

**Members:**  
George Turner, Chair  
Alfonso Ferguson Sr., Vice-Chair  
Winton McHenry  
Gregory Parks  
Nathan Galbreath



**Alternates:**  
Robert E Davis  
Stacy Michael Long  
Marva Lucas-Moore  
Quinsentina James  
Linda Amos

## ***CUMBERLAND COUNTY BOARD OF ADJUSTMENT***

130 Gillespie Street  
Fayetteville North Carolina 28301  
(910) 678-7602

MINUTES  
November 21, 2019  
7:00 PM

### **Members Present**

Alfonso Ferguson  
Nathan Galbreath  
Gregory Parks  
Stacy Long

### **Absent Members**

Winton McHenry  
George Turner

### **Staff/Others Present**

Betty Lynd  
Dena Barner  
Robert Hasty  
(Asst. County Attorney)  
Rawls Howard

Acting Chair Ferguson called the meeting to order at 7:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

Chair Ferguson stated the procedural matters are to turn off all cell phones and other electronic devices, other than the camera, are fine and if asked to speak at the podium to please speak clearly into the microphone as the meeting is being recorded. Although there are no set time limits for any speaker addressing the board, the board asks speakers to not repeat what has been previously stated. If there is no new evidence to offer please make the board aware of your agreement with the previous speakers. If any board member wishes to speak or ask any questions please ask to be recognized by the Chairman before speaking.

#### 1. INVOCATION

Stacy Long

#### PLEDGE OF ALLEGIANCE

Recited by all.

#### 2. ROLL CALL

Mrs. Lynd called the roll. For the audience, Mrs. Lynd stated a quorum was present. Mrs. Lynd also introduced Mr. Hasty, attorney for the board and Mr. Rawls Howard, the new Planning Director.

#### 3. SWEAR IN STAFF

Chairman Ferguson swore in staff.

#### 4. ADJUSTMENTS TO THE AGENDA

There were none from staff.

5. APPROVAL OF THE OCTOBER 17, 2019 MINUTES

Mr. Galbreath made a motion to approve the minutes from the October 17, 2019 meeting with any necessary corrections, seconded by Mr. Parker. The motion passed unanimously.

IN FAVOR	
FERGUSON	YES
PARKS	YES
GALBREATH	YES
LONG	YES

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

9. PUBLIC HEARING(S)

**P19-05-C:** CONSIDERATION OF A VARIANCE TO ALLOW AN 8 FOOT FRONT YARD SETBACK WHERE 30 FEET IS REQUIRED IN AN R10 RESIDENTIAL DISTRICT ON 0.38+/- ACRES, LOCATED AT 2902 W CRAMER DRIVE, SUBMITTED BY RONALD & JOYCE ENGLISH (OWNERS) & YOUR WAY CONSTRUCTION (AGENT).

Chairman Ferguson read the case heading for Case No. P19-05-C.

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Mrs. Lynd stated findings of facts is being requested by staff and is included in the back of your packet.

CHAIR FERGUSON: So we have two people signed up to speak. Ronald English and Jerry Britt. The board will call Ronald English. Would you like to be sworn or affirmed?

MR. ENGLISH: It doesn't matter.

CHAIR FERGUSON: Do you swear to tell the truth the whole truth and nothing but the truth so help you God?

MR. ENGLISH: I do.

CHAIR FERGUSON: Please state your name and address for the record.

MR. ENGLISH: Ronald English, 2902 West Cramer Drive.

CHAIR FERGUSON: Okay. Mr. English do you have something you want to address the board about this property?

MR. ENGLISH: Yes, my concern is, the reason why I do want to have this carport done is so when you have bad weather that way we could be able to get out on the carport and go directly into the house instead of being on the driveway and being in bad weather. It caused a lot of problems especially when you're going in from the grocery store and stuff like that. Not only that if we had a carport done, we'd pour another driveway and it won't be so difficult pulling into the driveway. Right now you've got to either go around the block to go into

the driveway or make a u turn or either backup. My opinion is, this would benefit a whole lot, me and my wife and not only that it would bring value to the home, and there is no way they would be able to build or add to the road, so there is no interference with that.

CHAIR FERGUSON: Any questions for Mr. English?

MR. PARKS: Mr. English, you've lived in this house since 73? Have you ever tried to put a carport on this house before?

MR. ENGLISH: No sir. We thought about it but we really didn't just have the money and you know so being we got this third car we want to make sure it will stay under cover and that way we ain't got to switch back and forth and like I said we didn't have the money to begin with so instead of making payments we just saved until we would be able to do it.

MR. PARKS: Thank you.

MR. GALBREATH: I have a few questions, and I looked through it and if I missed it, I apologize. The material is going to match the house, is it going to be brick or is it a metal carport?

MR. ENGLISH: It's just going to be an open carport.

MR. GALBREATH: So just like a metal? Is it going to have a concrete pad? So it will be anchored in and everything?

MR. ENGLISH: Yes, it will be on a concrete slab.

MR. GALBREATH: And then you mentioned moving the driveway, are you still planning to come in where the driveway is now or from, where is the entry of that 24 x 22?

MR. ENGLISH: It will go into . . .

MR. GALBREATH: The right side or the front of the house?

MR. ENGLISH: Facing the house it will be on the right side, it will go down and taper off into the other driveway.

CHAIR FERGUSON: Can we see a picture of the house?

MR. GALBREATH: Is it just going to line up with your current driveway or you going to have to come in from?

MR. ENGLISH: Here is the existing driveway and it will be right there (pointing to picture) and it will taper off at the end to the road.

MR. GALBREATH: Then are you going to drive in straight like that or come in from the side of it?

MR. ENGLISH: Come from the side there.

MR. LONG: Of the existing driveway, I think what he is asking is are you coming in from the other street?

MRS. LYND: In other words, are you going to come this way?

MR. GALBREATH: Are you widening the driveway or are you building a brand-new driveway?

MR. ENGLISH: I'm widening.

MR. GALBREATH: I appreciate that. And then my last question is, I know it's a 24 x 22, is a 24 x 20 feasible to give you a ten-foot buffer?

MR. ENGLISH: Well actually I want it to be a 24 x 24, but the main thing is, the issue is y'all have a problem is the front of it, there really is no issue on the side. I want to have a 24 x 24.

MR. GALBREATH: Okay. We now are showing a 24 x 22 up here. Looks like that's what's being planned.

MR. ENGLISH: Yeah. 22. The reason I say a 22 is because I want to make sure that is no issue.

MR. GALBREATH: Okay.

CHAIR FERGUSON: So are you requesting a 24 x 24 or a 24 x 22? Because you said 24 x 24 but paperwork says 24 x 22. So where are we at here?

MR. LONG: You bought the house in 1973 and in the notes here it says it wasn't zoned until 1975? Does that mean there was no zoning period or it was zoned something different in '73?

MR. ENGLISH: The house was built there was no zoning there. It was not zoned until '75.

MR. LONG: So after the fact they came in with rules of that particular zone. Okay.

CHAIR FERGUSON: Okay. Thank you. We will call you back if we have more questions for you. We'll call Mr. Jerry Britt. Would you like to be sworn or affirmed?

MR. BRITT: Sworn.

CHAIR FERGUSON: Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

MR. BRITT: I do.

CHAIR FERGUSON: Please state your name and address for the record.

MR. BRITT: Jerry Britt, 8700 Squatting Bear Drive, Fayetteville, NC 28312

CHAIR FERGUSON: What would you like to tell the board sir?

MR. BRITT: When the house was built originally in '73 and then rezoned in '75 the house was already non-conforming and if you look at the shape of the lot, its what's causing him a lot of the hardship. Even though it looks like its 8 foot right there, there is still a lot of real estate between where the corner of the building is going to be and the actual road, there is a buffer area there. His driveway, he's going to still come in from the front and it's going to taper off is what he was trying to say on that side which will give him more room to pull another car over underneath the carport. Pretty much his hardship, because of the zoning after the fact, it's limited his ability to be able to do anything with that portion of his house which typically even though it's frontage would typically be the side. The way the property was laid out when the subdivision was designed. The carport is actually going to be stick framed to match the house materials, same as the house. It's not a metal unit, it's a wood frame structure. The siding is vinyl, so it has the metal wrapped around it. It's going to have the wooden shapes on the end and asphalt shingles to match the house and it's going to have the post, concrete, a brick foundation underneath the post so it's going to be a stick-built structure.

MR. GALBREATH: So you are confirming its 24 x 22?

MR. BRITT: Yes sir. He originally wanted a 24 x 24 but we had scaled it back some to give some space. What he would really like to do, there's a door on the side of the house right there, it sets back some from the front of the house, it doesn't protrude pass the house, it sets back 3 or 4 feet from the end of the house, then there is an

entry door that goes inside the house which he wants to use to be able to go from the vehicle to inside the house without getting wet when it's raining and things.

MR. LONG: I have a question, so it's 8 feet from that corner to the edge of his property but you said there was a buffer space from that road. Is there a sidewalk or a patch of grass?

MR. BRITT: There is a patch of grass. If she goes back to the street view, to the front of the house, ok right here, there's some stobs, I don't think you can see them good. We stobbed where the buildings going to be but its on this side of the bush. The buildings not going to pass that bush, that's right there. It's forwards over some more so somewheres right in there. There is still a buffer area in there.

MR. LONG: How far would you guess that is from the edge of this property to the actual curb?

MR. BRITT: From the asphalt I would say 15 or 20 feet maybe. The corner of his property isn't right on the street itself.

MR. GALBREATH: I was just curious, can you go back to the overview map. Now I notice it's supposed to be 30 foot, it wasn't zoned when it was built, just for the sake of looking at this, I'm going to say the southeast corner of the house, I know its not the actual direction, from there to the road probably isn't 30 foot is it?

MR. BRITT: The house is already nonconforming.

MR. GALBREATH: Right. So that point of the house isn't meeting the 30 foot already?

MR. BRITT: They've pretty much said if the house was ever damaged more than 50 percent of the value then it would have to be moved on the lot.

MR. GALBREATH: okay.

MRS. LYND: To help give a little bit of clarification typically there is a forgiveness lets say on a corner lot for the secondary street but because the orientation of this house they didn't get a break, its not really facing a primary street and the side of the house is on the other corner so they had to meet a front yard setback from both streets as opposed to getting a little break on one of the secondary streets.

CHAIR FERGUSON: Any more questions? Okay. Thank you. Discussions, updates. Anymore questions on this P19-05-C? We just close the public hearing right?

MRS. LYND: Yes you can close the public hearing as long as you do not have any more questions for the applicant and then discuss the findings for your motion.

CHAIR FERGUSON: Okay. We will now close the public hearing.

MR. GALBREATH: I was just going to point out that Hope Mills had no objections to the request. Just make sure that is on record they have no objections. Finding of facts 1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

MR. HASTY: If I can interrupt for a minute, I think the findings of fact, correct me if I'm wrong, the variance are the unnecessary hardship findings, I think these are the special use findings.

MRS. LYND: Behind the variance tab in your binder there'll be the variance finding of facts.

MR. GALBREATH: I was reading the one from the back, sorry.

CHAIR FERGUSON: The Board of Adjustment for Cumberland County held a public hearing on this matter on P19-05-C to consider the above reference case requested by Ronald & Joyce English(owners) & Your Way

Construction (Agent). The request for a variance for the property located at 2902 W Cramer Dr, having heard all of the evidence and arguments presented at the hearing make the following findings of fact and draws the following conclusions. It is the board's conclusion that unnecessary hardship would result from the strict application of the ordinance, this finding is based on the following conditions not able to get into his driveway from the side street

MR. HASTY: I believe Mr. Britt testified that the shape of the lot was a hardship

CHAIR FERGUSON: Right. Shape of the lot. That is one of the facts. Is it the boards conclusion that hardship results from conditions that are peculiar to the property, such as location, size, or topography and that is true. We found out because of the size of the lot and the property grandfathered in, we use that one.

MR. GALBREATH: And the fact that the zoning came into play after they purchased the home.

CHAIR FERGUSON: It is the board's conclusion that the hardship did not result from actions taken by the applicant or the property owner. The findings based on the conclusion and that is where you put that one in, because zoning came in after the owner bought the house. It is the board's conclusion that 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. The findings is based on the conditions listed above as well as the following as they stated in the application and with any provisions that is needed to be we have nobody who spoke against it and the city of Hope Mills approved it so will stay status quo.

MR. GALBREATH: And its going to be stick built, anchored, it will be built to the same conditions and quality of the home.

CHAIR FERGUSON: Right, Site plans were approved for that. We would like to take a motion that the findings that we just submitted is approved.

**Mr. Ferguson made a motion to approve Case P19-05-C Variance to allow an 8 foot yard setback where 30 feet is required in an R10 residential district 0.38+/- acres, Mr. Parks seconded. The motion passed unanimously.**

	<b>IN FAVOR</b>
FERGUSON	YES
PARKS	YES
GALBREATH	YES
LONG	YES

#### 10. DISCUSSION/UPDATES

MRS. LYND: Yes chairman as part of your board packet for tonight's meeting I included the rules of procedure at the last meeting the board expressed an interest in changing the meeting time from 7 to 6 pm so I have presented it to you in writing because your rules and procedures state that you have to review it and we have to discuss it at this meeting. At your next meeting will be when you can officially vote to change the time and then the following meeting after that would be the new time. We set it at 6 pm because that was the board's consensus at the last meeting.

CHAIR FERGUSON: Okay. Yes.

MRS. LYND: You guys can discuss it and at the next meeting we will put it on the agenda for a vote.

CHAIR FERGUSON: Everybody still agree with that? Is that good for you Mr. Hasty?

MR. HASTY: Whatever the board's pleasure.

MR. LONG: So vote next time apparently, right?

CHAIR FERGUSON: Yeah. Do we want to make a motion?

MRS. LYND: You don't have to make a motion tonight, I just have to present it to you in writing before you can vote on it. I'll put it in your packet and then at the next meeting the board will vote on it. And then the following meeting after that, we'll start the new time.

CHAIR FERGUSON: Sounds good.

MRS. LYND: And then the second item of discussion is, we did not receive any cases for the deadline for December meeting so Happy Thanksgiving and Merry Christmas. I will not see you again until the new year potentially and then the final thing would be if Mr. Hasty has any updates on any of the holding cases.

MR. HASTY: I don't have much to report, the Hampton case I reported on we are not sure what's going to happen that yet. I've discussed it with the Hampton's attorney and we are not sure if they are going to go forward in which case it would come back here or whether they'll let it be. I should know by the next meeting for sure.

MR. LONG: If they've taken it this far, I'm sure they're probably going to bring it back to this board right?

MR. HASTY: I'm not so sure, without getting into it.

MR. PARKS: I wasn't here last month, what is the Hampton case you speak of?

MR. HASTY: The shooting range case that went in front of this board and all the way up to the NC Supreme Court and now coming back to this court.

MR. PARKS: So what did the Supreme court say?

MR. HASTY: They sent it to the court of appeals who said this court needs to find additional finding of fact

MR. PARKS: So we got to do some fact finding, is that what you're telling me?

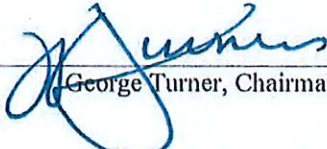
MR. HASTY: Yes and it will probably be an all new hearing. Because this court has changed so much.

## 11. ADJOURNMENT

**Mr. Long made a motion to adjourn, seconded by Mr. Galbreath. The motion passed unanimously. Meeting adjourned at 7:31pm.**

	IN FAVOR
FERGUSON	YES
PARKS	YES
GALBREATH	YES
LONG	YES

  
Dena L. Barner, Clerk to the Board

  
George Turner, Chairman