

TOWN OF WAYNESVILLE
COUNTY OF HAYWOOD

BEFORE THE WAYNESVILLE
ZONING BOARD OF ADJUSTMENT

In the Matter of the Application of)
W. Gregg Sutton for a Variance)
for Property at Springview Drive)
PIN 8615-21-2584)
_____)

ORDER

THIS CAUSE, coming on before the Zoning Board of Adjustment for the Town of Waynesville on September 7, 2021, upon the application of W. Gregg Sutton, for a variance to allow the reduction in size of a lot owned by him on Springview Drive.

The Applicant appeared pro se and called Jason Fulton as his witness. Byron Hickox appeared for the Town of Waynesville and provided the staff report.

The Zoning Board of Adjustment, having heard and considered the testimony of town staff, all witnesses for the Applicant, and having afforded an opportunity for the public to speak in support of or in opposition to the application, and having considered all the evidence presented by the town staff and the Applicant, makes the following

FINDINGS OF FACT

1. The Zoning Board of Adjustment has jurisdiction over this matter pursuant to Section 14.4.1.B.4 of the Land Development Standards.
2. Proper notice of this meeting and hearing of the Zoning Board of Adjustment was provided as required by the Town ordinances and the state law.
3. Applicant, Gregg Sutton, owns that vacant parcel of land located on Springview Drive which is identified on the Haywood County tax maps as, PIN # 8615-21-2584, and further described as Lot 9, Block G, Plat Book I at Page 51, Haywood County Registry.
4. The applicant has applied for a variance from the lot size requirements of the Land Development standards to be able to locate the common lot line with the adjoining lot along the natural drainage area crossing the lot, which will reduce the size of his lot.

5. The subject property consists of 0.45 acres.
6. The property is located in the Country Club Low Density Residential District (CC-RL) where the minimum lot size is one-half (0.5) acre.
7. The development in which the subject property is located was already created with its current lot sizes prior to the lot size requirements were imposed by zoning regulations.
8. That the subject lot is already a legal non-conforming lot as it is less than 0.5 acres and existed at that size prior to the adoption of the current zoning regulations.
9. That 34 of the 49 of the surrounding lots are also less than 0.5 acres.
10. That the subject lot has a natural drainage area (hereafter referred to as the “drainage way”) that crosses the northern portion of the property, which drainage way creates a topographic natural boundary between the subject lot and the lot lying north of the subject lot (Lot 7, Block G, Plat Book I, Page 51), but when the property was subdivided, the property line was placed north of the drainage way, leaving a gap of land north of the drainage way that cannot be developed with the subject lot and more naturally fits with the lot lying north of the subject property.
11. That the applicant, with the support of the owner of the property north of the subject lot, Jason Fulton, wants to relocate the property line to run at its logical location along the drainage way.
12. That the applicant and Mr. Fulton have provided a survey for Jason P. Fulton and wife, Shanna R. Fulton, prepared by Lawrence Kevin Ensley, P.L.S., dated September 19, 2016, revised August 11, 2021 (Drawing No. A-081-16-R2), showing the location of the proposed new common lot line between the subject property, Lot 9 as described above, and Lot 7 as shown on the same plat.
13. That relocation of the property line will reduce the area of the said lot 9 owned by the Applicant from 0.45 acres to 0.38 acres, which will be smaller than the minimum lot size of 0.5 acres required by the zoning ordinance.
14. That of the 49 surrounding lots, 28 are 0.45 acres or less in land area, and of those 15 are 0.38 acres or less.
15. That the area of the drainage way and the portion of Lot 9 lying north of the drainage way is not buildable as a part of Lot 9 and does not add value or building area to said Lot 9, and if the proposed removal of 0.072 acres from the subject lot is allowed, the remaining lot will still be

buildable, as evidenced by nearby lots that are even smaller but have been developed.

16. Unnecessary hardship would result from the strict application of the ordinance, as the strict application of the ordinance would prevent the relocation of the lot line, requiring the owner of Lot 7 to trespass on Lot 9 to maintain the drainage area and leave a part of Lot 9 on the other side of the drainage way that is useless as a part of Lot 9.

17. The hardship results from conditions that are peculiar to the property as the drainage way is a natural topographic feature that existed prior to the creation of the existing lots and prior to the adoption of the current zoning regulations and isolates a portion of Lot 9 from the rest of the lot.

18. The hardship did not result from actions taken by the applicant, as the drainage way and the lot line were both at their present location when the Applicant and his neighbor to the north acquired their respective properties.

19. 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, as relocation of the property line and the resulting reduction in size of the Applicant's lot will place the common lot line along a natural topographic feature and allow owners of both lots access to the drainage area to maintain it while not reducing the usefulness of the lot of the Applicant.

BASED UPON THE FOREGOING FINDINGS OF FACT, THIS BOARD by a vote of 4 to 0 concludes that the Applicant is entitled to the variance requested.

IT IS NOW, THEREFORE, ORDERED, that the Applicant's request for a variance is granted. and that the common property line between lots 7 and 9, Block G, Plat Book I, Page 51, Haywood County Registry may be relocated as shown on that survey for Jason P. Fulton and wife, Shanna R. Fulton, prepared by Lawrence Kevin Ensley, P.L.S., dated September 19, 2016, revised August 11, 2021 (Drawing No. A-081-16-R2).

This the 20th day of SEPTEMBER, 2021.


HENRY KIDDER, Chairperson

If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Haywood County within 30 days after the date this order is served on you.