

MEMORANDUM

TO: Chapel Hill Board of Adjustment

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

SUBJECT: 308 Hickory Drive: Resource Conservation District Variance
(PIN 9799-33-1312, Project #18-096)

DATE: February 7, 2018

RECOMMENDATION

Town Staff recommends that the Board of Adjustment review this request for a variance from Resource Conservation District (RCD) regulations in Appendix A, Article 3.6.3 of the Chapel Hill Land Use Management Ordinance.

INTRODUCTION

The applicant, Michael Isola, is requesting a variance from RCD regulations. The subject property is located at 308 Hickory Drive at the intersection of Willow Drive (Attachment 5). The property is in the Residential-2 (R-2) zoning district and the Little Ridgefield Neighborhood Conservation District (CD-9) and Orange County Property Identifier Number 9799-33-1312.

The applicant's materials are attached, including an application form, narrative, statement of justification, site plan, and related materials for your consideration (Attachment 4).

EXISTING CONDITIONS

The 0.30-acre subject lot is in the Residential-2 zoning district and the Little Ridgefield Neighborhood Conservation District. The vacant lot slopes downward from the street and is vegetated mostly with hardwood trees of various sizes. The lot contains RCD and floodplain, which severely limit the buildable area on the lot.

Overlay districts on the property include the RCD, Jordan Lake Watershed Protection District, 100-year floodplain, and 500-year floodplain. The variance requested pertains to the Resource Conservation District area, based on the site plan before the Board of Adjustment tonight.

The lot has variable-width RCD associated with it, measured as a 2-foot elevation above the 100-year floodplain base flood elevation (BFE). Approximately 89.8% of the lot (11,780 square feet of the 13,155 square foot lot) is located within the RCD. Section 3.6.3 of the Land Use

Management Ordinance does not allow new construction inside the RCD boundary without a variance.

BACKGROUND

September 27, 2018: Subject property acquired by property owners, Mehul and Anjana Patel.

August 31, 2018: Application submitted for a Resource Conservation District Variance by Michael Isola.

DESCRIPTION OF VARIANCE REQUEST

The applicant is requesting a variance from RCD regulations, Section 3.6.3(j) of the Land Use Management Ordinance, to encroach into the upland zone of the RCD with a proposed new home at 308 Hickory Drive. A variance is required to construct a single-family home in the Resource Conservation District according to Subsection 3.6.3(j) of the Land Use Management Ordinance. The applicant is requesting a variance to permit the disturbance of 7,000 square feet (59%) of the RCD area. Approximately 4,000 square feet of this disturbance will consist of impervious surface area (34% of the RCD area). These improvements are shown on the attached site plan (Attachment 4).

DISCUSSION

If the variance is granted by the Board of Adjustment for the proposed construction, the applicant would be required to obtain a Residential Zoning-Building Permit from the Town, prior to beginning construction. The approved site plan would be required during the plan review process to verify that the extent of construction is congruent with the variance granted. In addition, an as-built survey would be a prerequisite to a receiving a Certificate of Occupancy, to verify that the limits of construction do not exceed the variances granted.

Additionally, a FEMA No Rise Certificate and supporting engineering study would be required prior to submittal of the Residential Zoning-Building Permit. The result must show that the additional volume proposed in the floodplain would have no impact on the base flood elevation (BFE). The applicant will also need to provide documentation of structural flood opening requirements and any flood-proofing design and materials.

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