

Board of Adjustment
September 7, 2017
Assembly Hall
5:00 p.m.



MINUTES

Committee Members in Attendance:

Fred Engelfried, Chair
David Kelley, Board Member
Cyndie Burnett, Board Member
Kevin Drum, Board Member
Jeff Haarlow, Board Member
Myles Larsen, Board Member
Julia Latham, ETJ Board Member
Mike Marsh, Board Member
Leo Santowasso, Board Member

Staff in Attendance:

Stephen Wensman, Planning and Inspections Director
Bruce Gould, Principal Planner
Gwendy Hutchinson, Planning and Administrative Assistant

I. Call to Order.

Fred Engelfried, Chair confirmed that there was a quorum present and called the meeting to order.

II. Approval of Minutes:

A. August 3, 2017

Leo Santowasso made a motion to approve the August 3, 2017 Minutes as amended; Mike Marsh seconded the motion, which was unanimously approved.

III. Old Business:

A. Findings of Fact for Variance at 260 Lake Dornoch Drive

FINDINGS OF FACT DOCKET #01-17

Variance Request for 260 Lake Dornoch Dr. /PID #00019198

This request is to encroach thirty (30) feet into the required thirty (30) feet lake fence setback for the purpose of constructing a fence in the rear yard. The Zoning Board of Adjustment shall not grant a variance unless and until it makes the following findings:

Vision: The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions. Mission: Promote, enhance, and sustain the quality of life for residents, business.

The Findings of Facts and Conclusions of Law are to be based on the Official Record in the proceeding that is made up of the official transcripts and any documentary evidence submitted within the course of the proceeding. Such Findings of Fact are to be based upon substantial, competent, and material evidence as found in the record of the proceeding.

- 1. Unnecessary hardship would result from the strict application of the ordinance. 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 submitted evidence that indicated it was their intent to install a fence in the rear yard of the home which is adjacent to a lake. They desire to fence in the rear yard for containment purposes and the yard is not visible from adjacent properties or properties across the lake and adherence to the regulations would create a more visible fence. The property line also stops short of the lake shore line by approximately 20 feet.

- 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.**

The applicant submitted evidence that they are asking for the variance from conditions that are peculiar to the shape of the property at 260 Lake Dornoch Drive. The particular property is situated such that strict application of the ordinance would create a fence that is more visible and less aesthetically pleasing to the community.

- 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 applicant submitted evidence that that the hardship is not self-created as it results from the shape of the property and location of natural vegetation.

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

The applicant submitted evidence that the spirit and intent of this ordinance is to maintain the natural beauty of Pinehurst and promote the utility of its golf courses. In granting this granting this variance it will be consistent with the spirit and intent as it will result in a fence that is better screened by natural vegetation and a fence that is more aesthetically pleasing to the community.

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The fence will increase public safety as it will lower the risk to children on the property by providing a barrier to a potential drowning hazard. This will achieve substantial justice and be consistent with similar properties in the community.

Therefore, on the basis of all the foregoing, it is ordered that the application for a variance be **GRANTED** subject to the following conditions:

Granted w/ conditions:

None

B. Findings of Fact for Variance at 1144 Chicken Plant Road

**FINDINGS OF FACT
DOCKET # 02-17**

Variance Request for 1144 Chicken Plant Rd./PID #00029912

This request is to apply the R-30 Dimensional Requirements as listed in Table 9.2a of the PDO rather than the R-210 Dimensional Requirements of the zoned property.

The Zoning Board of Adjustment shall not grant a variance unless and until it makes the following findings:

The Findings of Facts and Conclusions of Law are to be based on the Official Record in the proceeding that is made up of the official transcripts and any documentary evidence submitted within the course of the proceeding.

Such Findings of Fact are to be based upon substantial, competent, and material evidence as found in the record of the proceeding.

- 1. Unnecessary hardship would result from the strict application of the ordinance. 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 submitted evidence that indicated that no reasonable residential use of the property can be made of the property if the R-210 zoning is applied.

- 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.**

The applicant submitted evidence that this property, which is approximately one acre in size, is peculiar in that it is a one acre lot surrounded by properties that conform to the R-210 minimum lot size requirements. Therefore, its condition is not common in the

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neighborhood. A change to the R-30 zoning requirements would be suitable to the property and give a building envelope more in common with the other properties in the neighborhood.

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 applicant submitted evidence that the hardship is not self-created. This property has been approximately one acre in size, as evidenced by deeds dating back to 1981, before the village zoning requirements were put in place for the vicinity in which this lot is situated. Those subsequently-enacted requirements do not allow reasonable use of the property due to the limited amount of building envelope.

4. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice achieved.**

The applicant submitted evidence if the variance is granted it would be consistent with the spirit, purpose and intent of the ordinance. Without the variance, this property would have a very limited building envelope and would be less valuable to any adjoining properties. Applicant has stated that this request is fair and reasonable as it would provide similar opportunities for development as is common on other properties in the neighborhood. There are similar properties in the immediate vicinity, one across Chicken Plant Rd, and another across and down Chicken Plant Rd., which are of similar size as this property, and are being used for residential purposes with existing homes thereon. Both of these tracts are also zoned R-210. The granting of this variance will achieve substantial justice and be consistent with similar properties in the neighborhood.

Therefore, on the basis of all the foregoing, it is ordered that the application for a variance be **GRANTED** subject to the following conditions:

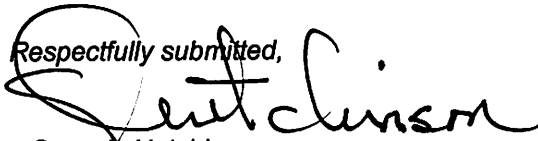
Granted w/ conditions:

None

The Chair noted that it was not a requirement that the Board approve the Findings of Fact for signature and asked if any of the Board members felt that that practice should be changed. There were no objections noted and after asking for any editorial changes or corrections of which there were none, the Chair advised that he would sign the Orders within a few days, to be notarized by the Village Clerk.

IV. Motion to Adjourn

Julia Latham made a motion to adjourn the meeting. The motion was seconded by Mike Marsh and carried unanimously. The meeting adjourned at 6:00 p.m.

Respectfully submitted,


Gwendy Hutchinson
Planning and Administrative Assistant
Village of Pinehurst

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