

Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
September 19, 2024
Minutes

Members Present: Chairman Bill Banks, Vice Chairman Marion Hamel, David Carriker, Shelly Clement, Charlotte Ruiz, Amber Patterson

Members Absent: Jimmy “Tinker” Moody

Staff Present: Town Planner Sam Cullen, Town Clerk Kathy Johnson

Others Present: Tim and Sandra Tullos

1. Call to Order

Chairman Banks called the meeting to order at 5:30 pm on Thursday September 17, 2024. It was determined that Alternate Amber Patterson would be sitting in as a full member during the meeting to establish a quorum.

A quorum was established.

2. Disclosure of Conflicts/ Ex parte Communication

Chairman Banks asked if there were any conflicts of interest on the agenda for anyone. There was none.

3. Approval of Minutes

Chairman Banks asked if there were any corrections to the minutes. There was none. He asked if there was any more discussion. There was none, he then asked for a motion to approve the minutes.

Vice Chairman Marion Hamel made a motion to approve the minutes of the August 15th, 2024, meeting. Shelly Clement seconded the motion. The motion carried unanimously.

4. New Business

a. Variance Request, 356 Panoramic Loop

Chairman Banks stated that the Zoning Board of Adjustment acts like a Court of Law. The Board takes sworn testimony and deals in fact.

The following individuals were sworn in:

- Sam Cullen, Town Planner
- Tim Tullos (Property Owner)

Planner Cullen gave a report including background information. The request from the property owner is for a variance to the side setback, from the required 10-foot setback for R-2 Medium Density Residential, to 5 foot which equals a 5-foot variance.

Mr. Cullen said the applicants would like to build an addition to expand their existing bedroom and bathroom on the main level of their house. The applicants have concerns about using the stairway as they age. The proposal is unable to meet the setback requirements due to the lot size and the placement of existing right-of-way. The lot has road frontage on two sides restricting the buildable area.

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Mr. Cullen reviewed a GIS map and a plat showing the right-of-way with the Board. He explained the applicant is seeking a five-foot variance to the left side setback. The structure would sit five feet from the right-of-way and nine feet from the street.

Mr. Cullen entered the following items into evidence and asked if there were any questions.

- Application
- Staff report
- Plat of the property
- Four findings of fact
- Town of Maggie Valley UDO by reference

He reviewed a site plan submitted by General Contractor Chuck Cummings showing the existing structure and the requested variance. He encouraged the Board to read over the applicant's answers to the questions in the "Application for Variance" and said the applicant is present to answer any questions.

Marion Hamel confirmed with Mr. Cullen that there is currently a bedroom and bathroom on the first floor. She questioned if it was not big enough.

Mr. Tullos said the bathroom is entirely too small for two people. There is a closet that is twenty-four inches deep and sixty-six inches wide. By increasing the footage along the entire side, there will be room to extend the closet, bathroom and bedroom.

Mr. Cullen noted that the property owners/agents of 18 Altitude Terrace have contacted him several times with objection but did not submit any written materials. The property owners of the vacant lot on the right-hand side contacted him, but had no objections.

Mr. Tullos said the 4–5-foot variance they are asking for will take in a flower bed, it will not affect any structure at all next to them.

Shelly Clement confirmed with Mr. Tullos that he would still have the parking area.

Planner Cullen said there would be about nine feet left, five feet of that are in the right-of-way. He said the newly adopted language in GS-160D is very vague in reasonable use, especially when it comes to mobility issues and language about the fair housing act. The argument with the owners of 18 Altitude terrace is that the applicant purchased this property with the knowledge of what is inside. Purchasing the property with the knowledge of how it is laid out is not necessarily a disqualifier of a variance.

Charlotte Ruiz confirmed with the applicant that they live in the home full time. It was previously a short-term rental until the applicant purchased the property.

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Marion Hamel said if no variance is needed to do this, what are we doing here? Mr. Tullos said he is trying to make it uniform across the back and add to the bedroom and provide better access from the front of the bedroom into the bathroom to make it more convenient.

Mr. Cullen said the structure sets on a tilt, if the structure set completely level, none of it would need a variance. He said the right-of-way along the front of the property (which is Panoramic Loop) is larger than the right-of-way on Altitude Terrace.

Marion Hamel expressed concern on granting the variance. Mr. Cullen said he does not feel that aesthetic value should be factored in to granting the variance. He said prior to GS-160Ds language about fair housing act, this case would probably not have had a hearing. The reason there is no recommendation from the Planning Department is because of the vague interpretation of the accessibility of a subject home.

Marion Hamel continued to express concern about granting a variance because someone doesn't like the way their house looks.

Mr. Tullos added, this is not an appearance issue, it is access and reasonable use. It is to make the house a permanent resident instead of a hotel room. He has practiced law for many years and "I read that Statute, and I still don't know what it is asking for." The variance is not unreasonable and does not change the neighborhood and does not affect anyone else. It is "To make my house livable for us is the only purpose we are here for."

There was discussion between Board members and Mr. Cullen answered questions as they reviewed a map to clarify which side of the house that the addition would be on.

Shelly Clement said her general thought is they should have the five feet. The lot is small and there is still nine feet from the street. She said, "I think they have a lot of limitations because it's a corner lot and its small in size."

Marion Hamel expressed concerns about future problems if this variance is passed.

David Carriker said he thinks it is reasonable and does not think it is based on cosmetic purposes.

Amber Patterson said she is of the opinion that the variance should be granted.

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Chairman Banks read the 4 findings of fact:

<p>1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because:</p>	<p>Strict application of the ordinance would prevent the property owner from expanding the main bedroom on the first floor of the home</p>
<p>2. The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:</p>	<p>The property is smaller than the many lots and has road frontage on two sides</p>
<p>3. The hardship is not the result of the applicant's own actions because:</p>	<p>Existing easements at time of purchase</p>
<p>4. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare and substantial justice because:</p>	<p>The ordinance is meant to control growth while still allowing property owners to use their properties as intended.</p>

Chairman Banks asked if there was a motion to approve the variance.

David Carriker made a motion to grant the Variance for 356 Panoramic Loop, Amber Patterson seconded. Motion passed 4-1. Shelly Clement (yes), Chairman Bill Banks (yes), Vice Chairman Marion Hamel (no).

5. Other Business

Chairman Banks spoke about the Haywood County GIS website and encouraged Board members to utilize it for future cases.

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6. Adjourn

Marion Hamel made a motion to adjourn at 6:08 pm, David Carriker seconded the motion. The motion carried unanimously.

s/Bill Banks

Chairman, Bill Banks

s/Kathy Johnson

Town Clerk, Kathy Johnson