

CITY OF GRAHAM  
BOARD OF ADJUSTMENT  
December 16, 2014

There was a called meeting of the Board of Adjustment on Tuesday, December 16, 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, Bonnie Blalock, Michael Benesch and Ricky Hall. Staff members present were Melissa Guilbeau, City Planner, and Martha Johnson, Zoning/Inspections Technician.

Chair Ricky Hall called the meeting to order, explained the function of the Board and gave the Invocation.

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. There was none.

3. New Business

3a. 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).

Ricky Hall asked that anyone wishing to speak come forward and be sworn in. Martha Johnson, Notary Public swore in Shaun Kopczynski and Melissa Guilbeau. Later during the meeting Donna Ross was sworn in.

Ms. Guilbeau explained this was a request for a variance by Shaun Kopczynski at 1031 Gant Rd for the front setback along Ingold Dr. The stated purpose of request is to add onto existing building for additional storage and needed warehouse because of increased business.

Shaun Kopczynski, the applicant, of 1031 Gant Rd spoke. Mr. Kopczynski stated he was asking for a 25 ft. setback instead of a 50 ft. setback at the rear of his building in order to build 3000 – 4000 sq. ft. attached building. He showed the Board drawings of the proposed addition.

Dean Ward asked Ms. Guilbeau if this would be considered the rear of the building.

Ms. Guilbeau stated the definition of a through lot which has frontage on 2 parallel streets and to her it appears to be that. That would mean it has a front yard on each street frontage and would require it to have a 50 foot setback on both.

Ricky Hall asked Mr. Kopczynski what type work they do. Mr. Kopczynski said they are a candle and souvenir manufacturer and that they sell to beach communities. Mr. Ward asked how their bulk material currently was being brought into the building. Mr. Kopczynski stated there were few trucks entering from that side because most use Gant Rd and with certain container shipments coming in they would utilize the area where the new addition will be constructed.

Donna Ross of 3149 Heritage Ln, Burlington, NC, spoke next representing David Janey who is one of the adjacent owners to this property. Ms. Ross asked if she understood correctly there would be one entrance and one exit to the property. Mr. Hall replied yes. Ms. Ross asked if there would be any employee parking issues because she understood there currently is. Ms. Ross also asked will the industrial traffic increase in that area and will it affect the quality of life in a mainly residential area. Ms. Ross also asked would the building addition not decrease the employee parking spaces.

Mr. Kopczynski stated there had never been any parking where the new addition is going. Mr. Ward asked how many employees do they currently have and Mr. Kopczynski replied 24. Mr. Ward asked if the addition would mean more employees and Mr. Kopczynski said it could in the future but for now the addition is for storage. Mr. Ward asked the number of tractor trailers they have per week. Mr. Kopczynski said they have daily pickups being possibly one or two in season but not during the season it would be one or two per week.

Ricky Hall closed the hearing.

Ricky Hall made a motion to grant this variance, Michael Benesch seconded the motion. The motion passed 5-0 in favor.

### **FINDINGS OF FACT**

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. Ingold Dr, both the paved and gravel sections, is a publicly maintained street.
5. 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.
6. 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.

7. 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.
8. 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.
  - Side Yard Width Abutting Street. 50.
  - Rear Yard Depth. 50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere.
9. The existing building, based on a survey of the property prepared by Carolina Cornerstone and dated 10/28/14, submitted by the applicant at the public hearing, appears to be nonconforming with regard to setbacks. It is set back roughly 43 feet from Ingold Dr, where the required front yard setback is 50 feet. It is set back roughly 48 feet from the property to the west, which is residentially zoned, where the required side setback is 50 feet.
10. 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.”
11. During the Board of Adjustment public hearing, the applicant specified that the variance being requested was for a setback of 25 feet. The applicant also presented a plan of the property showing the proposed addition, two pictures of the property, and a copy of the notice to adjacent property owners with “west” written next to Ingold Dr.

## **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 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**

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

3b. Elect Chair and Vice-Chair for 2015. Dean Ward made a motion to re-elect Ricky Hall as Chair, second by Bonnie Blalock. Michael Benesch made a motion to re-elect Dean Ward as Vice-Chair, second by Bonnie Blalock. All voted in favor.

4. Administrative reports. There were none.

Bonnie Blalock asked Ms. Guilbeau when someone asked for a variance if the process is explained to the applicant prior to coming before the Board. Ms. Guilbeau stated she gives them the application which has recently been updated along with the ordinance sheet showing the four conditions for them to provide evidence and make their case. Mr. Ward said he would like to see more assistance given to the applicant possibly drafting a cheat sheet or given guidelines. Ms. Guilbeau said she could provide a list of examples to the applicants but not too much detail with each case being unique.

There being no further business, the meeting was adjourned.

Respectfully Submitted,  
Martha Johnson, Secretary