

**Town of Angier  
Board of Adjustment  
Tuesday, July 26, 2022  
Municipal Building  
28 N. Raleigh Street  
Angier, North Carolina 27501  
Minutes**

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The Town of Angier Board of Adjustment met in regular session on Tuesday, July 26, 2022, inside the Municipal Building Board Room, 28 N. Raleigh Street. Mayor Bob Smith presided, calling the meeting to order at 6:30 p.m.

**Members Present:** Mayor Bob Smith  
Commissioner Loru Boyer Hawley  
Commissioner Jim Kazakavage

**Members Absent:** Commissioner George "Jr." Price  
Commissioner Alan Coats

**ETJ Members Present:** Lee Marshall  
Haley Plumley

**ETJ Members Absent:**

**Staff Members Present:** Town Manager Gerry Vincent  
Town Clerk Veronica Hardaway  
Planning Director Sean Johnson  
Town Attorney Dan Hartzog, Jr.

**2. Pledge of Allegiance:** Mayor Bob Smith led the pledge of allegiance.

**3. Invocation:** Mayor Smith offered the invocation.

**4. Approval of the June 28, 2022 Board of Adjustment Meeting Minutes:** The Town Board unanimously approved the minutes as presented.

**Board Action:** The Town Board unanimously voted to approve the June 28, 2022 Board of Adjustment Meeting Minutes as presented.

**Motion:** Commissioner Hawley

**Vote:** 5-0; unanimous

**Board Action:** The Town Board unanimously voted to excuse Commissioner Price and Commissioner Coats from the meeting.

**Motion:** Lee Marshall

**Vote:** 5-0; unanimous

**5. Swearing in of Witnesses:** The following persons giving testimony during the evidentiary hearings on the agenda were duly sworn by the Town Clerk.

Sean Johnson, Planning Director  
T. Warren Gregory, 2729 Parkway Drive, Raleigh (applicant)

## **6. New Business**

### **A. Variance Application**

Applicant: T. Warren Gregory  
Property Address: NC 210 N., Angier, NC  
Variance Request: Curb & Gutter Required Along NC 210

Mayor Smith opened the Evidentiary Hearing.

Planning Director Sean Johnson stated that a Variance application was submitted by T. Warren Gregory regarding the 6.96-acre property located on NC 210 N., Angier, NC that is owned by Gregory Family Properties, LLC. The property in question is directly to the East of the Spring Village subdivision adjacent to Sundowner Lane.

A Special Use Permit was approved by the Board of Adjustment for a mini storage use on the property in question on April 26, 2022. A site plan was submitted for a mini storage facility on the property May 31, 2022. The Technical Review Committee (TRC) reviewed the site plan for Ordinance compliance on June 22, 2022. One of the TRC comments on the site plan was related to the curb & gutter and sidewalk required along the road frontage along NC 210 adjacent to the property.

During the TRC meeting, staff offered Mr. Gregory the option to subdivide the property along the boundaries of where he would like to put his storage units so that the curb could then stop at the newly created parcel line instead of extending along the entire frontage of the 6.96 acres. The applicant expressed concerns with these requirements, so staff advised him of his option to submit a Variance request if he feels that a hardship is caused by this requirement.

Mr. Johnson reviewed the applicable Ordinance requirements of Section 9.1.5.3 – Roadway Improvements.

#### *9.1.5.3 Roadway improvements*

*A. Concrete curbs and gutters, that meet North Carolina Department of Transportation standards shall be constructed along both sides of all streets within all residential and nonresidential developments. Curbs and gutters should also be installed adjacent to the existing roadway along either side of the entrance to the development and should provide convenient access for future connection by adjacent development.*

T. Warren Gregory, 2729 Parkway Drive, Raleigh, stated that they were able to eliminate the use of a retention pond utilizing the entire 6.96 acres. The property has already been rezoned



for mini storage use and subdividing was not an option for him. *Dan Ryan Builders (DRB)*, developer of Spring Village, sent correspondence asking Mr. Gregory to sell a portion of his property to expand the right-of-way of Hwy 210 so they could add a right turn lane into their development. However, he didn't feel it was his responsibility to give the developer something for nothing.

Mr. Gregory stated DRB widened the road by 6ft and installed curb & gutter up to the street that ties into Hwy 210, however they crossed over his land to accomplish this. He disagrees with having to install a sidewalk due to the location of the ditch. He believes this is a hardship on him by the Ordinance requirements as he doesn't have a driveway permit off Hwy 210 or Sundowner Lane to which he states was promised. He claims that out of spite, DRB decided to install their street on one side of the 60ft right-of-way leaving a 10ft strip between the street and his property that he cannot access. Mr. Gregory claims that DRB wants him to give them 15ft of his property for the landscaping of both properties to block the view of the mini storage.

Mr. Johnson stated that *Dan Ryan Builders* purchased a 60ft strip of land from the main parcel across Mr. Stephenson's land that is to the West of Sundowner Lane. They bought the 60ft right-of-way, however Town of Angier street width standards are just 50ft. Mr. Johnson could not speak to why DRB shifted that 50ft to the left of the 60ft, leaving a 10ft gap on the eastern edge of Sundowner Lane.

Once completed and recorded, Sundowner Lane will be a Town of Angier street, and then the Town can give Mr. Gregory access at that point. Mr. Gregory's original site plan showed a design by having a driveway off Sundowner Lane. At this point, that 10ft gap is private property and an agreement will need to be settled between Mr. Gregory and DRB. Mr. Johnson also pointed out that he received an email chain by DRB stating they would be happy to give Mr. Gregory access to Sundowner if he met certain criteria to enhance his property's appearance.

The Board had discussion with Mr. Gregory regarding shifting his buildings more to the rear of his site plan in order to follow the Ordinance requirements. Mr. Gregory doesn't feel it's his responsibility to design road widenings for the Town of Angier.

Mayor Smith conveyed that maybe the Board should hold off until both parties come to an agreement.

Town Attorney Dan Hartzog, Jr. relayed that if additional information is not needed to make an informed decision, he recommended to proceed with the findings.

The Board discussed that the issue between Mr. Gregory and DRB is separate from the Variance request. It was the consensus of the Board that Mr. Gregory's engineer could adjust the design of the site plan to meet the requirements of the Ordinance.

Mayor Smith closed the Evidentiary Hearing.

*Variance Approval Criteria: Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after an evidentiary hearing that the following conditions exist:*

- A. *Unnecessary hardship would result from the strict application of the ordinance; **It was the consensus of the Board this does not apply***
- B. *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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability; **It was the consensus of the Board this does not apply***
- C. *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 may justify the granting of a variance shall not be regarded as a self-created hardship; **It was the consensus of the Board this does not apply***
- D. *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; **It was the consensus of the Board this does not apply***

**Board Action:** Based on the Variance Approval Criteria, the Board of Adjustment voted to deny the Variance request. The applicant will be required to follow the Ordinance requirements written.

**Motion:** Commissioner Hawley  
**Vote:** 5-0; unanimous

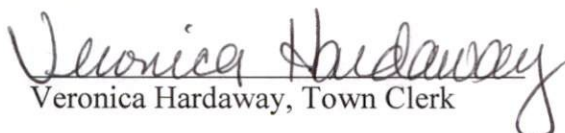
**6. Adjournment:** Mayor Smith entertained a motion to adjourn the meeting. Motion to adjourn was unanimous at approximately 7:24pm.

**Motion:** Commissioner Hawley  
**Vote:** 5-0; unanimous



Robert K. Smith  
Chairman / Board of Adjustment

Attest:



Veronica Hardaway, Town Clerk

