

## **MEMORANDUM**

TO: Chapel Hill Board of Adjustment

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

SUBJECT: 811 Old Mill Road: After-the-Fact Dimensional Variance  
(PIN 9798-17-5081, Project #19-067)

DATE: July 11, 2019

Attached for your consideration is an application for an after-the-fact variance from dimensional regulations for a well in the Greenwood Neighborhood Conservation District (CD-2) and Residential – Low Density 1 (R-LD1) zoning districts, in Appendix B and Article 3.8 of the Chapel Hill Land Use Management Ordinance.

## **INTRODUCTION**

The applicant, Conrad Reyes, is requesting an after-the-fact dimensional variance from the minimum interior setback for wells. The subject property is located at 811 Old Mill Road, near the intersection with Stagecoach Road (Attachment 4). The property is in the Residential-Low Density 1 (R-LD1) zoning district and the Greenwood Neighborhood Conservation District (CD-2) and the Orange County Property Identifier Number is 9798-17-5081.

The attached applicant's materials include an application form, narrative, statement of justification, site plan, survey, and area map (Attachments 4 & 5).

## **EXISTING CONDITIONS**

The 0.93 acre subject lot is in the Residential – Low Density 1 zoning district and the Greenwood Neighborhood Conservation District. The lot contains a single-family home and is relatively flat with a moderate downward slope to the east, and the vegetation is principally hardwood trees.

## **BACKGROUND**

June 3, 2019: Application submitted for an After-the-Fact Dimensional Variance by Conrad Reyes.

July 10, 2015: Subject property acquired by Conrad Reyes, owner.

## **DESCRIPTION OF VARIANCE REQUEST**

Property line setbacks on the subject lot are regulated by the Greenwood Neighborhood Conservation District design standards, in Appendix B, Division 2 of the Chapel Hill Land Use Management Ordinance (LUMO). The interior setback requirement is 20 feet in this NCD, more restrictive setbacks than the setback applicable in the underlying Residential – Low Density 1 zoning district (16 feet). The applicants are requesting an after-the-fact dimensional variance to encroach 7 feet into the 20-foot interior setback, on the southern property line, to accommodate a well. These improvements are shown on the attached site plan (Attachment 4).

## **DISCUSSION**

The applicant has obtained a Well Permit from Orange County. If the variance is granted for the construction of the well, the applicants would then be required to obtain an After-the-Fact Residential Zoning-Building Permit from the Town.

## **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 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.

## **RECOMMENDATION**

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

Resolution A would approve the After-the-Fact Dimensional Variance request.

Alternative Resolution A would approve the After-the-Fact Dimensional Variance request, without chair summary.

Resolution B would deny the After-the-Fact Dimensional Variance request.

### **Attachments:**

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