

## **MEMORANDUM**

TO: Chapel Hill Board of Adjustment

FROM: Ben Hitchings, Director, Planning and Development Services  
Michael Sudol, Planner II

SUBJECT: 807 Old Mill Road: Dimensional Variance  
(PIN 9798-17-5393, Project #18-044)

DATE: July 12, 2018

Attached for your consideration is an application for a variance from dimensional regulations in Section 3.8 of the Chapel Hill Land Use Management Ordinance.

### **INTRODUCTION**

The applicant, McKenzie Olmstead of Loyd Builders, LLC, is requesting a dimensional variance from the maximum floor area ratio (FAR). The subject property is located at 807 Old Mill Road near the intersection of Stagecoach Road (Attachment 4). The property is in the Residential-Low Density 1 (R-LD1) zoning district and the Greenwood Neighborhood Conservation District, identified as Orange County Property Identifier Number 9798-17-5393.

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

### **EXISTING CONDITIONS**

The subject 1.02-acre lot is in the Residential-Low Density 1 zoning district and the Greenwood Neighborhood Conservation District. The lot is currently vacant, with the existing single-family home having been demolished in January 2018. The lot has an average 6% downward slope, generally from west to east, with the highest point being at the street frontage.

### **BACKGROUND**

May 4, 2018: Applicant submitted a Dimensional Variance request to exceed the maximum floor area for a new single family home.

March 2, 2018: An application for a Zoning Compliance Permit for a new single family home was submitted by Loyd Builders, LLC. The proposed 9,175 sq. ft. floor area exceeded the 6,684 sq. ft. maximum allowed by 2,491 sq. ft.

February 6, 2018: A Notice of Violation was issued for land disturbance exceeding the amount authorized by the demolition permit.

December 22, 2017: Applicant obtained a Zoning Compliance Permit to demolish an existing single family home.

August 18, 2011: Property acquired by current owners, Charles and Julie Hammer.

### **DESCRIPTION OF VARIANCE REQUEST**

Maximum floor area requirements on the subject lot are regulated by Appendix B, Section 2.3, the Greenwood Neighborhood Conservation District (NCD) of the Chapel Hill Land Use Management Ordinance (LUMO). The applicant is requesting a dimensional variance to exceed the maximum floor area ratio (FAR) of 0.15 (7,349 sq. ft.) allowed by the Greenwood NCD by 1,826 sq. ft. for a total FAR of 0.19 (9,175 sq. ft.), as illustrated on the attached elevations and floor plan, produced by Frazier Home Design, LLC, dated December 5, 2017 (Attachment 4).

Floor area ratios (FAR) typically only apply to single family homes in Neighborhood Conservation Districts (NCD), such as Greenwood. The intent of the 0.15 FAR in the Greenwood NCD is to protect the existing neighborhood from new homes in the district that are out of scale with existing homes, to conserve the appearance of the existing neighborhood.

### **DISCUSSION**

The Residential Zoning-Building Permit application was submitted on March 2, 2018. The need for a dimensional variance was identified at the time that Town staff began review of the new permit application as it exceeded the maximum floor area allowed in the Greenwood Neighborhood Conservation District (NCD).

The applicant Statement of Justification (Attachment 4) asserts that the four findings the Board of Adjustment must make (per LUMO – 4.12.2) are met. The justification focuses primarily on the slope of the property and the natural conduciveness of the lot for construction of a basement. The applicant furthermore argues that the basement since the basement is below grade it does not affect the overall scale of the proposed home.

If the variance is granted for the proposed construction, the applicant would be required to obtain a Residential Zoning-Building Permit from the Town prior to construction. The applicant will be required to provide appropriate application materials with dimensional details.

### **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 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.

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.

### **RECOMMENDATION**

Staff Recommendation: We recommend that the Board of Adjustment review the variance request.

Resolution A would approve the Dimensional Variance request.

Alternative Resolution A would approve the Dimensional Variance request.

Resolution B would deny the Dimensional Variance request.

### **Attachments:**

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