

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Commons Meeting Room
February 12, 2013

Call to Order

Vice Chairman Todd Swaringen called the Board meeting to order at 7:30 p.m. on Tuesday, January 8, 2013, in the Commons Meeting Room.

Roll Call

Board Members Presiding

Todd Swaringen, Vice Chairman
Cathy Bennett
Richard Cosgrove
Dr. John Eckman
Benton Payne
Grover Stewart
Kevin Brickman

Absent

Alternates Attending

Rebecca Carter, Alternate
Houston B. Clark, II, Alternate

Staff Attending

Linda Evans, CZO, Planner II, Clerk to the Board

Vice Chairman Swaringen addressed the audience and stated that the Stanly County Board of Adjustment is a quasi-judicial Board; therefore, the North Carolina State Supreme Court, under NCGS 153A-345, requires that the Board base its decisions only on testimony given under oath. He informed the audience that any person, who, while under oath during this proceeding, willfully swears falsely, is guilty of a Class 1 misdemeanor.

Vice Chairman Swaringen cautioned the audience that no hearsay evidence would be accepted; that only testimony from those present would be considered by the Board. He also stated that the Board would accept any evidence such as maps, site plans, etc. and that it would be inserted into the file as permanent evidence.

Approval of January 8, 2013, Regular Meeting Minutes

Vice Chairman Swaringen asked if there were any corrections to the regular minutes of January 8, 2013. Hearing no objections or corrections, Vice Chairman Swaringen asked for a motion.

Motion: Richard Cosgrove made a Motion to approve the regular minutes of January 8, 2013, as written.

Second: Dr. Eckman seconded the motion.

Action: The Board voted unanimously to approve the minutes of the January 8, 2013, regular meeting as written.

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Vice Chairman Swaringen asked the Clerk to present the first case, ZV 13-02.

Linda Evans stated that William Efird is requesting a Variance to allow him to obtain zoning clearance and permits for an existing accessory structure (car shed) in his front yard and for two existing storage buildings on his property that do not meet required zoning setbacks. Building number 1 is 4.0 feet from the property line and building number 2 is 4.0 feet from the property line. The property is approximately 1.22 acres and is zoned RA Residential Agricultural. Mr. Efird stated that the storage buildings and car shed have been located on the property for a number of years and no one has complained until recently. Applicant failed to obtain permits before construction but is willing to obtain permits now. He has spoken with the Building and Inspections Department and has been advised that he is required to buy permits for the buildings; although, because of the small size of the buildings, the buildings are not required to meet state building codes. Staff notes that there is a steep grade on the property that runs along the back and east side all the way up to the rear of the house. The septic field area & pump station is located in the front yard of the home to the west and the septic tank is located in the rear yard of the home to the east.

Vice Chairman Swaringen asked that everyone who intends to speak on the first case, ZV 13-02, stand and be sworn in. Doris Drake, Virginia Austin, and Linda Evans were sworn in by Vice Chairman Swaringen.

Vice Chairman Swaringen asked the Board members if any one of them had a conflict with hearing this case, ZV 13-02. No one responded.

Vice Chairman Swaringen if anyone wished to speak in regards to this case.

Doris Drake came forward and stated that she lives beside William Efird and she has no problem with the buildings being where they are. She stated she and her husband had given Mr. Efird permission to put the buildings there before her husband passed away. She stated that Mr. Efird is good to her and that her daughter made the complaint about the buildings because she has a mental problem.

Vice Chairman Swaringen advised Mrs. Drake that some of her statements are irrelevant to the case and thanked her coming forward.

Vice Chairman Swaringen asked if anyone else wished to speak.

Mrs. Austin stated that she lives beside Mr. Efird and she has no problem with the buildings being where they are.

Vice Chairman Swaringen stated that, if there are no other questions or comments, the Board will review the findings of fact.

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Clerk, Linda Evans, stated that the applicant, Mr. Efird, is in the audience and asked the Vice Chairman if the Board would like to hear from him. Vice Chairman Swaringen asked Mr. Efird to come forward and swore him in.

Mr. Efird stated that the buildings have been on the property for years and that his neighbors have no problem with their location. He stated that he cannot move the buildings because of the slope of his property and the septic system.

Vice Chairman Swaringen thanked Mr. Efird asked Ms. Bennett read the findings of fact; the Board found as follows:

That applicant cannot secure a reasonable return from or make reasonable use of this property without the Variance.

Motion: Richard Cosgrove made a motion to find this fact true based on the evidence submitted and the fact that applicant has had the advantage of using the car shed and storage buildings for a number of years. Due to the topography of the land and the septic system, applicant cannot move the buildings to another location on the property and will lose the use of these buildings if the Variance is denied.

Second: Dr. Eckman seconded the motion.

Action: The Board voted unanimously to approve the motion.

That a hardship exists resulting from unique circumstances related to applicant's land.

Motion: Kevin Brickman made a motion to find this fact true based on the fact that the steep grade of the property and the location of the septic field area & pump area prohibit Mr. Efird from placing the buildings in another location on the property.

Second: Cathy Bennett seconded the motion.

Action: The Board voted unanimously to approve the motion.

That the existing hardship is not the result of applicant's own actions.

Motion: Richard Cosgrove made a motion to find this fact false based on the fact that applicant failed to obtain permits before construction of the buildings.

Second: Grover Stewart seconded the motion.

Action: The Board voted unanimously to approve the motion.

That, if granted, the Variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit.

Motion: Grover Stewart made a motion to find this fact true based on the fact that the storage building and garage will not cause a negative visual impact on neighboring property and will not substantially detract from the character of the neighborhood and there was no opposition at the public hearing.

Second: Dr. Eckman seconded the motion.

Action: The Board voted unanimously to approve the motion.

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That, if granted, the Variance will secure the public safety and welfare and will do substantial justice in that the benefit to the applicant will substantially outweigh the harm to neighboring property.

Motion: Dr. Eckman made a motion to find this fact true based on the fact that the benefit to the Applicant will be greater than the harm done to neighboring property owners if the buildings are left where they are.

Second: Kevin Brickman seconded the motion.

Action: The Board voted unanimously to approve the motion.

Vice Chairman Swaringen stated that he would entertain a motion to grant, deny, or modify the petitioner's request for a Variance.

Motion: Grover Stewart made a motion to grant the Variance.

Second: Cathy Bennett seconded the motion.

Action: The Board voted unanimously to approve the motion.

Vice Chairman Swaringen asked if anyone had further business to discuss.

Mrs. Evans asked the Board to approve the BOA meeting dates for the year 2013.

Motion: Richard Cosgrove made a motion to approve the meeting dates for the year 2013.

Second: Benton Payne seconded the motion.

Action: The Board voted unanimously to approve the motion.

Vice Chairman Swaringen asked for a motion to adjourn. Benton Payne made a motion to adjourn, seconded by Grover Stewart. The meeting was adjourned at 7:55 p.m.

Date

Todd Swaringen, Vice Chairman

Date

Clerk to the Board