

MINUTES OF THE BOARD OF ADJUSTMENT
Foxfire Village, North Carolina

Special Meeting
August 27, 2019

Members Present
Brian Manley, Chairman
Neil Tighe
John Hunter
Dennis Micallef
Jon Bachelder, Secretary

Members Absent
None

Variance Application: Section 7.2.6 of Ordinance
1 S. Shamrock Drive
Kellen Schollaert

Mr. Kellen Schollaert appealed to the Board for relief of approximately 25 feet from the 50-foot setback requirement applicable to his property at 1 S. Shamrock Drive in a Residential Single Family District (RS-30).

Evidence Presented. Mr. Schollaert appeared and stated that he wishes to construct a detached building measuring 14x36 feet on the north side of his residence to be used partly as a garage and partly as a home office. He noted that, while the building will extend to within approximately 25 feet of his property's rear boundary and infringe on the required 50-foot setback requirement, it will not extend beyond the footprint of his existing residence, which was constructed before the ordinance was adopted.. He stated further that the proposed building and its location are required due to his intention to enclose the existing carport for use as an additional bedroom. Mr. Schollaert intends to use the existing driveway to access the proposed garage, which will have an overhead door facing Shamrock Drive. The structure will not infringe on the required 35-foot setback from Richmond Road. Mr. Schollaert also indicated that he intended to maintain an existing stand of bamboo on his property that effectively screens it from the neighboring property to the east. Finally, he noted that the construction will match the main dwelling and that its appearance will be consistent with the appealing private atmosphere of the community.

Mary Gilroy, a member of the Foxfire Village Planning and Zoning Board, testified in opposition to the variance. She stated that she could see no hardship associated with the applicant's compliance with the ordinance and observed that such compliance might be achieved by simply shortening the length of the building. Ms. Gilroy noted that there are at least 27 other properties in the Village with "grandfathered" buildings that do not meet the setback requirements of the current ordinance. She expressed her concern that granting the requested variance would create a precedent for other similarly situated property owners and thereby undermine the intent of the ordinance.

Findings of Fact. The Board agreed that Mr. Schollaert had accurately presented the facts. It found, however, that these facts failed to establish that enforcing the setback requirements of the ordinance would prevent Mr. Schollaert from making reasonable use of his property or create an unnecessary hardship unique to his land. It found that the hardship complained of was caused, at least in part, by Mr. Schollaert's own actions in converting the existing carport to additional

living space. It found further that, if granted, the variance would not be in harmony with the general purpose and intent of the ordinance and preserve its spirit, as it could create an undesirable precedent for similarly situated properties. Finally, the Board found that the requested variance would not secure public safety and welfare and that its denial would not deprive Mr. Schollaert of substantial justice.

Decision. In view of the above findings, Mr. Manley called for a vote to approve the requested variance.

Ayes: Hunter, Micallef, Bachelder

Naes: Tighe, Manley

Failing to gain the required four votes for approval, the variance request was **Denied**.

Adjournment. There being no further business, the meeting was adjourned.

Secretary

Chairman