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Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustments
November 19, 2020

MINUTES

Members Present: Chairman Bill Banks, Members: Marion Hamel, Evans Duncan, Allen Alsbrooks, and David Lybrand

Members Absent: Jimmy Moody and Joshua Hoogerwerf

Staff Present: Town Planner Ron Hancock and Town Clerk Vickie Best

Others Present: Crocketts Meadow HOA President Bill Delgrego, General Contractor Jim Hasseler, and Stephen and Helen Dickinson

1. **Call to Order**

Chairman Banks called the meeting to order at 5:30 pm on Thursday November 19, 2020 in the pavilion adjacent to Town Hall.

2. **Approval of the Minutes of the September 17, 2020 Meeting**

(Action Required)

ON MOTION OF MR. ALSBROOKS, SECONDED BY MS. HAMEL, WITH ALL IN FAVOR THE MINUTES OF SEPTEMBER 17, 2020 WAS UNANIMOUSLY APPROVED.

3. **Application for Variance: Dickinson, 414 Panoramic Loop; Front-Yard Setback**

(Action Required)

Chairman Banks explained how a Zoning Board of Adjustments acts in a Quasi-Judicial manner accepting testimony under oath, and not accepting hearsay.

Below is the Variance Application that the Dickinson's submitted.

Factors Relevant to the Issuance of a Variance

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. In order for a variance to be granted, the applicant must be able to demonstrate that all of the following requirements are met. In the spaces provided, please indicate the facts that you intend to show and the arguments that you intend to make to convince the Board of Adjustment that it can properly reach the required conclusions.

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1. Indicate how an 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.

Due to the unique shape of the lot (See item 2) there is very little space on the street side for a walkway from the carport area to the front door. There is a 30-foot setback requirement from the center of the road to the front door of the cabin. A concrete walkway can be built in this 30-foot area if the walkway is not covered. However, an uncovered walkway will not allow for people to easily access the front of the cabin in inclement weather, and also exposes the front of the home to the weather and sun. We are requesting to be able to cover this walkway to protect people during inclement weather and also provide some protection to the cabin from the weather. As an added benefit, the covered walkway will also substantially add to the esthetics of the cabin, much to the benefit of the surrounding neighbors. We are requesting an 8-foot variance that would protrude into the 30-foot setback.

2. Indicate how 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. Unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.

This lot is very small (.15 acre) and is of a very unique shape, it is shaped somewhat like $\frac{1}{2}$ of a baseball home plate. This allows for limited flexibility in moving the cabin location forward or backward on the lot. The proposed cabin is not large, 2 bedrooms and about 1441 square feet. Due to the shape of the lot the cabin will only fit on the home plate shaped lot in a "stairstep" design, making small portions on the lot in the stairsteps unavailable for floorspace use. We have attempted to utilize all the lot in the most efficient manner, and still comply with the setbacks.

The area available for building the stairstep on the east side is very small, only about 20 feet in depth for building after setbacks have been applied. The lot angles from there to the west corner at a sharp angle, thus also limited the depth of the lot for building until you get to the west $\frac{1}{2}$ of the lot. Because of the limited depth, the cabin cannot be moved back and still have room for a bedroom and bath on the east side. Also, the parking area must then be placed on the west side as that is the only area long enough to park two vehicles off the street where it is most safe. There is not enough room on the

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east side for a covered carport. We did not want to attempt to infringe on the side or back setbacks as that could have a negative effect on adjoining neighbors.

The house has been creatively designed to fit on the lot and meet all setbacks. The problem comes with the need for a walkway from the carport area to the front door of the cabin. A concrete walkway can be built with existing setbacks, however without a variance it cannot be covered, providing protection for people and the cabin. We are asking for a variance to cover that walkway and improve the look of the cabin to be consistent with other cabins in the subdivision.

3. Indicate how 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.

The design of the cabin was created to best utilize the unique shape of the lot and to work within the existing setbacks and size requirements. There have been no actions taken by the applicant on the lot that would affect the design. The shape of the lot however does affect the design. This variance is an attempt to work within the setbacks and the unique lot shape while asking for a variance to cover the walkway.

4. Indicate how the requested variance is consistent with the spirit, purpose, and intent of the ordinance. Show how the request represents the least possible variation from the ordinance.

This variance has no impact on the setbacks on the sides or the back of the property and thus will not affect the closeness that the cabin to any neighbor on either side or in the back. The variance is for the front (street side) of the cabin and would cover a walkway that can be built within the existing setback requirements if it were to remain uncovered. There are other locations within the same subdivision that appear to have a covered walkway within the street side setback, and many locations that have paved walkways, parking areas and driveways in that area. We have made every effort in the design to not have any setback impact on any neighbors to the side or the rear of the cabin. With the covered walkway the view of the front with the variance will be very similar to many other cabins in the subdivision.

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5. Indicate how the requested variance will maintain the public safety and welfare and do substantial justice. Demonstrate how the request will not be injurious to the neighborhood. State facts and arguments to show that, on balance if the variance is approved, the benefit received by the Applicant will substantially outweigh the harm suffered by the public.

Allowing the variance to cover the walkway will provide cover during inclement weather for people, provide for some degree of protection for the cabin and shade for the windows. Allowing the variance for the cover will also allow for enhancing the front appearance of the cabin to allow it to be more in line with the designs of the other cabins in the subdivision. The cover will enhance the esthetics of the cabin, thus providing some degree of enhancement for the entire neighborhood. The variance will have no negative impact on public safety as the covered walkway will still be off the roadway with a landscaped area between the road and the walkway, unlike some other cabins that have that area paved and park vehicles in the front very close to the road. We believe the esthetics of the neighborhood will be much enhanced with the cover, as opposed to having the front of the cabin being plain. We also believe the design allows the vehicles to be parked under a carport, away from the road which increases safety and aesthetics.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application.

Planner Hancock provided the following Finding of Facts.

Facts for Variance Application #9_4_20_VAR1

1. Stephen and Helen Dickinson are the owners of property located at 414 Panoramic Loop in Maggie Valley with PIN 7676-87-4836.
2. This property consists of a 0.15 acre (6,500 square feet) vacant lot accessed by Panoramic Loop, a Maggie Valley maintained road having a 30 foot right of way.
3. The lot is currently zoned R-3, a High-Density Residential zoning district with a front yard setback requirement of 15 feet as measured from the

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street right of way.

4. The building area on the lot is constrained by its irregular shape and size, which does not meet the Town's R-3 minimum lot size standard of 7,000 square feet, which excludes street right of ways.
5. In October 2020, the property owners applied for an 8-foot variance from the front yard setback in order to construct a house to include an attached covered walkway along the front/street side.
6. The applicants have stated that the zoning ordinance and setback requirement would cause an unnecessary hardship because strict application of the standard would not allow them to construct their house with a covered walkway.
7. Placement of the covered walkway in the front setback area is the only way a house reasonably sized for the neighborhood (2 bedrooms and 1441 square feet) will fit on the lot due to its unique characteristics.
8. The layout and design are consistent with the spirit of the ordinance in that it maintains separation between houses to the sides and the rear and does not encroach on neighboring properties.
9. Construction of the covered walkway will not impede emergency vehicle access, create a fire hazard, or otherwise be contrary to public health and safety.
10. As required by state statute, all adjacent property owners have been notified of the Public Hearing and the site has been posted.

Correctly Mr. Alsbrooks stated that the walkway is all that encroaches onto the front-yard setback.

Planner Hancock drew the member's attention to the oddly shaped parcel. The parcel does not meet Residential 3 (R3) size standards. The lot was created in 2002 and is five-hundred (500') feet below minimum lot size.

HOA President Delgrego stated that there were no concerns from the neighbors nor the HOA.

Mr. Alsbrooks added that if the walkway were not covered, there would be no need for a variance.

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Mr. Dickinson thanked the members for allowing him to come before them. He and Ms. Dickinson have been coming from Florida to Maggie Valley for three (3) years in an RV. They fell in love with Maggie Valley and purchased the parcel in Crocketts Meadow.

The covered walkway is needed to protect the front of the home, especially the front door. The covered walkway will make the cabin have better curb appeal. Not only will the covered walkway enhance the appearance but will provide a safer ingress/egress from the home during inclement weather. Mr. Dickinson designed the home to fit the lot without encroaching on neighbors.

General Contractor Jim Hasseler informed the board that he has built many houses throughout his career and commended Mr. Dickinson for making the floorplan work with what is there. "Many people have looked at the lot and passed on it due to the size and the odd shape."

When questioned about being permanent residents; the Dickinson's were unsure at this point in time.

Mr. Hasseler stated that the covered walkway will be a focal point of the house. The Dickinson's have gone the extra mile and had the lot surveyed and the corners pinned. Without the covered walkway, the home would be destroyed in a short amount of time due the front of the house having no protection from the weather.

MS. HAMEL MADE A MOTION TO APPROVE THE VARIANCE AS DISCUSSED. MR. ALSBROOKS SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

4. **Other Business**

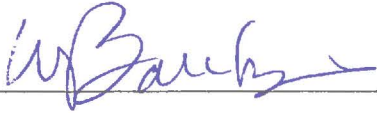
There was no other business.

5. **Adjourn**

ON MOTION OF MS. HAMEL, SECONDED BY MR. DUNCAN, WITH ALL IN FAVOR, THE MEETING ADJOURNED AT 5:57 PM.

The next Zoning Board of Adjustment meeting is scheduled for December 17, 2020.

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Chairman Bill Banks



Vickie Best, CMC, Town Clerk