

Town of Holly Springs
BOARD OF ADJUSTMENT MEETING MINUTES
Monday, February 7, 2022 – 6:30 p.m.

Agenda Item #1, 2, 3 & 4:

The Board of Adjustment of the Town of Holly Springs met for their regularly scheduled meeting on February 7, 2022 in the Council Chambers, 128 South Main Street. At 6:30p after determining a quorum was present, Chair Marinko called the meeting to order.

Staff Members Present: Elizabeth Goodson, Land Development Division Manager
Bronwyn Bishop, Planner I
John Schifano, Town Attorney
Brett Gosney, Board of Adjustment Clerk

The Board completed roll call.

Members Present: Jay Marinko
Cody Loughridge
Alicia Andrews
Jayson Green

Members Absent: Vacant, Chair
Vacant, Vice Chair
Jeff Jones
Elaine Crigger

The Board recited the pledge of Allegiance and held a moment of silence.

Agenda Item #5: Agenda Adjustment

Due to both the Chair and Vice Chair being vacant positions, the selection of a temporary Chair was held. The Board voted Jay Marinko as Chair for this evening's meeting. Cody Loughridge was voted as vice chair.

Agenda Item #6: Minutes

- a. October 18, 2021 Special Meeting Minutes

Motion:

- b. Motion to approve the October 18, 2021 Special Meeting Minutes.

Motion by: Cody Loughridge

Second by: Alicia Andrews

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

Agenda Item #7: Variance

- a. 116 Tiverton Woods Dr (21-VAR-05)

Ms. Bishop reviewed the staff report with the Board.

The Town received a variance request to allow for a Variance from the Unified Development Ordinance Section 2.08. H.1. & 2.08.H.2 Maintenance of Buffer Areas to allow for a reduction in the undisturbed buffer area as approved on the Ballenridge PUD from 30' to 15' at 116 Tiverton Woods Drive, PIN 0649617824 in Holly Springs, NC 27540.

Swearing-In
Bronwyn Bishop, Planner I

Sydney Evans
116 Tiverton Woods Dr.
Holly Springs, NC 27540

Christopher Schultz
117 Clay Ridge Rd.
Holly Springs, NC 27540

Jennie Zdenek
105 Tiverton Woods
Holly Springs, NC 27540

Chair Marinko opened the Public Hearing.

Testimony:

Mrs. Evans stated that they are requesting a variance after the fact because the trees have already been removed. Mrs. Evans stated that there was over crowding inside the fence as well as a smell of mold and a roach infestation. A photo from 2019 was displayed to show the number of trees in the rear of the property. Trees were so rotted that they could be pushed over with ease. The property is on a slope with a water easement that runs underneath Ballentine. There were a lot of issues with flooding in the property when they first moved in. Mrs. Evans showed a photo of the drainage of the water from her property to the adjacent neighbors. The placement of the concrete patio was thought out and it was put down in an area that would not impede on the drainage of her and her neighbors' properties. A letter from the concrete company was displayed to show that the placement of the concrete pad was thought out. Mrs. Evans stated that she did contact the town to see if approval would be needed to remove the trees and was told she would not need a permit, but to not uproot the trees as it may cause sinkholes. The violation was realized because she applied for a pool permit and was denied because the concrete patio was encroaching on the undisturbed buffer area. The property issues previously stated (mold, roach infestation) have been resolved since the removal of the trees. Mold and mildew growth were due to the lack of sunlight in the buffer area, but it has subsided since the removal of the trees. The overgrowth in the undisturbed buffer area caused the trees to overcrowd themselves and die. Mrs. Evans proposed alternatives to allow for the reduction of the undisturbed buffer area to 15', but to replant and redistribute the trees elsewhere on the property.

Mrs. Andrews asked if trees were taken down behind the fence.

Mrs. Evans stated no trees were removed from the behind the fence.

Mrs. Andrews asked about the order of events with the trees being removed and the concrete pad being placed.

Mrs. Evans stated that the trees were removed prior to the concrete pad being placed. Mrs. Evans displayed a picture of the backyard as it currently is.

Mr. Loughridge asked about the trees that had already been cut and how the still standing trees would be affected by the reduction of the buffer.

Mrs. Evans stated that the trees within the fence line were cut and trees would need to be replanted. Currently they are cut beyond the requested 15'.

Mr. Loughridge asked about why the pad needed to be placed where it was.

Mrs. Evans stated that this was the ideal location per her concrete contractor.

Mrs. Andrews asked if there was a variance for the fence that is currently installed.

Mr. Schifano stated the board may only consider the evidence brought before them tonight.

Mr. Green asked when they purchased the home and if they received a survey when they purchased.

Mrs. Evans stated that they purchased their home in 2019 and they were not educated enough on the topic to know of the buffer area.

Mrs. Marinko asked if they applied for a permit for the pad.

Mrs. Evans stated no they did not.

Mr. Loughridge asked if they had approval from the HOA.

Mrs. Evans stated they received approval for the removal of the trees and the concrete pad.

Mr. Greene asked if the HOA agreed the pad in its current place was allowed.

Mrs. Loughridge asked about the reduction of the buffer and if it would allow for the building of a concrete pad.

Mr. Schifano stated that the buffer would no longer be applicable and anything that is allowable within the UDO would be able to be built.

Mrs. Bishop stated that a buffer area is not the same as a setback. Grade level improvements (like a concrete pad) are permitted to encroach in the rear setback per the UDO.

Chair Marinko invited supporters up to speak.

Mr. Schultz stated that he received a notice from the Town of the variance and he is supportive of the variance. Mr. Schultz has visited the site and he does not see any problems with the reduction of the buffer area.

Mrs. Zdenek has been in the neighborhood for 20 years and is in support of the variance. Mrs. Zdenek states that she knows of the bugs and infestation in the property, but everything that the Evans have done has improved the property value. Mrs. Zdenek stated that if the Evans fences encroaches then everyone on Ballentine is encroaching on the buffer.

Chair Marinko invited those who oppose the variance up to speak.

There was no one who opposed the variance present.

Chair Marinko closed the Public Hearing.

Board Deliberation:

The Board deliberated on the findings of fact as they pertain to the variance request.

Mr. Loughridge asked who is responsible for the buffer.

Mr. Schifano stated that it is the Homeowners responsibility.

Mrs. Andrew stated she is struggling with the drainage and the easement as they are on different areas of the property. She would like to focus on the elevation and the easement for this point.

Mr. Loughridge stated that he would like to focus on this as well and keep the fact very simple for this case.

The board agreed on this fact.

The board discussed what the potential hardship could be for this variance. Mr. Marinko stated that the hardship is the financial process. The board continued to discuss the possible hardships being topography, receiving bad information, and the financial process.

Mr. Schifano stated that the hardship of receiving bad information is not a hardship. The buffer area being located on the property would be more of the hardship because it is lot-specific and peculiar to only a few lots.

Mr. Marinko reopened the public comment period.

Mr. Schultz spoke in support of the variance once again.

Mrs. Evans stated that her son's respiratory issues caused them to need to get rid of the mold.

Mr. Marinko closed the public hearing again.

The board continued deliberation.

Mr. Marinko stated that the hardship should be the topography of the land.

The board discussed what could be built on the property if the variance is granted and how this may have an effect.

The Board discussed the tabling of the meeting to allow the applicant time to acquire a signed affidavit of sworn testimony from the concrete contractor.

Motion:

Motion to table the variance request #21-VAR-05 until the next meeting.

Motion by: Jay Marinko

Second by: Cody Loughridge

Action: The Board of Adjustments voted in favor of the motion. (4-0)

Agenda Item #8: Other Business

Mrs. Goodson provided an update to the board on the January training and scheduled training in February.

Agenda Item #9: Adjournment

Motion:

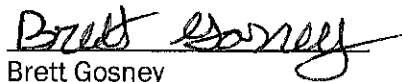
Motion to adjourn.

Motion by: Jay Marinko

Second by: Cody Loughridge

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

Time: 7:41


Brett Gosney
Board of Adjustment Clerk