



Board of Adjustment

Meeting Agenda

September 15, 2015 at 7:00pm
Council Chambers, 201 S Main St

1. Approve minutes of the August 18, 2015 meeting
2. Old Business
3. New Business
 - a. VR 1503: A request for a variance by Larry and Jo Warren from the requirements for outbuildings to be placed outside of the front yard for property located at 1401 E Gilbreath Street (GPIN 8883954667).
4. Administrative reports

A complete agenda packet is available at www.cityofgraham.com



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

Variance requests are heard by the Board of Adjustment. This is a quasi-judicial process, meaning that it is similar to a court of law. Decisions are based on evidence and testimony presented during the hearing. Applicants should submit enough evidence to support the request for a variance. Types of evidence might include maps, drawings, pictures, cost estimates, or other information that will clearly demonstrate that the four criteria for a variance, listed below, are met. Applicants should also refrain from discussing the request with any member of the Board of Adjustment.

Property on which a Variance is sought

Street Address: 1401 East Gilbreath St.

Tax Map#: 6-28-46 GPIN: 8883954667

Current Zoning District(s): Residential

Overlay District, if applicable:

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

Current Use: Home

Property Owner: Larry & Jo Warren

Mailing Address: 1401 East Gilbreath St.

City, State, Zip: Graham, NC 27253

Applicant

☒ Property Owner Other ☐

Name: Larry & Jo Warren

Mailing Address: 1401 East Gilbreath St.

City, State, Zip: Graham, NC 27253

Phone # 336-227-8744

Email: jojo.warren@bellsouth.net

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.

Larry E Warren

Signature of Applicant

Jo Warren

8-30-15

Date

8-30-15

Purpose of Variance Request

Describe the purpose of this variance request. *What are you trying to do that the Development Ordinance is prohibiting? Attach evidence to illustrate and support your case.*

see attached

Nature of Variance Request

List the specific part(s) of the *Development Ordinance* from which you are seeking a variance (for example, setbacks).

not able to build in front of house

Criteria for a Variance

When unnecessary hardships would result from carrying out the strict letter of the ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- 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.
- 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 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 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 REPORT

Prepared by Nathan Page, City Planner

Dodson Carport (VR1503)

Type of Request: Variance

Meeting Dates

Board of Adjustment on September 15, 2015

Contact Information

Larry and Jo Warren

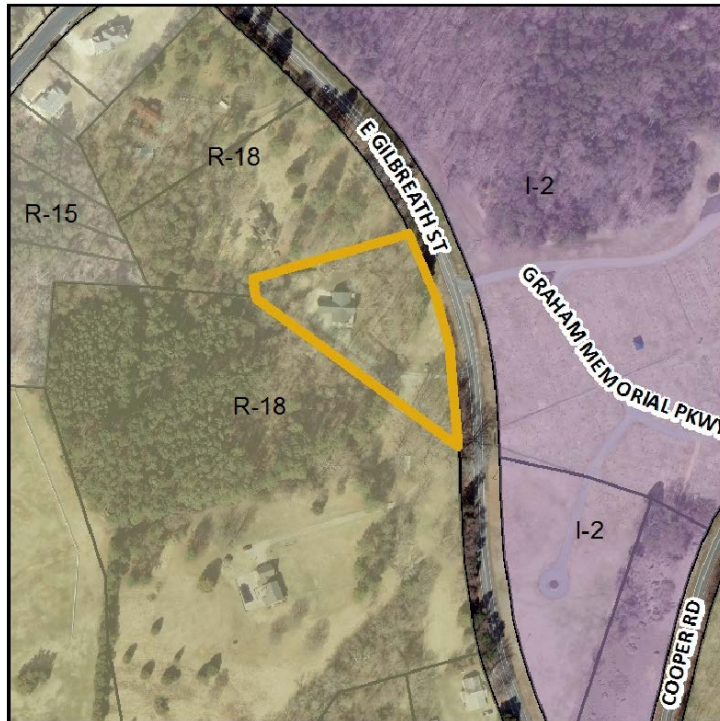
1401 E Gilbreath Street, Graham, NC 27253

336-227-8744; jojowarren@bellsouth.net

Summary

This is a request for a variance from accessory buildings in residential districts being restricted to the rear and side yards.

The stated purpose of this request is "We are requesting to build a much needed Storage Building on our property in order to store our tools, materials, tractor, lawn mower, trailer, work truck etc."



Location

1401 E Gilbreath St

GPIN: 8883954667

Current Zoning

Residential (low density)
(R-15)

Current Use

Single Family Dwelling

Surrounding Zoning

R-18 & I-2

Surrounding Land Uses

Single Family Houses and
Graveyard

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.

Purpose of Variance Request: for Larry and Jo Warren

We are requesting to build a much needed Storage Building on our property in order to store our tools, materials, tractor, lawn mower, trailer, work truck, etc.

As you can see from the attached overview of our property our land is in a triangle shape with the largest measurements of our property line is at the road front, ending in a fine point behind our house.

The only area behind our house is at the triangle point and coming down from there to the house is the location of our drain field. To the right side of our house is our septic tank and we only having 45 ft. of land from the corner of the house. On the left side is our driveway and we only having 35-46 ft. of land. There is nowhere to build on either side or in the back. Also, as you can see from the Topographic map that our land has a continuous downfall from the top of our land behind our house to the base of the creek in front of our house making this whole area unsuitable for a Storage Building.

A few years ago the City of Graham also took a 25 ft. right-a-way in the front of our property in front of the house for sewer right-a-way. So that took part of our land too.

So as you can plainly see, there is no other location on our property that we can put a Storage Building.

I have submitted pictures of the area that we want to build on and you can see that it will be buffered with trees to help block it from the road. In fact, coming from Cooper road towards our house you would never even see the building.

I have also attached a mock-up of the kind of building we are looking to build. As you can see, we hope to have it compliment our home with the log siding and stone and add to our property, not take away from it.

We are desperately requesting that due to these specific details of our property and the limited availability that we have on the side and behind our house that you will approve our request to build our Storage Building as planned in the location in the upper right corner of our property.

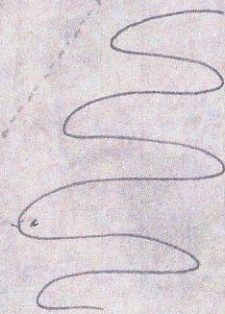
Please feel free to contact us for any other needed information. We are looking forward to the hearing to share with you our concerns and desires of completing this project.

Thank you,

Larry and Jo Warren
1401 East Gilbreath Street
Graham, NC 27253
336-227-8744 home
336-260-6181 larry's cell
336-260-6731 jo's cell

Criteria for a Variance

- a. This does create an unnecessary hardship on us due to the fact that there is nowhere in the back of our property or on the sides to build a storage building due to the limited land available and that our drain field is also located in that location behind the house; our septic tank on the right side of our house; our driveway on the left side of our house
- b. This does create a hardship due to the triangle dimensions of our property with the smaller portion of the land area being behind our house and on the sides. Also, the elevation of our land is downward from the top of our land behind the house to the base of the creek in front of our house as you can see from the topographic map, making this a hardship to building anything as you require.
- c. This was a hardship too as there is a creek across the front of our property which forced us to place the house further back on the property than we would have intended - which made it even worse by the later installation of a sewer line along the creek in front of our house.
- d. This request is made with high regards to keeping with the City of Graham's desire to have a decent neighborhood, looking proper and with safety in mind. We plan to have our storage building compliment our home. We have tree buffers and will continue with landscaping in that area. This will be a valuable addition to our property for keeping our area clean and tools and equipment in a safe place and it will be well maintained.



← Drain Field

Septic tank

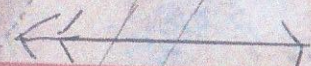
32 ft



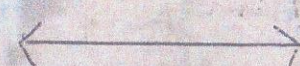
45 ft



46 ft



45 ft



Drive way

← Creek

Right-A-Way for sewer line

1 inch = 60 feet

23 x 24 Blue

23

24

43





145317
8883952859

502

504
145318
8883954667

R-18

518

145316
8883952216

506

508

512

514

152009
8893062329

522

524

E. CHERRY ST

516





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 **September 15, 2015** to consider **case number VR1503**, submitted by **Larry and Jo Warren** of 1401 E Gilbreath St, Graham, NC 27253, for a **variance from accessory buildings in residential districts being restricted to the rear and side yards for property located at 1401 E Gilbreath St**, 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, 1401 E Gilbreath St, is zoned Residential (low density) (R-18).
2. The property contains a single family dwelling.
3. A storage building 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 August 31, 2015.

[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 install an outbuilding in the front yard.

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 shape of the property, the topographical features, and the creek on the parcel results in a hardship.

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 creek running through the property, which caused the residence to be placed to the rear of the lot. However, the septic tank leach field could be removed, if the applicant were to tap onto the existing city sewer running through the property.

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 outbuilding into the front yard.

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 to one carport in the front yard, which shall meet the minimum front yard setback and be located as far from the road as practical.

The resolution reflects the decision of the Board of Adjustment, made the 15th day of September, 2015.

Attest:

Ricky Hall, Chair

Martha Johnson, Secretary

DRAFT