

ORANGE COUNTY

BOARD OF ZONING APPEALS

ANDY HUTCHISON, DISTRICT 1
RON BURLESON, DISTRICT 2
BOB WILBANKS, DISTRICT 3
VACANT, DISTRICT 4
SERGE OGRANOVITCH, DISTRICT 5



MAILING ADDRESS:
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960

PLANNING SERVICES:
OFFICE: (540) 672-4347
FAX: (540) 672-0164

JOSH GILLESPIE, AICP
PLANNING AND DEVELOPMENT SERVICES
DIRECTOR

Orange County Board of Zoning Appeals Agenda
Public Safety Building Boardroom
11282 Government Center Drive, Orange VA 22960
Wednesday, February 16, 2022
7:00 pm

1. Call to order and determination of quorum
2. Election of Chair and Vice Chair: Appointment of Secretary
3. Approval of minutes
 - a. Meeting October 16, 2019
4. Public hearings:
 - a. **VAR 21-01:** An application by the Orange County Board of Supervisors, for a variance from Sec.70-646 of the Orange County Zoning Ordinance as it applies to 14480 Blue Ridge Turnpike (County tax parcel 55-39). An existing structure on the 400' deep lot is nonconforming with respect to the required 300' setback from Blue Ridge Turnpike (Sec. 70-646). A variance is proposed to reduce the setback from 300' to 50'. The lot is 0.92 acres and is zoned Agricultural (A).
5. New Business
6. Adjourn

**Orange County Board of Zoning Appeals
Regular Meeting
Wednesday, October 16, 2019**

Present: Andy Hutchison; Bob Wilbanks; Ron Burleson

Absent: Serge Ogranovitch

Staff Present: Sandra Thornton, Planning Services Manager; Eric Lansing, Assistant County Attorney
Tracey Newman, Planning Services Associate;

1. Call to order and determination of quorum:

Ms. Thornton called the meeting to order at 7:00 p.m. then asked for nominations for Chairman.

2. Election of Chair and Vice Chair; Appointment of Secretary:

Mr. Wilbanks nominated Mr. Hutchison as Chair; seconded by Mr. Burleson. Mr. Hutchison accepted the Chair position.

Mr. Burleson nominated Mr. Wilbanks for Vice Chair; seconded by Mr. Hutchison. Mr. Wilbanks accepted the Vice Chair position.

Mr. Hutchison appointed ex officio Ms. Thornton as Secretary.

3. Approval of minutes

a. July 18, 2018 regular meeting:

Mr. Wilbanks made a motion to approve the minutes as presented; motion seconded by Mr. Burleson. Motion carried 3-0.

4. Public hearings:

Prior to a presentation on VAR 19-01, Mr. Lansing reviewed the Virginia Code enabling legislation which provides local authority to grant variances, emphasizing that the Board of Zoning Appeals has been given limited discretion which requires that a preponderance of the evidence must support the required hardship findings.

VAR 19-01: An application by Valerie and Robert Wright, Jr., for a variance from Sec.70-244 of the Orange County Zoning Ordinance as it applies to 17385 Constitution Highway (County tax parcel 45-1). This structure is nonconforming with respect to the required setback from Constitution Highway (Sec. 70-646), and Sec. 70-244 provides that an existing nonconforming structure may be expanded or enlarged up to 50% of its original footprint. This variance request is to permit relief from these regulations to allow the construction of an addition that exceeds the allowable square footage to the existing dwelling. The property contains 7.748 acres and is zoned Agricultural.

Ms. Thornton reviewed the variance application. Mr. Wright inquired why a variance was needed when he simply wants to construct an addition to the existing dwelling. Mr. Thornton explained the zoning ordinance requirements.

Discussion ensued between the BZA members. Mr. Burleson moved to deny the variance based on the finding that approval would not comply with Virginia law; motion was seconded by Mr. Wilbanks. The motion passed 3-0.

5. **New Business:**
No new business.

6. **Adjourn:**
Mr. Wilbanks made a motion to adjourn; seconded by Mr. Burleson. Meeting adjourned at 8:00 pm.

Chairman

Secretary

DRAFT

ORANGE COUNTY BOARD OF ZONING APPEALS

COMMUNITY DEVELOPMENT BUILDING
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



(540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

APPLICATION FOR VARIANCE

Applicant Name Orange County Board of Supervisors Phone 540-661-5499

Mailing Address 112 West Main Street, Orange VA 22960

Application must be made by the Landowner or with his/her permission. If Applicant is not the Landowner, complete the following and attach 1) a letter of permission from the landowner or 2) a copy of the contract to purchase the property, if applicable:

Name of Landowner Roy Galliugh, Sr. Phone# N/a

Mailing Address PO Box 547, Somerset VA 22972

Location and description of the proposed site:

Tax Map # 05500000000390 Acreage: 0.92 Zoning: Agricultural (A)

Street Address 14480 Blue Ridge Turnpike, Somerset VA 22972 Route No.

Unusual conditions of the size, shape or topography of the land:

The lot shape is 400' deep, one of eight with similar dimensions in an area of much larger parcels.

Zoning Requirement that is unfair as applied to this land:

Sec. 70-646. Setbacks on primary highways.
(7) Blue Ridge Turnpike (VA Route 231) north of the Town of Gordonsville: 300 feet.

Hardship caused by applying this requirement to these conditions:

Inability to redevelop the property in character with the neighboring properties.

You must submit a surveyor's plat of the property, showing the requested variance and the conditions that justify it. NOT REQUIRED

Application fee Print name Josh Gillespie, agent

\$150 Sign name 

not refundable Date November 18, 2021 Phone # 540-661-5499

No application will be accepted without payment of all fees in full. Failure to pay application fee and failure to appear at any hearing called for consideration of an application may well result in denial of the application.

HOW TO APPLY FOR A VARIANCE

The Orange County Zoning Ordinance applies the same rules to all the land in the County. Because every parcel of land is unique, the ordinance can sometimes be unfair. If the unusual size, shape or topography of your land makes the application of the zoning ordinance unfair, you may apply for a variance.

Administrative variances may be granted by the Zoning Administrator in the instance of setback or yard encroachments. You may apply for an administrative variance by submitting a complete application and a surveyor's plat to the Zoning Administrator in the Planning and Zoning Office. The fee is \$50. The Zoning Administrator will notify all adjoining landowners of your variance request and give them 21 days to respond. If there are no adjoining landowner objections and your request meets the requirements set forth in the zoning ordinance, the Zoning Administrator will grant your variance request administratively. If any landowner objects to the granting of the variance for any reason, or if the Zoning Administrator feels your request does not meet the requirements set forth in the zoning ordinance, your request is then forwarded to the Board of Zoning Appeals for their consideration.

Variances other than setback or yard encroachments may be applied for by submitting a complete application and a surveyor's plat to the Zoning Administrator in the Planning and Zoning Office. The fee is \$100 for residential or agricultural uses, and \$250 for commercial and industrial uses. The Board of Zoning Appeals meets on the third Wednesday of the month at 7:30 PM, usually four to eight weeks after you submit your application.

The Board of Zoning Appeals has the power to grant variances from the area, width, and setback requirements of the Zoning Ordinance under certain conditions. For example, assume you own a parcel of land 200 feet deep, fronting on a primary highway. A small stream running across the rear of your land makes it impossible to build on the rear 100 feet, but the Zoning Ordinance requires a 100-foot front setback on primary highways. Between the topography of your land (the location of the stream) and the terms of the ordinance (the front setback), there is no room left to build a house. In such a case, your land may be eligible for a variance from the setback requirement, allowing you to build 70 feet from the highway rather than 100 feet.

State law requires that the Board cannot grant a variance unless they find that all of the following are true:

The owner acquired the land in good faith;

The lot is exceptionally small, narrow or shallow, or has some other unusual condition that restricts its use:

Because of that condition, a strict application of the Zoning Ordinance would prevent the owner from making any reasonable use of the land;

This hardship was not caused by the owner;

The variance would be in harmony with the intent of the Zoning Ordinance and would not harm the area; and

The problem is not so common that it would be better to change the ordinance rather than grant a variance each time the problem arises.

The Board cannot grant variances to allow uses that are not permitted otherwise, or to give special advantages to one property owner that other owners in the same situation do not enjoy.

ORANGE COUNTY
DEPARTMENT OF PLANNING AND ZONING

PLANNING & DEVELOPMENT SERVICES
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

STAFF REPORT

<u>Application Number:</u> V 21-01	<u>Application Type:</u> Variance
<u>Owner(s):</u> Roy Gallihugh, Sr.	<u>Applicant(s):</u> Orange County Board of Supervisors
<u>Tax Parcel Number(s):</u> 05500000003900	<u>Location:</u> 14480 Blue Ridge Turnpike in Somerset
<u>BZA Public Hearing Date:</u> February 16, 2022	<u>Zoning District(s):</u> Agricultural (A)
<u>Affected Zoning Ordinance Section/Text:</u>	
<i>Sec. 70-306. – Setback and yards (b) For setbacks from primary highways, see section 70-646 et seq.</i>	
<i>Sec. 70-646. – Primary highways (7.)</i>	
<i>The minimum distance by which any structure, except signs, gasoline pump islands, and their canopies, shall be separated from the right-of-way of a primary highway, irrespective of property lines, shall be as follows:</i>	
<i>(7) Blue Ridge Turnpike (VA Route 231) north of the Town of Gordonsville: 300 feet.</i>	
<u>Staff Report Date:</u> December 9, 2021	<u>Staff Report Prepared By:</u> Josh Gillespie, AICP, Planning & Development Services Director

STAFF RECOMMENDATION

The Department of Planning & Development Services recommends approval of this variance request. The application satisfies all of the required standards for review set forth by state law and therefore may be approved by the BZA.

APPLICATION SUMMARY

The applicant is seeking a reduction of the required 300' front building setback distance to allow for construction of a new structure in keeping with the setbacks of the existing buildings on neighboring properties for 14480 Blue Ridge Turnpike in Somerset. The owner wishes to demolish an existing residence setback approximately 18' from the road right-of-way and to construct a new residence in a location no closer than 50' to the road right-of-way, consistent with the existing house on the adjoining lot to the south.

PREVIOUS BZA ACTIONS

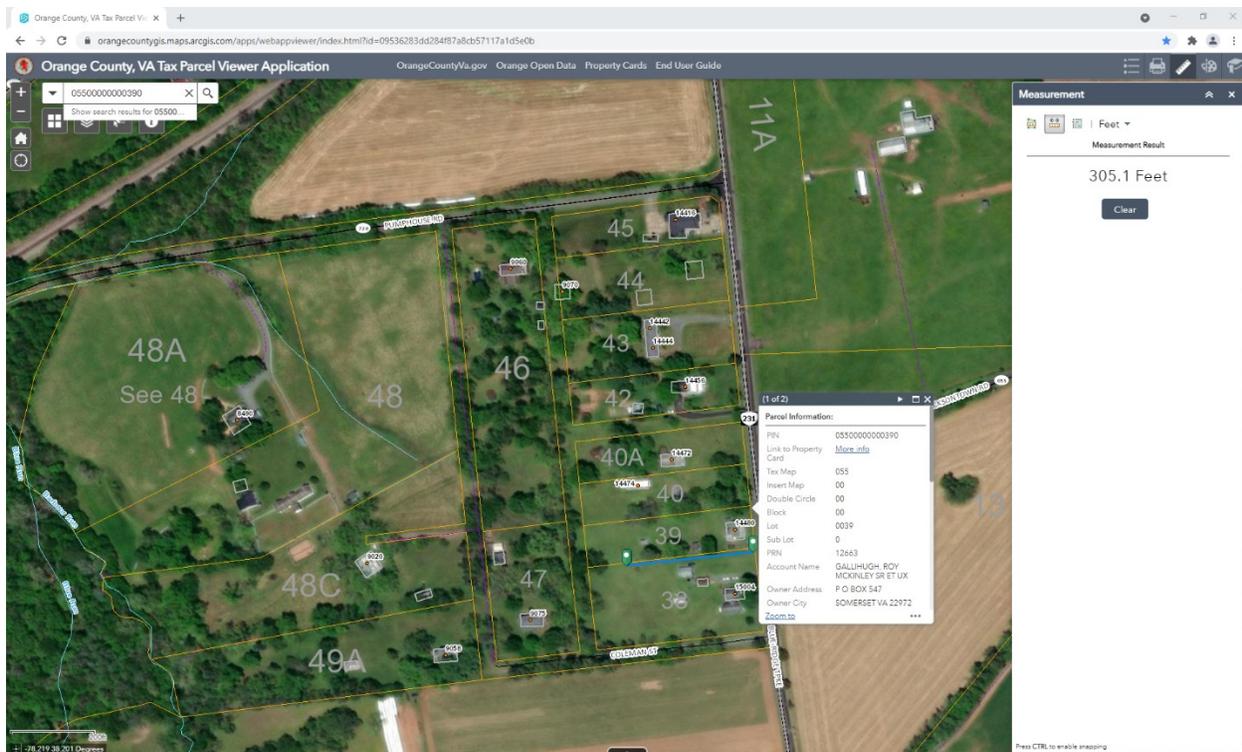
None.

DISCUSSION

The subject property is located in the Somerset area and is one (1) of eight (8) lots in a block bounded by Blue Ridge Turnpike, Pumphouse Road and Coleman Street with lot depths of four hundred (400) feet. The 300' setback from Blue Ridge Turnpike affects these lots substantially in a manner different from other properties along Blue Ridge Turnpike.

A structure currently located on the subject property is located approximately ten (10) feet from the road right-of-way. The lot owner proposes to demolish the existing structure and to construct a new residence located at a similar distance from the right-of-way as nearby properties. Setback distances vary on nearby properties, at distances of approximately fifty (50) feet, seventy-five (75) feet and one-hundred and seventy-five (175) feet. The owner of the subject property Mr. Gallihugh also owns the adjoining lot south of the subject. The residence on the adjoining lot, where he lives, was built in 1935 and includes a later addition to the side of the original house. The fronts of the original house and the later addition are set back a distance of approximately fifty (50) feet from the right-of-way of Blue Ridge Turnpike.

The setback of three hundred (300) feet on primary highways establishes separation from buildings and future highway improvements and provides for open spaces consistent with the rural nature characterizing most properties along the primary transportation arteries. The subject property and the surrounding area (shown on the map below) are exceptions to the normal conditions along the primary highways, due to the historical development of properties in this part of the Somerset area.



APPLICATION REVIEW CRITERIA

A variance may only be granted in strict accordance with the specific standards set forth in the Code of Virginia (§ 15.2-2309), and pursuant to case law, as applicable. These review standards as well as how they relate to the above application are provided below.

1. Standard: *The code section from which the variance is sought unreasonably restricts the utilization of the property, or the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon.*
Analysis: This standard has been met. The property has an existing house within 18' of the road, and is surrounded by properties with buildings set back varying distances from the road, but all within the 300' setback. The 300' setback unreasonably restricts utilization of the subject property by creating a hardship for redevelopment consistent with the area character.
2. Standard: *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.*
Analysis: The application meets this standard. There is no evidence to the contrary.
3. Standard: *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*
Analysis: The application meets this standard. A reduction in the front setback requirement would not be a detriment to surrounding properties.
4. Standard: *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.*
Analysis: This standard has been met. There is a specific condition for this property and the 8 lots between Pumphouse Road and Coleman Street. Formulation of a setback regulation specific to these 8 lots is not reasonably practicable as a general regulation.
5. Standard: *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;*
Analysis: The application meets this standard.
6. Standard: *The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.*
Analysis: The application meets this standard. These options are not available to the owner.
7. Standard: *The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in § 15.2-2309.*
Analysis: This standard has been met. The application demonstrates how or why it meets the standard for a variance as specified in state law.