



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

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":
 - o 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.
 - o Lot, Corner. A lot or portion of a lot at the junction of and abutting upon two or more streets.
 - o Lot, Flag. An interior lot located to the rear of another lot, but with a narrow portion of the lot extending to a street.
 - o Lot, Interior. A lot other than a corner lot.
 - o 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:
 - o Yard Depth Front. 50 feet for buildings; parking areas shall be set back at least 10 feet from the property line.
 - o 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.

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.

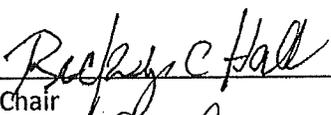
The requested variance would result in a structure located within the required front yard of a property zoned light industrial.

DECISION

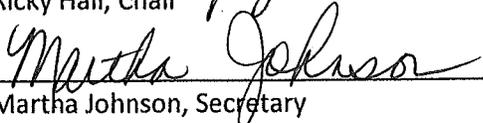
For the above reasons, the Board of Adjustment grants the variance that is the subject of this application.

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

Attest:



 Ricky Hall, Chair



 Martha Johnson, Secretary