



Zoning Board of Adjustment

Monday, November 6, 2017

6:30 PM

Council Chambers

**316 N. Academy Street, Cary Town Hall, Cary, NC
27513**

1. **Call to Order - Chair**
2. **Adoption of agenda - Chair**
3. **Approval of Minutes**

Zoning Board of Adjustment - Regular Meeting - Oct 2, 2017 6:30 PM

4. **Case(s) Hearings - Staff**

PROCEDURE FOR THE HEARING

The procedure for hearing this case is as follows:

- *All testimony before the board must be "sworn" testimony. The chair will allow time before each hearing for all speakers who want to speak during that hearing to be administered an oath by the clerk.*
- *Applicants and those opposed to the application may elect to be represented by legal counsel. Applicants that are corporate entities must be represented by an attorney.*
- *A staff representative will introduce the case.*
- *The applicant's attorney is called on to present the argument and evidence in support of the application, followed by others who wish to speak in support of the application.*
- *Persons opposed to the application are invited to speak.*
- *Town staff will present any testimony they wish to add.*
- *Both sides are permitted to cross-examine speakers.*
- *The board enters the deliberative phase of the hearing and may make comments or ask questions.*
- *The Chair closes the public comment portion of the hearing. The board may ask clarification questions of the staff, the applicant or others who have testified but cannot receive new evidence without reopening the public comment period. Additional cross-examination and rebuttals may be made only on new evidence presented.*
- *The board may render a decision or recess the case to a publicly stated date, time and location.*

RULES FOR PUBLIC HEARING SPEAKERS

- *All speakers must be sworn in prior to the beginning of the hearing.*
- *All speakers should speak from the podium next to the board clerk.*

- *The applicant should present argument and evidence as concisely and efficiently as possible.*
- *Speakers should avoid inflammatory, irrelevant or repetitious testimony. Groups are encouraged to select a spokesperson to speak about general matters for the group.*
- *Speakers may introduce exhibits only to support their testimony at the hearing. Letters from individuals who do not appear at the hearing and petitions are considered unsworn testimony or hearsay, and cannot be considered by the board.*
- *All speakers should ensure their testimony (i) is relevant, (ii) consists of statements and facts about which the speaker can personally testify, and not the statements or words of others who are not testifying, and (iii) is not speculative opinions or generalized objections without supporting facts.*
- *Only speakers who are qualified as experts in the appropriate field should testify about (i) how the use of property in a particular way would affect the value of other property, (ii) how the increase of vehicular traffic resulting from the proposed development would pose a danger to the public safety, or (iii) other matters that would require expert testimony under the rules of evidence.*

NEW CASE(S)

- 4.1 **CASE #:** [# 17-V-05](#)
LOCATION: 4001 Greyhawk Place ([Vicinity Map](#))
APPLICANT: Barry E. Gum and Jennifer M. Gum
OWNER: Barry E. Gum and Jennifer M. Gum
REQUEST: The applicant requests a variance from Land Development Ordinance (LDO) Table 6.1.1 table of Density and Dimensional Standards to allow an encroachment of 7.8 feet into a required 25-foot rear yard setback for the purpose of converting an existing deck to a screened porch or room addition.

Speaker Guidelines for Variance Requests: The variance process is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create an unnecessary hardship. To make sure that your testimony is ‘competent’ under the law and to best assist the Zoning Board of Adjustment in making its decision in accordance with the law, please identify the specific approval criteria you are addressing as you testify and try to limit your testimony to specifically addressing that criteria and whether or not the criteria is satisfied.

The criteria for granting a variance are:

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.*

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 hardship resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*
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.*
4. *The requested variance is consistent with the spirit, purpose, and intent of the*

5. Old/New Business

6. Closed Session (may be called)

7. Adjournment

Please contact Debra Grannan, Senior Planner, at debra.grannan@townofcary.org or at (919)460-4980 with any questions regarding this agenda.

The Town of Cary is committed to providing all citizens with the opportunity to participate fully in the public meeting process. Any person with a disability who needs an auxiliary aid or service in order to participate in any meeting may contact the Town Clerk at least 48 hours prior to the meeting. The email address is virginia.johnson@townofcary.org; the phone number is (919) 469-4011; the TDD number is (919) 469-4012.