

1. Packet

Documents:

[BOARD OF ADJUSTMENT REGULAR MEETING PACKET.PDF](#)

2. Meeting Materials

Documents:

[VARIANCE STAFF REPORT.PDF](#)



Meeting Information

Location

City Hall 3rd Floor
801 West Avenue NW
Lenoir, NW 28645

Time

5:30 p.m.

Board Members

Sharon Bryant, Chairperson

Lucy McCarl

James Bradshaw

Mac Martin

Leah Hamilton

Tim Scobie

Richard Hedrick, Alternate

Jeff Church, Alternate

Lenoir Board of Adjustment

Agenda • October 22, 2018

Welcome!

We are glad you have joined us for tonight's meeting. The Lenoir Board of Adjustment is a quasi-judicial board comprised of citizen members appointed by the City Council in accordance with G.S. 160A-388. The Board of Adjustment is tasked with hearing variance requests and appeals of land development decisions by administrative officials.

In order to grant a requested variance, a 4/5 majority of the Board must find that the requested variance satisfies four related standards established by state statutes – competent, material, and substantial evidence in the record must support findings that:

1. The ordinance creates an unnecessary hardship
2. The hardship is peculiar to the property
3. The hardship is not self-created, and
4. The requested variance meets the intent of the ordinances, upholds public safety, and achieves substantial justice.

Each decision of the Board will be reduced to writing and be signed by the Chair, and shall become effective upon delivery of the signed decision to the applicant, property owner, and to any person who has submitted a written request for a copy.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the Clerk of Superior Court within 30 days of the effective date of the board's decision.

General Rules of Order

The Board is pleased to hear all non-repetitive comments. If you wish to appear before the Board, please fill out an Appearance Request Form and give it to the Recording Secretary. Anyone who wishes to appear before the Board must be sworn in prior to delivering testimony or entering other evidence into the record. When the Chairperson recognizes you, state your name and address and speak directly into the microphone. ROBERT'S RULES OF ORDER govern the conduct of the meeting.

OPENING SESSION

- Determination of a Quorum
- Call to Order

REGULAR AGENDA

1. WESTVIEW STREET VARIANCE

Applicant: Lynda Bonkemeyer

Owner: Thomas Thielemann
Lynda Bonkemeyer

Location: 515 Westview, NCPIN 2749842398

V# 1-18 The applicant is requesting a variance from the requirement of Sec.710 Special Front Yard Requirements in Developed Areas.

Recommended Action: Staff recommends approval of the variance request.

Order of Proceedings:

- Swearing in of applicant, staff, and all others who wish to provide testimony.
- Staff summary of request
- Testimony by applicant
- Testimony by others
- Closing of the Public Hearing/Board deliberation (discussion of four standards)/entertainment of motions
- Call for a vote

OTHER BUSINESS

- Nomination of vice-chair

ADJOURNMENT

LOCATION MAP/AERIAL PHOTOGRAPH



SUMMARY

Owners

Thomas Thielemann & Lynda Lea Bonkemeyer

Applicant

Lynda Lea Bonkemeyer

Location

Located on West View Street in the Kentwood Neighborhood —515 West View St SW (+/- 0.2 acres).

NC PIN

2749842398

Project Planner

Hannah Williams

Updated October 10, 2018

Applicant's Request:

The applicant is requesting a variance from the requirement of Sec. 710 Special Front Yard Requirements in Developed Areas. The applicant is attempting to waterproof a leaking basement garage by adding a roof structure and repairing brickwork. Sec. 710 requires a minimum front setback of 25 ft. The existing basement garage encroaches 8 ft into the required setback. Since expansions of nonconformities are not allowed, the second story addition of the roofed structure requires a variance to be constructed over the existing nonconforming footprint.

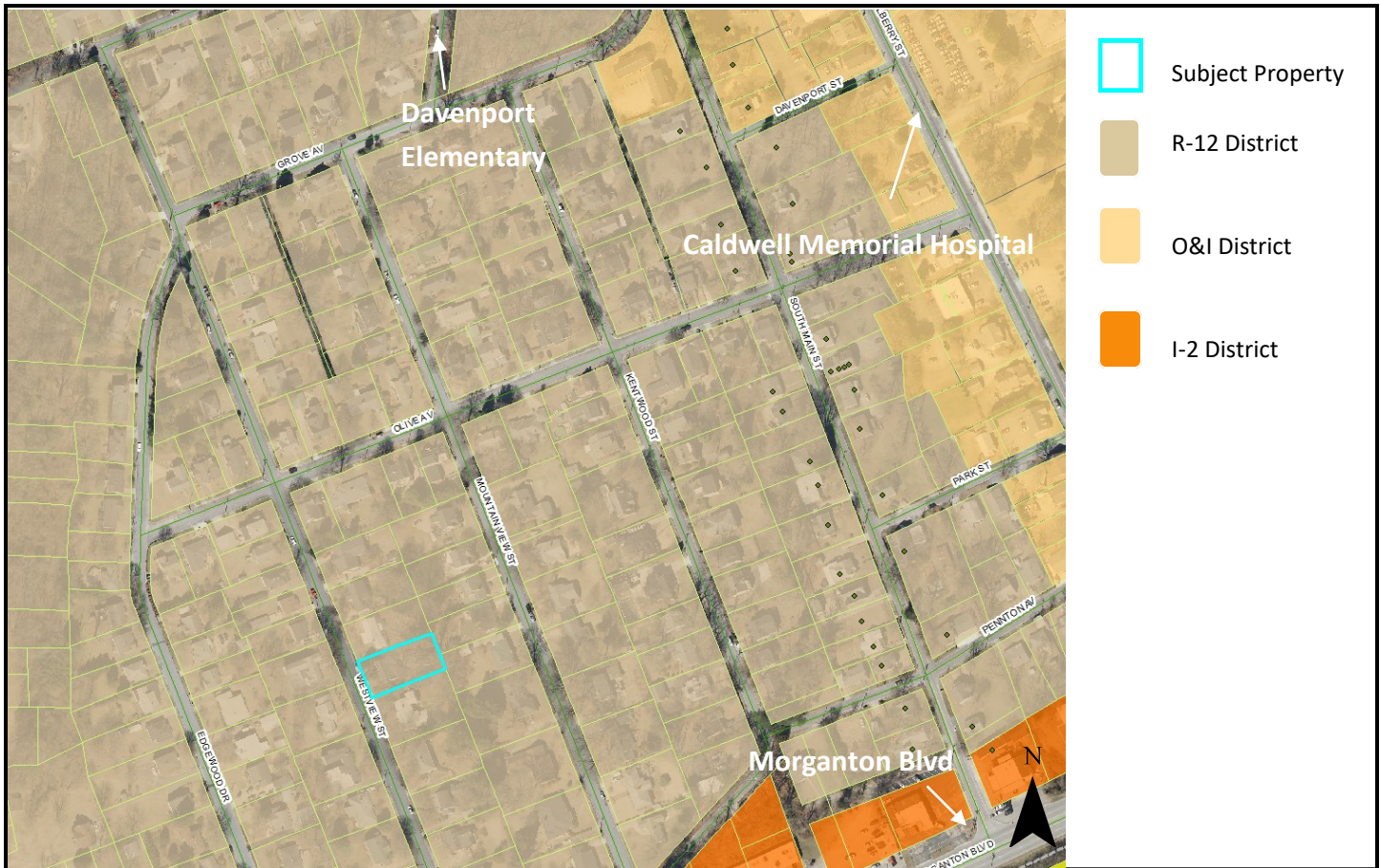
Staff Recommendation:

Approval.

Public Comment: Notices were mailed to property owners within 100 ft. of the subject property on October 12, 2018. An ad was run in the Lenoir News Topic on the same day. A sign was posted on the subject property advertising the public hearing.

*****This request is quasi-judicial. You should not discuss this case with decision makers outside of the scheduled public hearing*****

ZONING MAP



BACKGROUND AND ANALYSIS

Intent of Variances

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment must allow for a variance from the ordinance standards creating the hardship, when specific factors are found to be true (see findings for specific standards).

Subject and Surrounding Properties

The subject property is developed with a single-family dwelling on a quarter acre lot in the Kentwood neighborhood. The property has 75 feet of frontage along Westview and extends 150 feet west, backing up to properties that face Mountain View Street. The property is zoned R-12, as is all of Kentwood. All surrounding properties are developed similarly as single-family dwellings. The subject property currently has a hold placed on the building permits, as the permits were issued by Caldwell County Building Inspection in error, without City of Lenoir approval. When the inspector discovered the error, progress halted on the construction.

Intent of the Zoning District

The R-12 (single-family residential) is intended to establish and preserve areas of land within the city for medium density single and two family residences and compatible land uses. The R-12 district permits “by right” single family dwellings, accessory uses, and accessory buildings. Townhomes and duplexes are allowed as a conditional use.

RELEVANT CODE CITATIONS

Emphasis added by italicized text to indicate the most relevant portions of the code citations below. NOTE: All development must meet all standards of the zoning code and any other applicable local, state, or federal regulations, except for the specific variance (if any) granted by the Board of Adjustment.

803 R-12 (Single-family Residential)

803.1 Intent. The intent of the R-12 Residential Single-Family District shall be to establish and preserve areas of land within the city for medium density single and two family residences and compatible land uses. Planned Residential Developments, which allow for the orderly integration of single and multi family residential uses with limited commercial facilities are permitted only as a conditional use. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded.

803.2 Permitted Uses

Accessory Apartment (preexisting)

Accessory Use or Accessory Building (residential)

Dwelling, Single-Family Detached

Family Care Facility

Green Houses, Private (not to exceed 1000 square feet)

Also see Permitted Use Chart

803.4 Area Regulations

803.43 Minimum Front Yard

803.431 Residential— 40 feet from street right-of-way

710 Special Front Yard Requirements in Developed Areas

The front yard requirements of this ordinance shall not apply to any lot ***where the average front yard on already built upon lots located wholly or in part within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum, but not less than the average of the existing setbacks on the developed lots; provided however, the front yard on such lot shall not be less than one half of the required front yard.***

Note: The Special Front Yard Requirement applies in this variance case because the lots within 100 feet on either side of the subject property have smaller front yard setbacks than the R-12 zone calls for. Measuring off of aerial photographs, staff has determined the front setback standard for the subject property is 25 feet. Therefore, a variance of 8 feet is requested in order to construct a roofed addition on top of the existing basement garage.

FINDINGS

No variance shall be approved unless a 4/5 majority of the Board of Adjustment finds that:

1. An unnecessary hardship is created from the strict application of the ordinance.

Staff Response: The layout of this house has the garage attached to the house through the basement, extending into the required front yard setback. The front yard size requirement based on Sec 710 (Special Front Yard Requirement for Developed Areas) is 25 feet. The garage sits 17 feet from the right of way. The garage “as is” is considered legally non-conforming, but the owner is not legally able to make necessary repairs. This creates a hardship because the owner is experiencing ongoing water intrusion issues that cannot be readily remedied without some type of roofed structure.

2. The unnecessary hardship is peculiar to the property.

Staff Response: The garage on this property is attached to the dwelling through the ground floor basement that is easily waterlogged in rainstorms. The top of the garage serves as a brick patio porch off of the front entrance to the home. Water gets into the garage by leaking down from the brick patio. A gabled roof over the patio is necessary to channel the water away from the garage. New brickwork on the patio will also help seal the garage off from leaking water.

This is the original design of the house, built in the 1940s. Over time, water has caused pooling inside of the garage, threatening the foundation of the house. The hardship is peculiar to the property because of the unique original grading and construction.

3. The hardship is not self-created.

Staff Response: The hardship of the subject property results from the combination of the water leakage, the wear and tear on the brick patio, and the layout of the dwelling. The owner has not created any of these issues. It is reasonable for the owner to assume they can make repairs over time, especially when standing water threatens the foundation of the house. The home was built in this layout in 1949, before the R-12 zone applied to the district. Therefore, these limitations are out of the control of the property owner and not self-created.

While work was started without the necessary zoning approval, it was done in good faith with county building permits.

4. 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.

Staff Response: The intent of Section 710 and 803 is to present criteria for residential development standards, as well as an alternative front yard requirement within the appropriate context. Most of the front yard on the subject property is in compliance with Sec 710, since the main level of the house is set 25 feet back from the road. The requested variance would allow for a property owner to fix a water leaking problem be-

FINDINGS

fore it causes more damage to the house and financial hardship for the owners. The request would also allow for the owners to enjoy a covered porch, a use commonly enjoyed by their neighbors. The work that has been done already has proved to keep the garage basement dry, accomplishing the goal.

In most cases, the setbacks required by the zoning code serve to protect neighborhoods by adding consistency and aesthetically pleasing layouts for homes and accessory uses, and to ensure that structures are placed to provide adequate visibility, light, and air into all properties. However, on this particular property the expansion into the setback will repair a preexisting problem and cause no damage to other properties.

By granting the variance, substantial justice is achieved by allowing the applicant to place a permitted, gabled roof over a newly bricked patio bringing a well designed and functional solution to an existing water problem. No foreseeable public safety issues would result from this project, and would enhance water flow on the subject property.

SITE PHOTOS



Street View facing house

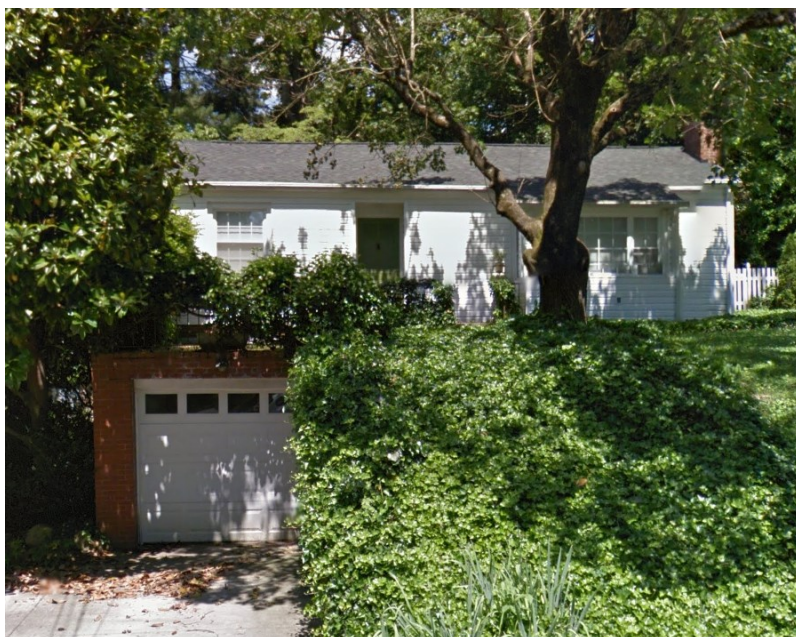


Project in progress

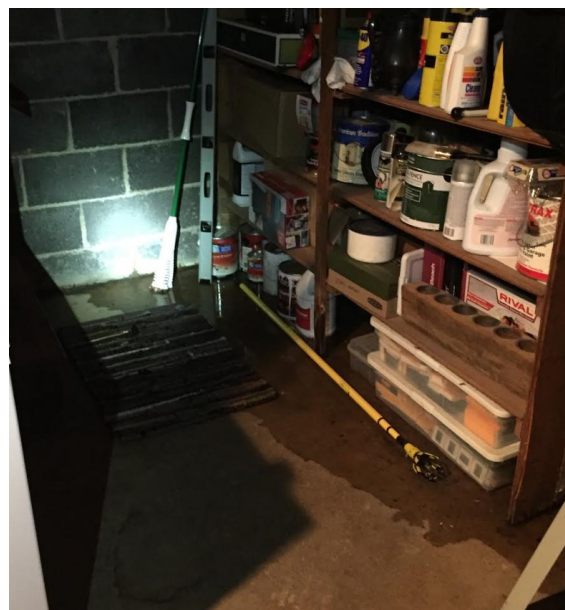
SITE PHOTOS



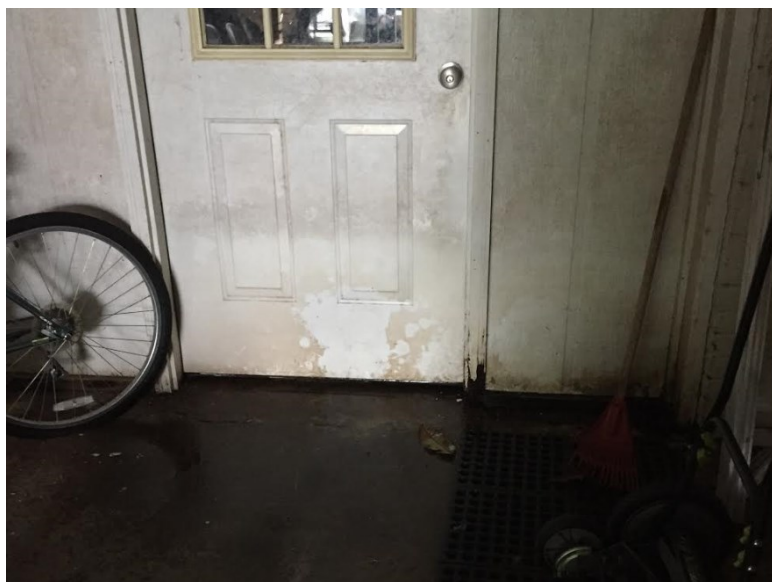
SITE PHOTOS



Above and Right: Interior view of water pooling between the ground and wall of garage.



Note: The owner provided these photos from before the roofed structure was built.



Above: Puddles at the door to the basement

