CITY of BREVARD

The mission of the City of Brevard is to promote a high quality of life, support economic prosperity, and cultivate community while honoring its heritage and culture.

February 8, 2024

Sam Wheeler
Whitfield-Cargile Law, PLLC
Post Office Box 1101
23 South Broad Street, Suite 204
Brevard, NC 28712

Dear Mr. Wheeler:

I am writing to provide an administrative decision in response to your email sent on February 6, 2024, to Katherine Buzby, Planner/Assistant Zoning Administrator in which you requested relief for your client, Margaret Masters, as authorized by Section 16.9.E.3.

After reviewing this case and speaking with Ms. Buzby it is my understanding that zoning permit Z-23-059 was issued to Margaret Masters on March 31, 2023, to construct a "new house" at 252 Elm Bend Road. The site plan depicts a building envelope with a 70-foot front setback off Elm Bend Road, at the northern end of the parcel. Opposite is the rear yard with a 62-foot setback measured off the southernmost property line, a 7-foot side yard setback off the eastern property line and a 6.1-foot side yard setback off the western property line.

According to our records, Katherine Buzby made a preliminary inspection on April 6, 2023, and noted the close proximity of the footing trench to the side property lines. According to her notes, and her recollection of the inspection, she counseled the property owner on the requirement to maintain a 6-foot setback off the side property lines. The house is nearly complete now and there are some issues to resolve as indicated by Ms. Buzby's Stop Work Order, issued January 4, 2024. The following response is in reference to the corrective measures suggested in your email:

1. Permit Z-23-059 can be amended to include a deck on the eastern side of the house, and a lot-line adjustment can resolve the setback problem. This will need to happen before the City can issue final approval.

2. A Stop Work Order is a general enforcement tool to stop illegal or dangerous work and to prevent exacerbating violations. Abating the unpermitted work by removing the stairs on the western side of the house is permissible with the Stop Work Order in place.

3. According to the survey from Freeland – Clinkscales & Associates, Inc., the house is five-feet six-inches from the western property line despite Ms. Buzby's warning to

the property owner that side yard setbacks are required to be six-feet. This, coupled with further expansion into the side yard setbacks with unpermitted stairs and deck leave me unconvinced this was a good faith error, and it is my determination this decision is better suited for the Board of Adjustment.

Please work with Katherine Buzby who will provide you with an application for a variance and supplemental information to share with your client. Thank you in advance for helping to resolve this matter in a timely fashion.

Sincerely,



Paul C. Ray
Planning Director
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