

Department of Planning & Community Development



To: Franklin County Board of Zoning Appeals

From: Terrance L. Harrington, AICP
Senior Planner

Date: November 22, 2016

Tax #: 0720015400

District: Rocky Mount District

Applicant/
Owner: Walter Holland Jr. and Patricia Holland

SUMMARY OF REQUEST

Petition of Walter Holland Jr. and Patricia Holland to apply for a variance to Section 25-182 (a) FRONT SETBACK), Section 25-182 (b) SIDE SETBACK, Section 25-182 (c) REAR YARD and Section 25-164 (a) (EXPANSION OR ENLARGEMENT OF A NONCONFORMING STRUCTURE) of the Franklin County Zoning Ordinance. The Holland property is located at 17 Hollandale Dr. in the Rocky Mount District, and is identified on Franklin County Real Estate records as Tax Map/Parcel # 0720015400. The variances have been requested to allow the reconstruction of a single family home that was destroyed by fire earlier this year.

The Holland property is zoned A-1 Agricultural District. The Hollands desire to reconstruct the home in the same location, using the intact foundation from the home that was destroyed by fire. The house will be a one story structure and will be the same size as the destroyed home.

Prior to the fire, the home that existed on this property was nonconforming due to deficient front, rear, and side yard setbacks. The structure, built prior to the adoption of zoning in 1988, was located at the intersection of Southside Drive, a Route 220 South frontage road and Hollandale Drive, a private access right-of-way. Hollandale Drive borders the north side of the property. A private access easement exists along the west side of the former house location. Providing access to an adjacent home to the south, which is owned by members of the Holland Family. The house that was on the property faced Southside Drive. The previous home was a legal nonconforming structure, and could not be expanded/replaced per Section 25-164 (a) of the zoning ordinance. A variance to Section 25-182 (a), (b), and (c) will eliminate the nonconforming status of the structure and allow the replacement of the home in its previous location as shown on the submitted survey.

VARIANCES; DEFINITION AND CRITERIA FOR GRANTING

Section 15.2-2201 of the Code of Virginia defines a variance as follows:

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Per the Code of Virginia, compliance with one of the two following criteria is required to grant a variance:

1. Strict application of the ordinance would unreasonably restrict the utilization of the property, or;
2. The granting of the variance would alleviate a hardship due to the physical condition of the property or improvements thereon.

In addition, the following five criteria shall be met:

1. The hardship imposed by the ordinance was not created by the applicant (property owner) for the variance; and
2. The granting of the variance will not be of substantial detriment to adjacent and nearby properties; and
3. The variance does not correct a problem or condition that is so general and recurring a nature that a general ordinance amendment is reasonably practical; and
4. The granting of the variance will not result in the establishment of a land use that is not otherwise permitted in the A-1 zoning district; and
5. The relief sought by the variance cannot be achieved thru a rezoning or special use permit process currently authorized by the ordinance.

STAFF ANALYSIS OF VARIANCE CRITERIA

The staff's opinion is that the strict application of the ordinance will unreasonably restrict the use of the property. Without the requested variances the house cannot be rebuilt in its original location, size or configuration.

The hardship imposed by the ordinance was not created by the property owner. The house was built prior to the adoption of zoning and thus prior to yard or right-of-way setback requirements. The reconstruction of the house in the same location will not in any way be a substantial detriment to adjacent or nearby properties. With the exception of the adjacent home to the south, owned by members of the Holland family, other homes in the neighborhood are a significant distance from the proposed home site.

Finally, a rezoning or special use permit process is not a reasonable strategy to remove the nonconforming status of the home, allowing it to be rebuilt.

The parcel does contain approximately 5.5 acres with sufficient area to construct a new dwelling that would comply with all the required setbacks. This would require installation of new water and sewage treatment systems.

STAFF RECOMMENDATION:

Staff believes the application generally meets the criteria for variances set forth in Sec. 15.2-2309 of the Code of Virginia and recommends that the Board of Zoning Appeals approve this request with the following condition:

1. The proposed home will be a one story structure, of the same size as the home destroyed by fire. It will be constructed using the existing foundation from the home on the site that was destroyed by fire in the Summer of 2016.

SUGGESTED MOTIONS:

The following suggested motions are sample motions that may be used.

- A. Based on the fact the applicant has demonstrated the variance criteria identified in Section 15.2-2309 of the Code of Virginia have been met, I move to grant a variance to Sections 25-182 (a), (b) and (c) and Section 25-164 (a), allowing the reconstruction of the house destroyed by fire, with the following condition:
 1. The proposed home will be a one story structure, of the same size as the home destroyed by fire. It will be constructed using the existing foundation from the home on the site that was destroyed by fire in the Summer of 2016.

OR

- B. Based upon the fact the applicant has not demonstrated the variance criteria identified in Section 15.2-2309 of the Code of Virginia have been met, *I move to deny the variance requested for the proposed addition.* (State any supporting findings)

OR

- C. Based upon the following findings [state], *I am entering an alternate motion [state].*