

REGULAR MEETING  
TOWN OF WAYNESVILLE  
BOARD OF ADJUSTMENT  
MARCH 6, 2007  
TUESDAY - 5:30 P. M.  
TOWN HALL

The Board of Adjustment held its regular meeting Tuesday, March 6, 2007. Members present were Gail Cross, Mack Noland, Mike Erwin, Boyd Medford and Stephanie Strickland. Also present at the meeting were Land Development Administrator Byron Hickox and Deputy Town Clerk Freida Rhinehart. Chairperson Mike Erwin called the meeting to order at 5:31 p.m.

Approval of Minutes of February 6, 2007

Gail Cross moved, seconded by Mack Noland to approve the minutes of February 6, 2007 as presented. The motion carried unanimously.

Variance Request - Hugh Constance - 576 Dellwood Road - Allowance of Handicapped Parking Space in Front of Building

Byron Hickox presented the Findings of Fact for this request. Mr. Hickox explained the current ordinance reads no parking is allowed in front of buildings or in the area to the side of the building which is past the line of the front face of the building. A handicapped space could not access the building from the rear since there is no elevator. A handicapped individual would have to be able to access the front door from his/her vehicle. This is a problem but not necessarily a hardship.

Findings of Fact for the Granting of Variances (Section 154.084(f)(2)9a))

- a. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter.

Finding: The Land Development Standards require that, for businesses, "parking and vehicular use areas must be located to the side or rear of the principal structure." This lot is fairly flat in front of the structure, but has a steep grade to the side and rear.

- b. That if the applicant complies with the provisions of the chapter, the property owner seeking the variance can secure no reasonable return from, or make no reasonable use of his property.

Finding: This lot could continue to be used as a single-family home.

- c. That special conditions and circumstances exist which are peculiar to the land, structure or building involved which are not applicable to other lands, structures or buildings located in the same land development district.

Finding: There are many other lots within the town of Waynesville's jurisdiction that have similar topographic challenges.

- d. That the special conditions and circumstances do not result from the actions of the applicant.

Finding: The special conditions and circumstances do not result from the actions of the applicant.

- e. That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.

Finding: The variance would allow the use of the space in front of the structure to be used for parking, something that has not been done for other similar businesses. It is not in harmony with the general purpose and intent of the ordinance.

- f. That the variance is the minimum necessary to afford relief.

Finding: The variance is the minimum necessary to afford relief.

- g. That the public safety and welfare have been assured and substantial justice has been done.

Finding: The public safety and welfare would be assured and substantial justice would be done by the granting of the variance.

Patrick McDowell entered 4 photographs of the property as evidence. Mr. McDowell stated the Constances are trying to sell their home. They have attempted to sell it as a residence but have been unsuccessful due to the high traffic volume on Dellwood Road. Instead, they would like to be able to sell it as a business. Most of the other residences on that street are now businesses. A business would require handicapped parking. The majority of the parking would be to the side and rear of the building but would be too steep for access by a handicapped person. The Constances are requesting allowance of parking slightly in front of the house line beside the house and current paved driveway.

Mr. Hickox asked how steep the driveway is at that location.

Mr. McDowell replied that the driveway slope would meet ADA standards for slope going sideways but not vertically. There would also be potential for leveling the driveway completely at that point.

Mack Noland asked if they have a buyer.

Mr. McDowell said they do have a buyer but the handicapped parking is an issue. If the handicapped space can be located where they are requesting, this will result in much less expense for the buyer. The one parking space will result in a cost of approximately 15% of the purchase price.

Mack Noland pointed out that the courts have ruled that a variance could not be issued to enhance the value of the sale of the property.

Mr. McDowell responded that the variance is being requested only in order for the Constances to sell the property, not so it can be sold at a higher value. Not too many people would want to use the property as a residence because traffic is so heavy on Dellwood Road it is no longer a neighborhood street. The potential buyer will use this property as a professional business office contingent on the granting of the variance.

Hugh Constance, Jr. said that his parents purchased their home on Dellwood Road in 1960. He stated that he was able to ride his bicycle to school when he was growing up. Traffic has increased drastically in the past few years and backs up all the way to Frog Level. Most of the neighborhood is now business establishments. One parking space is not going to change how people perceive this property. He feels this a reasonable request.

Hugh Constance, Sr. stated the parking place being considered will be almost hidden from the street and would not affect the appearance of the neighborhood.

Mack Noland stated the Board of Adjustment should consider whether the hardship is greater than the asset of having a handicapped parking space. Mike Erwin asked if the granting of the variance would only allow only one handicapped parking space. Mr. Hickox responded that it would and a planted buffer will be required between the handicapped space and the street.

Boyd Medford asked about the possibility of the property being subdivided. Mr. McDowell responded there is only a 10 ft. strip on the opposite side of the building and parking will be needed on all the available property located behind the handicapped space.

Mack Noland moved, seconded by Stephanie Strickland, to grant a variance to permit one handicapped parking space in the location designated at 576 Dellwood Road in full compliance with the specific requirements of Section 154.084 (F)(2) (a) and the general requirements of Section 154.306 Parking and Loading Standards.

### Adjournment

With no further business, Mack Noland moved, seconded by Gail Cross to adjourn the meeting at 6:05 p.m.

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Mike Erwin  
Chairperson

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Freida F. Rhinehart  
Secretary