

FILED
UNION COUNTY, NC
CRYSTAL D. GILLIARD
REGISTER OF DEEDS

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START PAGE 0789
END PAGE 0791
INSTRUMENT # 06336
EXCISE TAX (None)
SWC

TOWN OF WEDDINGTON BOARD OF ADJUSTMENT

VARIANCE ORDER

APPLICANT/OWNER: Mr. Hendrick H. Ellis and wife Diane M. Ellis
5040 Oxfordshire Road
Waxhaw, NC 28173

PARCEL NUMBER: 06-153-156

EXISTING ZONING: R-40

The Board of Adjustment for the Town of Weddington, upon due notice and advertisement held a public hearing on February 27, 2023 to consider a variance application by the owner, Hendrick H. Ellis and wife Diane M. Ellis (Applicant), for a variance for relief from the fifty (50) foot rear yard setback established by Conditional Use Permit for construction of a game room addition to their residence located at 5040 Oxfordshire Road, Waxhaw, NC, in a manner not permissible under the literal terms of the ordinance; and having heard all of the application, exhibits, evidence, and sworn testimony of witnesses presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS regarding the findings required by Section D-705.D of the Weddington Unified Development Ordinances:

FINDINGS OF FACT

1. The Applicant is the owner of Lot 35, Phase One - Map 3, Stratford on Providence which consists of approximately 1.022 acres on which is located the residence of the Applicant.
2. When the Weddington Town Council approved the Conditional Use Permit for Stratford on Providence Subdivision in December 2000, the rear yard setback generally for most lots was established at 40 feet. Several lots, including the subject Lot 35 were approved with rear yard setbacks of 50 feet. Some abutted proposed Rae Road Extension and some, include the subject lot, which abutted adjacent vacant parcels outside the subdivision.
3. The Applicant requested a variance from the fifty (50) foot rear yard setback to forty-five (45) feet to construct a game room addition to the Applicant's residence located at 5040 Oxfordshire Road, Waxhaw, NC.
4. The shape, dimensions, topography of the lot, size and location of the house located on the lot, along with extended rear setback resulted in the planned game room addition encroaching approximately 5 feet into the 50-foot setback.

mail to: Karen Dewey
Town of Weddington
1924 Weddington Rd., Weddington, NC 28104

5. The lot backs up to an undeveloped parcel and currently no residences abut the rear of the lot.
6. Additions to dwellings for game room or other purposes are common in the neighborhood and game rooms by necessity are large enough to accommodate game equipment.
UDO Section D-705.D. Variances requires the following:

CONCLUSIONS

- (1) When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- a. The hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Conclusion: The Board found that there was a hardship from strict application of the regulation based on the size, shape, dimensions of the lot including the large front yard setback and extra ten feet added to the typical forty-foot setback typical for the subdivision. The hardship was due to the fifty-foot rear yard setback and lot dimensions.

MET by four to one vote.

- b. The hardship results from the 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.

Conclusion: The Board found unanimously a hardship was created by the additional rear yard setback of fifty feet rather than forty feet typical for the subdivision. In addition, the large front yard setback and location of the dwelling on the lot were peculiar to the lot which reduced the amount of rear yard resulting in the proposed addition encroaching approximately five feet into the fifty-foot setback.

MET by unanimous vote.

- 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.

Conclusion: The Board found unanimously that the hardship was due to the lot dimensions and additional rear yard setback and not actions taken by the Applicant.

MET by unanimous vote.

- d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

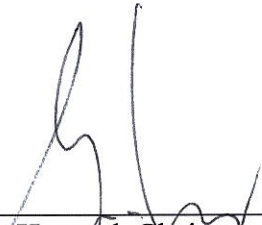
Conclusion: The Board found unanimously that reducing the rear yard setback to the typical forty-foot setback to accommodate construction of the addition to the dwelling would not affect public safety and the forty-foot setback would align with most of the other rear yard setbacks such that the variance would be consistent with the spirit, purpose, and intent of the regulation.

MET by unanimous vote.

DECISION

Based on the foregoing findings and conclusions that the Application met each of the four standards required by the UDO the Board of Adjustment, by unanimous vote, hereby grants the variance request of the Applicant to include a forty-foot rear yard setback solely for the purpose of constructing the game room addition to the residence as represented in the Petition.

Ordered this the 27th day of February, 2023



Gordon Howard, Chairman

Order filed with the Zoning Administrator and copy sent by US Mail to the Applicant/Property Owner and to all who submitted a written request for copy on March 15, 2023.



Zoning Administrator