



# **Board of Adjustment**

## **Meeting Agenda**

December 16, 2014

immediately following the Planning Board meeting at 7:00pm  
Council Chambers, 201 S Main St

1. Approve minutes of the November 18, 2014 meeting
2. Old Business
3. New Business
  - a. Variance for Koppes Setback (VR144). Request of Shaun Kopczynski for a variance from the front setback along Ingold Dr for property located at 1031 Gant Rd (GPIN 8874806506).
  - b. Elect Chair and Vice-Chair for 2015
4. Administrative reports

*A complete agenda packet is available at [www.cityofgraham.com](http://www.cityofgraham.com)*

CITY OF GRAHAM  
BOARD OF ADJUSTMENT  
November 18, 2014

There was a called meeting of the Board of Adjustment on Tuesday, November 18, 2014 at 7:00 pm immediately following the Planning Board Meeting in the Graham Municipal Building. Board members present were as follows: Bill Teer, Dean Ward, and Bonnie Blalock, with Tim Beshel sitting as an alternate. Michael Benesch and Ricky Hall were absent. Staff members present were Melissa Guilbeau, City Planner, and Martha Johnson, Zoning/Inspections Technician.

Vice-Chair Dean Ward called the meeting to order and explained the function of the Board.

1. Bonnie Blalock made a motion to approve the minutes from the October 21, 2014 meeting, second by Bill Teer. All voted aye.
2. Old Business
  - a. Variance for Dodson Carport (VR143). Request of Cletus and Pearl Dodson for a variance from accessory buildings in residential districts being restricted to the rear and side yards on property located at 809 Essex Dr (GPIN 8883484841).

Dean Ward asked that anyone wishing to speak come forward and be sworn in. Martha Johnson, Notary Public swore in Cletus Dodson and Melissa Guilbeau.

Ms. Guilbeau explained the applicant wants to install a carport on the front right side of their property and the slope of the property does not allow the installation on the side or behind the house as per Graham's city ordinance. The presentation includes pictures of the slope of the land and the distance between the houses on the left side.

The applicant Cletus Dodson of 809 Essex Drive spoke. Mr. Dodson stated they are at the dead end of the road. They are requesting the variance because prior to this a gas line was in their yard and the new gas line had been moved and is now parallel to their property. Mr. Dodson stated that their property beside the house on the right side drops off at least six feet. Mr. Teer asked if they had spoken to any of their neighbors and Mr. Dodson said they had only talked to one. Dean Ward asked Mr. Dodson how far off of the road were they planning on placing the accessory building. Mr. Dodson said approximately 10 feet. Mr. Ward asked if the gas line had been abandoned and Mr. Dodson said yes and the easement has been released. Mr. Dodson also mentioned there is a creek in their back yard and they couldn't put the carport back there either.

Mr. Ward asked with the elevation change beside the house if Mr. Dodson had any cost to bring in dirt to fill in that side and put the carport there and Mr. Dodson said no he didn't have any cost. Mr. Ward asked Mr. Dodson from the pictures there would be room to put the carport there and Mr. Dodson did agree. Ms. Blalock felt that it would be a hardship to bring in dirt and build a retaining wall because of the amount of money it might cost. Mr. Beshel didn't see any issue with the carport especially being at a dead end street which is up against an industrial property.

Mr. Beshel also stated the carport is not directly in front of the house but more to the right. Mr. Ward said the accessory building only being between 5 and 10 feet off of the road would not be allowed here or anywhere else in the city for any type of structure.

Ms. Guilbeau stated that the applicant was only asking for variance for the accessory building in the front yard but not a variance from the front yard setback. She told the Board if the applicant wanted a variance from the front yard setback to be sure to address that in addition to being located in the front yard. Ms. Guilbeau stated the front yard setback is 30 feet.

Dean Ward requested Ms. Guilbeau to pull up on the screen a topo map to show the property line on the side lot. Mr. Ward asked her to zoom in on the right side of the property where the elevation changes.

Mr. Teer made a motion to grant this variance, second by Tim Beshel. The vote was 3 to 1. Ms. Guilbeau stated that the variance didn't pass because a variance requires four-fifths vote to approve.

#### **FINDINGS OF FACT**

1. The property that is the subject of this variance request, 809 Essex Dr, is zoned Residential (medium density) (R-12).
2. The property contains a single family dwelling and an accessory building.
3. A carport is being proposed in the front yard.
4. The *City of Graham Development Ordinance*, in Section 10.136(1) Notes to the Table of Permitted Uses, states that "accessory uses in residential districts such as garages, utility buildings are restricted to rear yards or side yards if the required setback can be maintained."
5. The *City of Graham Development Ordinance*, in Section 10.16 Definitions, provides the following definitions for yards:
  - A front yard is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the front line of the lot and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.
  - A rear yard is an open space on the same lot with a main building, unoccupied except as hereinafter permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building.
  - A side yard is an open unoccupied space on the same lot with a main building, situated between the side lines of the building and the adjacent side line of the lot, and extending from the rear lines of the front yard to the front line of the rear yard. If there be no front yard, the front boundary of the side yard shall be the front line of the lot and if there be no rear yard, the rear boundary of the side yard shall be the rear line of the lot.

6. The applicant states and has submitted pictures to illustrate that “the slope of the property does not allow for us to install it [the carport] on the side of behind the house.”
7. An application for a variance from was filed with the City Planner on October 6, 2014.

### **CONCLUSIONS OF LAW**

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

*From the strict application of the ordinance, the applicant would not be permitted to install a carport in the front yard. Board member Ward finds that the applicant would not suffer unnecessary hardship because there are other locations on the lot where the carport could be located.*

2. 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.

*The applicant states that the slope of the property does not allow for the carport to be installed in the side or rear yard.*

3. 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.

*The applicant did not cause the property to have a slope that was not conducive to sitting a carport in the side or rear yard.*

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.

*With the proposed condition, the variance would retain the required front yard setback and minimize the intrusion of the carport into the front yard.*

### **DECISION**

For the above reasons, the Board of Adjustment does not grant the variance that is the subject of this application.

There being no further business, the meeting was adjourned.

Respectfully Submitted,  
Martha Johnson, Secretary



# STAFF REPORT

Prepared by Melissa Guilbeau, City Planner

## Koppes Setback (VR144)

**Type of Request:** Variance

## Meeting Dates

Board of Adjustment on December 16, 2014

## Contact Information

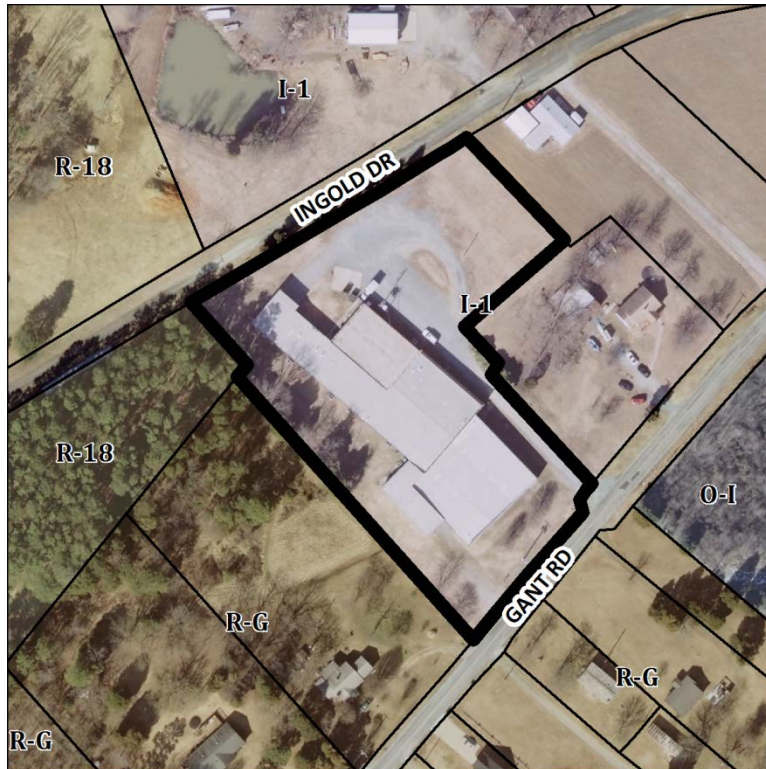
Shaun Kopczynski

1031 Gant Rd, Graham, NC 27253

336-222-1234; koppeskandles@aol.com

## Summary

This is a request for a variance from the front setback along Ingold Dr. The stated purpose of this request is “add onto existing building. The add-on will be used for additional storage and a needed warehouse. This is real important due to increased business and a great need for more storage.”



### Location

1031 Gant Rd

GPIN: 8874806506

### Current Zoning

Light Industrial (I-1)

### Current Use

Light Industrial

### Surrounding Zoning

R-18, R-G, O-I & I-1

### Surrounding Land Uses

Single Family Houses and Vacant

Attached is a **draft of a Resolution for the Board to consider** when making its decision. This draft Resolution should be modified as the Board sees fit and is only provided by staff as a template.



# Application for a VARIANCE

P.O. Drawer 357  
201 South Main Street  
Graham, NC 27253  
(336) 570-6705  
Fax (336) 570-6703  
www.cityofgraham.com

Applicants are encouraged to consult with the City Planner before submitting this application.

## Property on which a Variance is sought

Street Address: 1031 Grant Rd

Tax Map#: 134638 GPIN: 8874806506

Current Zoning District(s):

- R-7  R-9  R-12  R-15  R-18
- R-MF  R-G  C-R  C-MXR
- B-1  B-2  B-3  C-B  C-MXC
- O-1  C-O-1  I-1  I-2  C-I

Overlay District, if applicable:

- Historic  S Main St/Hwy 87  E Harden St/Hwy 54

Current Use: \_\_\_\_\_

Property Owner: Koppes Holdings LLC

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

## Applicant

Property Owner  Other \_\_\_\_\_

Name: Shaun Kopczyński

Mailing Address: 1031 Grant Rd

City, State, Zip: Graham NC 27253

Phone #: 336 222 1234

Email: KoppesKandtes@aol.com

I, the applicant, hereby petition the Board of Adjustment for a variance from the strict letter of the *Development Ordinance*, as described in this application.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

[Signature]  
Signature of Applicant

11/14  
Date

## Purpose of Variance Request

Describe the purpose of this variance request. *What are you trying to do that the Development Ordinance is prohibiting?* If necessary, attach a plot plan or other illustration.

Add onto existing building. The add on will be used for additional storage and a needed warehouse. This is real important due to increased business and a great need for more storage. Thank you for the consideration

## Nature of Variance Request

List the specific provision(s) of the *Development Ordinance* from which you are seeking a variance (for example, side yard setback).

We are requesting a 20'-35' rear setback instead of the 50' setback that is part of the ordinance

RECEIVED  
NOV 07 2014  
CITY OF GRAHAM  
INSP. / P.Z.

Office Use Only. DEVID# VR144



# Board of Adjustment

## Resolution of Findings of Fact, Conclusions of Law and Decision

The Board of Adjustment for the City of Graham, North Carolina, having held a public hearing on **December 16, 2014** to consider **case number VR144**, submitted by **Shaun Kopczynski** of 1031 Gant Rd, Graham, NC 27253, for a **variance from the front setback along Ingold Dr for property located at 1031 Gant Rd**, and having heard all the evidence and arguments presented at the hearings, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS OF LAW:

### FINDINGS OF FACT

*NOTE: These Findings of Fact were prepared by staff and should be modified by the Board as it sees fit.*

1. The property that is the subject of this variance request, 1031 Gant Rd, is zoned Light Industrial (I-1).
2. The property contains a building used for light industrial purposes, occupied by Koppes Kandles.
3. The applicant would like to add on to the existing building adjacent to Ingold Dr.
4. The *City of Graham Development Ordinance*, in Section 10.16 Definitions, provides the following definitions for a "lot":
  - Lot. A parcel of land, not divided by streets, occupied or to be occupied by a building and its accessory buildings, or by a unified business or housing development and its accessory buildings, together with such open spaces as are required under the provisions of law, and having its principal frontage on a street or other means of access.
  - Lot, Corner. A lot or portion of a lot at the junction of and abutting upon two or more streets.
  - Lot, Flag. An interior lot located to the rear of another lot, but with a narrow portion of the lot extending to a street.
  - Lot, Interior. A lot other than a corner lot.
  - Lot, Through. A lot having a frontage on two parallel or approximately parallel streets.
5. The *City of Graham Development Ordinance*, in Section 10.16 Definitions, provides the following definition for the "front of lot": The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, the narrowest side fronting on a street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two (2) or more streets, the lot shall be considered to front on that street on which the greatest number of lots front, or if un-platted, on that street on which the greatest number of buildings have been erected.
6. Based on the definitions provided in the *City of Graham Development Ordinance*, the lot that is the subject of this variance request is a through lot and a through lot has a "front" on both streets.
7. The *City of Graham Development Ordinance*, in Section 10.245 Area, Height and Yard Regulations, requires the following Minimum Yard Sizes (feet from property line) in the I-1 zoning district:
  - Yard Depth Front. 50 feet for buildings; parking areas shall be set back at least 10 feet from the property line.
  - Side Yard Width. 50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere.

- o Side Yard Width Abutting Street. 50.
  - o Rear Yard Depth. 50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere.
8. The existing building, based on GIS data from Alamance County, appears to be nonconforming with regard to setbacks. It appears to be set back roughly 35 feet from Ingold Dr, where the required front yard setback is 50 feet. It also appears to be set back, at its closest point, roughly 30 feet from the property to the west, which is residentially zoned, and roughly 30 feet from the property to the east, which is occupied by a single family house. These side setbacks adjacent to residentially zoned or occupied land should be 50 feet.
  8. An application for a variance was filed with the City Planner on November 7, 2014. The nature of the variance request is “we are requesting a 20’-35’ rear setback instead of the 50’ setback that is part of the ordinance.”

[insert additional Findings of Fact, if any are made]

### **CONCLUSIONS OF LAW**

*The Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:*

*NOTE: These Conclusions of Law were prepared by staff and should be modified by the Board as it sees fit.*

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.  
*From the strict application of the ordinance, the applicant would not be permitted to expand the existing building to within 20 to 35 feet of the property line along Ingold Dr.*
2. 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.  
*The lot is roughly 2.5 acres with an existing building that is approximately 28,500 square feet.*
3. 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.  
*The applicant wishes to construct an expansion to within 20 to 35 feet of the property line along Ingold Dr.*
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.  
*The requested variance would result in a structure located within the required front yard of a property zoned light industrial.*



**DECISION**

*In exercising its powers, the Board of Adjustment may grant or deny a variance and may impose any appropriate conditions on the variance, provided that the conditions are reasonably related to the variance. The concurring vote of four-fifths of the Board shall be necessary to grant a variance.*

For the above reasons, the Board of Adjustment [grants/denies] the variance that is the subject of this application.

[insert additional description of the Decision or any appropriate conditions, if necessary]

Staff recommends that, if granted, the following condition be imposed:

- This variance shall apply only to the proposed expansion and shall not apply to any future expansions or other structures.

The resolution reflects the decision of the Board of Adjustment, made the 16<sup>th</sup> day of December, 2014.

Attest:

\_\_\_\_\_  
Ricky Hall, Chair

\_\_\_\_\_  
Martha Johnson, Secretary

DRAFT