distance between buildings on lot #6 clarifying that that actual structure

1 is located 2-1/2 feet from the property line and that the roof overhang is located .90 feet from the property
2 line. Mr. Solodyankin added that the adjacent structure is located approximately 4 feet from the property
3 line which satisfies the fire departments minimum distance requirement and made himself available for
4 questions.
5

6 Mr. Palmer asked if it was Mr. Solodyankin's intention to sell the property after subdividing? Mr.
7 Solodyankin responded that his intention is to renovate the properties, maintain ownership and rent the
8 structures. He added that he intends on purchasing more properties from the current property owners and
9 also renovate, maintain ownership and rent the structures.
10

11 Mr. Meadows asked if there were any easements between the buildings? Mr. Solodyankin responded that
12 he is only aware of utility easements.
13

14 Mr. French asked if any of the buildings would be demolished? Mr. Solodyankin stated that he will not
15 be demolishing any of the buildings but will be replacing the roof, siding, and completing interior
16 renovations.
17

18 Amy Bankhead, 210 Johndy Ave., asked how the current occupants of the subject properties will be
19 affected?
20

21 Mr. Solodyankin responded that seven (7) units are currently vacant and that renovations would occur on
22 those properties first. He added that once the lease expires on the occupied units, then those units would
23 be renovated and that the existing tenants would have the opportunity to re-apply to occupy those units.
24

25 Ms. Bankhead asked if the units will be affordable?
26

27 Mr. Solodyankin replied that he will be working with a property management company and intends to
28 maintain affordable rates but since there is a cost associated with renovation, rent will be higher than what
29 residents are currently paying. He reiterated that his intention is to keep the rates affordable but consistent
30 with the Kannapolis market.
31

32 There being no questions or comments, Mr. Palmer closed the Public Hearing.
33

34 Mr. Palmer asked for a motion to accept the City's exhibits into the record including the revised staff
35 report which was made by Mr. Parker, seconded by Mr. Hardin and the motion was unanimously
36 approved.
37

38 Mr. Palmer asked for a motion to approve or revise the Findings of Fact. Ms. Crosby made the motion
39 to approve the Findings of Fact as presented by staff, which was seconded by Mr. French and the motion
40 was unanimously approved.
41

42 Mr. Palmer asked for a motion to approve or deny the variance request and the Order of Approval. Mr.
43 Parker made a motion to approve the variance and the Order of Approval, which was seconded by Mr.
44 Baker and the motion was unanimously approved.
45

46 **OTHER BUSINESS**

47 Mr. Palmer proposed to postpone election of Chairman and Vice-Chairman until the next meeting and asked
48 for a motion which was made by Mr. Meadows, seconded by Mr. Baker and the motion was unanimously
49 approved.
50
51

1 **ADJOURN**

2 There being no further business, Mr. Palmer asked for a motion to adjourn which was made by Mr. French,
3 seconded by Ms. Crosby and the motion was unanimously approved.
4

5 The meeting was adjourned at 6:22 PM on Tuesday July 16, 2019
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Jonathan Farmer, Chairman
Board of Adjustment

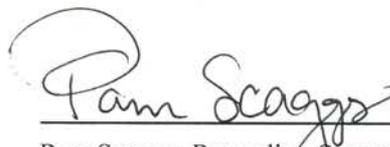
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12 _____
13 Pam Scaggs, Recording Secretary
14 Board of Adjustment

EXHIBIT 1 - BOA

Minutes July 16, 2019



Board of Adjustment July 16, 2019

Staff Report

TO: Board of Adjustment

FROM: Ryan Lipp, AICP – Senior Planner

SUBJECT: Case# BOA-2019-07: Various Parcels on Wilson Avenue

Request for variance from the provisions of Article 4, Table 4.7-1 of the Unified Development Ordinance (UDO) to allow a reduction of lot areas, lot widths, and front setbacks from what is required in the Residential Village (RV) Zoning District for Duplexes and single-family homes.

A. Actions Requested by Board of Adjustment

1. Motion to accept the City's exhibits into the record
2. Motion to approve/revise Findings of Fact proposed by Planning Staff
3. Motion to approve (approve with conditions) (deny) the issuance of the variance and Order for Approval

B. Required Votes to Pass Requested Action

Six votes are required to approve or deny the requested actions.

C. Background

The applicant, Anatoliy Solodyankin, is requesting a variance from Article 4, Table 4.7-1 of the Unified Development Ordinance, which requires minimum dimensional requirements for duplexes within the Residential Village (RV) zoning district as follows:

- Lot Area: 11,250 sf (Duplex), 7,500 sf (Single-Family)
- Interior Sideyard Setback: 7 ft
- Front Setback: 20 ft
- Lot Width: 90 ft (Duplex), 60 ft (Single-Family)

The applicant is requesting variances from the lot width, lot area, side and front setback as highlighted in the table below in order to subdivide the land. Please see the attached proposed subdivision for corresponding lot numbers.

Lot #	Variance Requested
2	Width: 38.15 feet Lot Size: 4,768 sf Side Setback: 4.1 feet
3	Width: 41.11 feet Lot Size: 5,138 sf Side Setback: 6.2 feet
4	Width: 45.74 feet Lot Size: 5,718 sf Side Setback: 6.1 feet
6 (Single-Family)	Width: 43.46 feet Lot Size: 4,774 sf Front Setback: Front overhand within 20-foot setback Side Setback: 6 feet and 0.9 feet
7	Width: 41.46 feet Lot Size: 5,149 sf Front Setback: Front overhang within 20-foot setback Side Setback: 4.6 feet and 6.1 feet
8	Width: 49.95 feet Lot Size: 6,225 sf Front Setback: Front porch within 20-foot setback
9	Width: 49.95 feet Lot Size: 6,243 sf Front Setback: Front porch within 20-foot setback
10	Width: 49.95 feet Lot Size: 6,243 sf Front Setback: Front porch within 20-foot setback

The subject properties currently contain 7 existing duplexes and 1 single-family home that are located along Wilson Drive, further identified as Cabarrus County Parcels 5613-96-6972, 5613-97-6019, and 5613-97-7074. Without the variance, the property owner would not be able to subdivide. The subdivision would eliminate a non-conforming characteristic of the lot, as multiple duplexes are not permitted on a single lot.

D. Fiscal Considerations

None

E. Policy Issues

Staff Findings of Fact - Based on application review

Yes No

Unnecessary hardship would result from the strict application of the ordinance.

The subject properties have been in existence, under the same ownership, since 1938. The owner of the property is requesting the variance in order to subdivide the parcel, with the intent of having each existing duplex and single-family home on a single parcel. Without the proposed variance, the City would be unable to approve the subdivision, as the existing duplexes and single-family home violate the requirement that each structure sits on an individual parcel.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The subject properties each contain multiple dwellings on single parcels. Tax records indicate that the conditions of the properties, including the configuration of the dwellings have been unchanged since 1938.

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

The applicant purchased the lots in the current configuration. There is no record of any actions of the owner that caused the hardship. The lots have existed since 1938.

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 and will preserve its spirit.

The variance is consistent with the spirit, purpose, and intent of the UDO. Furthermore, the variance will not increase the non-conformities existing on the parcels and will allow the applicant to place each structure on its own parcel, eliminating the non-conformity of 1 or more structures on a single parcel.

Board's Findings of Fact - Based on application review and public hearing.

In order to determine whether a variance is warranted, the Board members must decide that each of the four criteria as outlined below has been met. If the Board members concur completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board members wish to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the four criteria below. Should a variance be approved, the Board members may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Yes No

Unnecessary hardship would result from the strict application of the ordinance.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The hardship did not result from actions taken by the applicant or the property owner's own actions.

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.

F. Legal Issues

None

G. Recommendation

Based on the above findings, staff recommends **approval** of the variance. However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

H. Attachments

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use and Character Map
5. Proposed Subdivision
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
City Manager	X
City Attorney	X