



BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Commissioner's Meeting Room
August 9, 2016

Call to Order

Staff member Bob Remsburg called the Board meeting to order at 7:00 p.m. on Tuesday, August 9, 2016, in the Commissioner's Meeting Room.

Installation of new board members

The oath of office was administered to four of the five new Board of Adjustment members: Cynthia Fish, Marvin Smith, David Dulin, James F. "Jim" Starnes by Bob Remsburg, Clerk to the Board.

Election of Officers

Buddy Clark nominated Marvin Smith to be Chair of the Board of Adjustment. Seconded by Michael Efird and elected unanimously by the Board.

Mr. Smith presided over the meeting and called for nominations for a Vice-Chair.

Buddy Clark nominated Michael D. Efird to be the Vice-chair of the Board of Adjustment. Seconded by David Dulin and approved unanimously by the Board.

Roll Call

Board Members Presiding

Houston B. Clark, II
Marvin Smith
Cynthia Fish
Michael D. Efird
Devron Furr
Jennifer Lisk
David Dulin

Absent

Billy Franklin Lee

Staff Attending

Bob Remsburg, Planner, I

Others Present

James F. "Jim" Starnes – Alternate Board member
Mary Myrick – Adjoiner
Betty Barnes – Neighbor
Richard Huneycutt – Owner
William Moore - Adjoiner

Chair Smith asked if there were any corrections to the minutes of January 12, 2016. Hearing none, the Board proceeded as follows.

Motion: Buddy Clark made a Motion to approve the minutes of January 12, 2016, as written.

Second: Michael Efird seconded the motion.

Action: The Board voted unanimously to approve the minutes of January 12, 2016, as written.

Chair Smith asked those testifying to come forward to be sworn in. Richard Huneycutt, William Moore, Betty Barnes and Bob Remsburg were sworn in by the Chair.

Chair Smith asked if any board member had any possible conflicts and needed to withdraw from the case. Three board members, Marvin Smith, Michael Efird and Devron Furr indicated that they knew Betty Barnes. Each indicated that they believed they could rule fairly based upon the facts to be presented in the case.

Chair Smith opened the hearing and asked the Clerk to present the case, ZV 16-05.

Bob Remsburg, Clerk, stated that Richard Huneycutt had requested a variance of 10 feet for the front setback to allow the placement of a home at 22286 NC Hwy 49, Gold Hill. The Stanly County Zoning Ordinance requires a 50 foot front yard setback in the RA-Residential Agricultural District. Mr. Huneycutt's request will allow the residence to be 40 feet from the right-of-way of NC 49. Mr. Remsburg used a power point presentation to show that the lot is a triangular shape with the west side along Big Bear Creek and containing area of flood plain. The septic field is between the manufactured home and NC 49. He also had photos of the previous Class C manufactured home, its demolition and the Class C home currently placed on the property. The well for the property is on the west side and should not conflict with placement of the home. The shape of the lot, the septic system and the flood plain make it difficult to place a home on the lot.

Chair Smith called on the applicant to come forward and present their case to the Board.

Richard Huneycutt explained the reason for the request was to locate the house 10 feet closer to NC 49 because of the shape of the lot, the location of the septic tank and flood plain. Mr. Huneycutt indicated that he would abide by the variance. He had moved the present home on the lot when the Town of New London closed the mobile home park there and that the owner was renting the lot but not able to move due to the home not being set up.

Vice-Chairman Cosgrove called on anyone else who would like to speak for or against this case.

Betty Barnes spoke against the granting of the variance. She indicated that although the GIS shows 1.2 acres, the actual lot size according to the deed is 1.57 acres which should allow more space for the home without the need for a variance. Jennifer Lisk questioned whether that may be due to the lot being measured to the center of NC 49. Mrs. Barnes stated that county water was available and she had concerns about the home being closer to a very busy highway. She indicated that the owner knew the shape of the property and should not be in a position to need a variance. Mrs. Barnes noted Section 406.2 of the Stanly County Zoning Ordinance which requires that they shall not be "re-established as a nonconforming use or structure after a discontinuance of 180 days from the date of destruction, abatement or abandonment except as otherwise noted in this ordinance" and Section 406.5(B) which states "Nonconforming manufactured homes located on individual lots shall comply with the following criteria in order for replacement of a manufactured home unless replaced within 90

days under the same ownership following removal or destruction of the existing unit.” She pointed out that the lot had been vacant for approximately 2 years. Mrs. Barnes showed the board a photo on her phone of the current situation and the closeness to the road. She reiterated her concern about the closeness of the highway. She also indicated that the NC Department of Transportation has a proposal to widen NC 49 which will likely take a large portion of the property.

Mr. William Moore, neighbor, spoke next. He indicated that the property has always been a mess and that those who have rented have been a problem in the past.

Mr. Huneycutt came back to the podium and indicated that the manufactured home is 46’ from the right-of-way but that Mr. (Tim) Swarringen (planning staff) had advised to ask for a 10’ variance to make certain the building and deck would comply. He also doubted that Mr. Moore actually lives close by.

Chair Smith stated that, if there were no other questions or comments, he would close the hearing and the Board would review the findings of fact.

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

Motion: Buddy Clark made a motion to find this fact true based on the evidence submitted and the fact that this is a rental property and without the home in place, the owner cannot secure a reasonable return.

Second: Michael Efird seconded the motion.

Action: The Board voted unanimously to approve the motion to find this fact true.

2. That a hardship exists resulting from unique circumstances related to applicant’s land, such as location, size or topography.

Motion: Michael Efird made a motion to find this fact true based on the fact that the flood plain occupies a portion of the lot and the narrow triangular shape of the property.

Second: Devron Furr seconded the motion.

Action: The Board voted unanimously to approve the motion to find this fact true.

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

Motion: Buddy Clark made a motion to find this fact false based on the fact that the property owner did not meet the requirements of the ordinance for replacement of a nonconforming use in the time allowed.

Second: Cynthia Fish seconded the motion.

Action: The Board voted unanimously to approve the motion to find this fact false.

4. That the variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured, and substantial justice is achieved.

Motion: Buddy Clark made a motion to find this fact false because the spirit of the ordinance would not be upheld if the rules requiring a nonconformity to come into compliance if the lot was not used for over 90 days would not be followed if the variance were granted.

Second: David Dulin seconded the motion.

Action: The Board voted 5-2 to approve the motion to find this fact false. (True – Efird, Furr; False – Clark, Lisk, Smith, Fish, Dulin)

The Board discussed the options of whether to grant the variance or to add any conditions to the variance.

Motion: Having reviewed the Findings of Fact, Buddy Clark made a motion to deny the variance based on the Findings of Fact.

Second: Devron Furr seconded the motion.

Action: The Board voted unanimously to deny the motion.

Chair Smith announced that the variance request had been denied and that those concerned would have thirty (30) days to enter an appeal with the Stanly County Superior Court.

There being no further business, Chair Marvin Smith asked for a motion to adjourn. Michael Efird made a motion to adjourn the meeting, seconded by Jennifer Lisk. The meeting was adjourned at 8:10 p.m.

Marvin Smith, Chair

Bob Remsburg, Clerk to the Board