

**Town of Angier
Board of Adjustment
Tuesday, July 25, 2023
Municipal Building
28 N. Raleigh Street
Angier, North Carolina 27501
Minutes**

The Town of Angier Board of Adjustment met in regular session on Tuesday, July 25, 2023, 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
Commissioner Alan Coats
Commissioner George "Jr." Price

Members Absent:

ETJ Members Present: Lee Marshall

ETJ Members Absent: Haley Plumley

Staff Members Present: Town Manager Elizabeth Krige
Town Clerk Veronica Hardaway
Planning Director Jeff Jones

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

3. Invocation: Mayor Smith offered the invocation.

4. Approval of the April 25, 2023 Board of Adjustment Meeting Minutes: The Town Board unanimously approved the minutes as presented.

Board Action: The Town Board unanimously voted to approve the April 25, 2023 Board of Adjustment Meeting Minutes as presented.

Motion: Commissioner Hawley

Vote: 6-0; 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.

Jeff Jones, Planning Director
Clint Gregory, Applicant
T. Warren Gregory, 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 & Fencing located on property line when associated with required landscaping.

Commissioner Coats explained that the proposed variance request is not in conflict with his own business due to the matter being in regards to Ordinance requirements. He did mention; however, that he recused himself during the rezoning public hearing as it was a conflict with him as a business owner.

Mayor Smith opened the Evidentiary Hearing.

Planning Director Jeff Jones stated that staff received a Variance Application from T. Warren Gregory on property located off NC-210 N., Angier, NC (Harnett PIN#: 0683-29-0488.000). Essentially there are two requests that are being made for this property; 1) curb & gutter along NC-210 N; and 2) fencing and associated landscaping along the property line. 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 in question on 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 in question. The applicant expressed his 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. The applicant applied for and was denied a variance in July 2022 for the curb and sidewalk. Since July of last year, the applicant has gone through some plan iterations through staff and has also worked with NCDOT to acquire a driveway permit and clarification on the curb, gutter, and sidewalk.

Mr. Jones explained Section 9.1.5.3 are Town requirements that a development non-residential and residential provide sidewalks, curb, and gutter along all streets including new and existing when a development is proposed. The property in question is outside the Town limits; however, in the Town's Extraterritorial Jurisdiction (ETJ) which also has provisions in the zoning ordinance, allow for those properties and developments within the ETJ not be required to provide sidewalk, curb, and gutter. Though, there are some qualifiers to that exemption and those are if the proposed development is within a quarter mile of an existing pedestrian way or within a quarter mile of Town limits. Spring Village subdivision being annexed into Town and having provided sidewalks along Sundowner Lane, this being an adjacent property and is within a quarter mile of Town. Even though the property in question is not within Town limits the Town ordinance suggests these types of developments to develop due to the close proximity to city limits.

Curb & Gutter along NC-210 N

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.*

Fencing and associated landscaping along the property line

7.2 Landscaping General Provisions

- B. No structure other than a wall, fence, sidewalk, mailbox, sign or driveway shall be permitted within a required landscaping area. No off-street parking may take place in any required landscaping area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.*

Mr. Gregory is requesting to install the landscaping on the interior of the fence and have the fence on the property line.

Clint Gregory, 2705 Parkway Drive, Raleigh, started with an email response that was received by Richie Hines with NCDOT in regards to the curb, gutter, and road improvements. It was his understanding that NCDOT does not want curb, gutter, or road improvements on NC-210 at this location. Mr. Hines confirmed with the division traffic engineering unit that 55MPH is an appropriate speed for the section of 210 in front of the proposed Crepe Myrtle Storage unit site and as discussed, the department does not recommend the installation of curb and gutter along roadways that are posted at 55MPH. Mr. Hines' email indicated that he was not requiring roadway improvements to NC-210 for this site due to the low volume traffic. The only recommendation that was made was pushing the gate back by about 80ft. instead of 66ft. Mr. Gregory stated that if the driveway and gates are pushed back it conflicts with the turning radius to get into the drives of the aisles. In regards to the landscaping, there has been some minor discussions between staff and Warren Gregory for compliance. It was requested to keep the landscaping within the interior of the wood fence to be able to conduct maintenance. It was proposed to put fencing up on the property line at the rear of the storage facility along with keeping the landscaping within the interior as well. There will be landscaping along the NC-210 frontage. Mr. Gregory has obtained a fence permit to construct a fence on the property line.

Mayor Smith entered the aforementioned email into the record:



From: Hines, Lee R [mailto:lhines@ncdot.gov]
Sent: Tuesday, June 20, 2003 5:32 PM
To: Jeffrey A. Jones <jajones@angies.org>
Cc: Bill Drehtaler <bdrehtaler@dm2engineering.com>; Jimmy Cook <jcook@angies.org>
Subject: Crepe Myrtle Storage Units

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jeff,

I just conferred with our Division Traffic Engineering Unit that 55 mph is an appropriate speed for the section of NC 210 in front of the proposed Crepe Myrtle Storage Units site. As we discussed, the Department does not recommend the installation of standard curb and gutter along roadways that are posted at 55 mph.

I will not require roadway improvements to NC 210 for this site due to the low volume of traffic I expect it will generate. Our only remaining comment is to see if the gate can be pushed to maybe 80 feet from the roadway instead of 66 feet, but it is minor enough to overlook if that causes issues within the site.

Please let me know if you have any questions or comments. Thanks Jeff.

Richie

Lee R. Hines, Jr., PE (Richie)
District Engineer
NCDOT - Division of Highways
Division Six, District Two
(Harnett and Cumberland Counties)

(910) 364 0601 office
lhines@ncdot.gov

600 Southern Avenue (physical)
Post Office Box 3150 (mail)
Fayetteville, NC 28302



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Mr. Jones explained that being Mr. Gregory's property is in the ETJ, he was not required to acquire a fence permit, it is only required in the Town limits. As a homeowner, the zoning ordinance has no stipulations on where to install a fence. However, the zoning ordinance requires landscaping on the public side of the fence, so the natural progression would be the fencing not be installed on the property line to make room for the required landscaping. Mr. Gregory's fence does encroach into the sight distance triangle. There was a fine associated with the violation of the sight distance triangle; however, those fines were paused after Mr. Gregory applied for a variance.

Commissioner Coats explained that during Mr. Gregory's rezoning public hearing it was expressed that vegetation be planted outside of the fence to make it more appealing for a budding housing complex and roadways. The point of planting vegetation was for beautification and privacy.

Mr. Jones stated that there was discussion that the Town was going to help facilitate a driveway when it was thought that Sundowner Lane was going to be built within the 60ft right-of-way but was pushed to one side making it a 10ft strip that is associated with Spring Village. So, to cross our right-of-way on Sundowner or get to Mr. Gregory's property we would have to travel through private property. Due to this, an access easement would have to be given from the developers of Spring Village to facilitate that driveway.

Clint Gregory stated regarding the sight triangle, a letter was received by Lester Stancil that was sent to the division of highways requiring a 10x70 sight triangle. That sight triangle was denied and not approved by Mr. Gregory. The sight triangle is not recorded or on the maps.

Mr. Jones explained that a sight triangle whether recorded or not is a concept not a real property dispute. A sight triangle is where two, either street or driveway, intersect with each other. It's not a real property issue it's a concept where you can't place barriers on people to prevent them to be able to see and safely move into traffic. Every driveway has sight distance triangles. It is staff's contention that there is a fence within the sight triangle off of Sundowner Lane

preventing safe ingress and egress of traffic. The Town was trying to petition NCDOT to reduce the speed limit along NC-210; however, DOT does not recommend reducing the speed limit. NCDOT's rules and regulations do not support having curb, gutter, and sidewalks in those traffic zones.

Mayor Smith closed the Evidentiary Hearing.

Regarding Curb, Gutter, and Sidewalk Variance:

Such variances may be granted in such individual cases 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 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 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 that 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 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 apply***

Board Action: Based on findings A-D and recommendations made by NCDOT, the Board of Adjustment voted to approve the variance as it relates to curb, gutter, and sidewalk requirement.

Motion: Commissioner Hawley

Vote: 6-0; unanimous

There was discussion regarding the landscaping requirements and how it was designed to be placed outside the fence to beautify the property. It was suggested not to require landscaping along Sundowner Lane where the fence was placed on the property line as well as the eastern side of the property as it faces a wooded area.

Town Manager Elizabeth Krige reminded the Board that the Town identified, at the Budgeting Workshop, beautification of areas coming into the Town.

T. Warren Gregory, 2729 Parkway Drive, Raleigh, agreed to take the first section of fence down on his property for the safety of drivers. He would like to keep landscaping within the fenced area so he can maintain it but will place plantings along Hwy 210.

Regarding Landscaping Variance:

Board Action: Based on findings A-D the Board voted to approve the variance as it relates to landscaping with the following conditions: removing landscaping requirements along Sundowner Lane and the eastern side of the proposed storage buildings; waiving fees associated with the aforementioned property; and removing one fence panel at the entrance of Sundowner Lane.

Motion: Commissioner Hawley
Vote: 6-0; unanimous

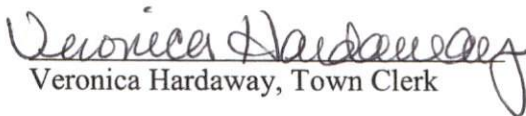
6. Adjournment: Mayor Smith entertained a motion to adjourn the meeting. Motion to adjourn was unanimous at approximately 7:36pm.

Motion: Commissioner Hawley
Vote: 6-0; unanimous



Robert K. Smith
Chairman / Board of Adjustment

Attest:



Veronica Hardaway, Town Clerk