

MEMORANDUM

TO: Chapel Hill Board of Adjustment

FROM: Tas Lagoo, Principal Planner

SUBJECT: 401 Cobb Terrace: Dimensional Variance
(PIN 9788-38-5891, Project # BOA-24-2)

DATE: June 6, 2024

VARIANCE REQUEST SUMMARY

The applicant, John Norwood, requests two variances for property located at 401 Cobb Terrace:

1. a variance from the street setback, interior setback, and solar setbacks and
2. a variance from the steep slopes disturbance limit.

The variances are required to relocate an existing carriage house/shed on the property and build a new single-family home.

EXISTING CONDITIONS

The 0.044-acre (1,902 square feet) property is in a Residential-3 (R-3) zoning district and the Franklin-Rosemary Historic District. The lot contains a single carriage house/shed.

BACKGROUND

March 3, 2000: John and Kristine Norwood acquired a garage lot located at 401 Cobb Terrace.

July 27, 2010: John and Kristine Norwood acquired a garage lot located at 403 Cobb Terrace.

August 23, 2013: John and Kristine Norwood acquired a garage lot located at 405 Cobb Terrace.

August 11, 2014: John and Kristin Norwood acquired a garage lot located at 407 Cobb Terrace.

February 16, 2017: The applicant recombined the garage lots at 401, 403, 405 and 407 Cobb Terrace to form the subject property located at 401 Cobb Terrace.

February 25, 2024: The applicant applied for dimensional variances for the subject property.

May 2, 2024: The applicant requested a continuance to allow for an amendment to their variance application.

EXTENT OF VARIANCE

Setbacks: As outlined in the table below, the applicant requests a variance to the street setback, interior setback, and solar setback. Because of the small size of the lot, the current setbacks eliminate any possibility of development on the site. The requested setbacks are based on the footprint of the existing carriage house/shed on the property.

Setback Type	Current Setback	Requested Setback
Street	24 feet	3 feet, 2 inches
Interior	8 feet	1 foot, 10 inches
Solar*	11 feet	4 feet

*Solar setbacks are measured from the northern property line and supersede interior setbacks.

Setbacks on the subject property are based on the dimensional standards in [LUMO Section 3.8](#).

Steep Slopes: The applicant also requests a variance to allow disturbance of **100 percent of the steep slopes on the subject property**. Per [LUMO Section 5.3.29\(f\)](#), disturbance of more than 25 percent of steep slopes (defined as slopes with a grade of 4:1 or greater) on a property is only allowed if a variance is granted by the Board of Adjustment.

Because of the small size and topography of the subject property, approximately 70 percent of the site is made up of steep slopes.

DISCUSSION

In the case of applications for a variance, the board's decision must be based on findings as to each of the determinations required in section 4.12. The board may choose to approve, approve subject to conditions, or deny the application. The board may impose reasonable conditions on the granting of any variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. In its consideration of applications for a variance, the board shall not use the existence of nonconformities in the vicinity as justification for the granting of variances.

Section 4.12.2(a) of the LUMO provides:

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*. A *variance* may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(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.

(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.

The attached materials include two resolutions:

- **Resolution A** directs staff to prepare a written order **granting** the variances.
- **Resolution B** directs staff to prepare a written order **denying** the variances.

The board will need to formally adopt the written order prepared by staff at its next meeting.

If the requested variance is granted, the applicant will need to obtain a building permit from the Town's Building and Development Services Department and a Certificate of Appropriateness from the Town's Historic District Commission before beginning construction.

Attachments:

1. Resolution A (directing staff to prepare a written order **granting** the variances)
2. Resolution B (directing staff to prepare a written order **denying** the variances)
3. Variance Procedures
4. Application Materials
 - a. Variance Application
 - b. Narrative Describing Proposal
 - c. Statement of Justification
 - d. Site Plan and Area Map
 - e. Deed and Plat