

## **MEMORANDUM**

TO: Chapel Hill Board of Adjustment

FROM: Ben Hitchings, Director, Planning and Development Services  
Jake Lowman, Planner II

SUBJECT: 506 Mitchell Lane: Dimensional Variance  
(PIN 9788-17-1945, Project #18-095)

DATE: November 1, 2018

### **RECOMMENDATION**

Town Staff recommends that the Board of Adjustment review this request for a variance from dimensional regulations in the Residential – 3 (R-3) zoning district standards, in Appendix A, Article 3.8 of the Chapel Hill Land Use Management Ordinance.

### **INTRODUCTION**

The applicant, Jim Spencer Architects, PA, is requesting a dimensional variance from the minimum street setback. The subject property is located at 506 Mitchell Lane near the intersection of McDade Street (Attachment 4). The property is in the Residential-3 (R-3) zoning district and the Northside Neighborhood Conservation District (CD-1) and the Orange County Property Identifier Number is 9788-17-1945.

The attached applicant's materials include an application form, narrative, statement of justification, site plan, and area map (Attachment 4).

### **EXISTING CONDITIONS**

The 0.35-acre subject lot is in the Residential-3 zoning district and the Northside Neighborhood Conservation District. The vacant lot is relatively flat, irregularly shaped, and runs north to south along the eastern edge of Mitchell Lane, with a portion of the lot extending westward across Mitchell Lane. The lot also contains Resource Conservation District and Jordan Buffer, as well as an OWASA easement for a sanitary sewer line, which limit the buildable area on the lot.

### **BACKGROUND**

January 30, 1976: Subject property acquired by property owner, Town of Chapel Hill.

- August 28, 2018: Application submitted for a Dimensional Variance by Jim Spencer Architects, PA.
- September 26, 2018: Northside Site Plan Application reviewed and approved by the Planning Commission.
- October 10, 2018: Town Council approved the transfer of ownership of Town-owned land at 506 Mitchell Lane in support of the Northside Neighborhood Initiative and for the creation of new permanently affordable housing.

### **DESCRIPTION OF VARIANCE REQUEST**

The project involves the relocation of a single-story, 756 square foot cottage from 109 Park Place to 506 Mitchell Lane and associated site improvements. The relocated cottage will be used for affordable housing as part of the Northside Neighborhood Initiative. The property is subject to several constraints that limit the buildable area on the lot. The buildable area is limited by the property line to the south, the Mitchell Lane right-of-way which bisects the lot on the west side, an OWASA easement for a sanitary sewer line on the east side, and Jordan Riparian Buffer and Resource Conservation District on the northern area of the property.

Property line setbacks on the subject lot are regulated by Article 3.8 of the Chapel Hill Land Use Management Ordinance (LUMO). The applicant is requesting a dimensional variance to encroach 12 feet into the 24-foot Mitchell Lane setback, which is measured from the back of curb on Mitchell Lane. These improvements are shown on the attached site plan (Attachment 4).

### **DISCUSSION**

If the variance is granted for the proposed construction, the applicants would be required to obtain a Residential Zoning-Building Permit from the Town, prior to beginning construction. Also required would be appropriate application materials with dimensional details related to property setbacks. In addition, an as-built survey would be prerequisite to a receiving a Certificate of Occupancy, to verify that the construction doesn't exceed the variance granted. Additionally, a Northside Site Plan Application was approved by the Planning Commission on September 26, 2018.

### **PROCEDURE**

Section 4.12.2 of the Land Use Management Ordinance addresses variances from dimensional regulations. In order to grant the variances, the Board of Adjustment must make the following findings:

- A. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall have the power to vary or modify any of the

regulations or provisions of the ordinance so that provisions of the ordinance upon a showing of all of the following:

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.
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.
3. The hardship did not result from actions taken by the applicants 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.
4. 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.

If the Board is able to make all the above findings for the requested dimensional variance, based on the evidence presented at the hearing, the Board may approve the variance request for the subject lot. If the Board fails to make one or more of the above findings, the Board must deny the request. The Board may also choose to approve a lesser extent for a requested variance or fewer than total number of requested variances.

#### **ATTACHMENTS**

1. Resolution A, approving the dimensional variance request.
2. Alternative Resolution A (without chair summary), approving a dimensional variance request.
3. Resolution B, denying the dimensional variance request.
4. Applicant's materials including application form, narrative, statement of justification, presentation, site plan and elevations, survey and area map.
5. Area map of subject lot.