



BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Commissioner's Meeting Room
January 12, 2016

Call to Order

Vice-Chairman Richard Cosgrove called the Board meeting to order at 7:30 p.m. on Tuesday, January 12, 2016, in the Commons Meeting Room.

Roll Call

Board Members Presiding

Richard Cosgrove
Dr. John Eckman
Benton Payne
Michael D. Efirm
Kevin Brickman
Devron Furr, Alternate
Jennifer Lisk, Alternate

Absent

Todd Swaringen
Houston B. Clark, II

Staff Attending

Michael Sandy, Planning Director
Bob Remsburg, Planner, I

Others Present

Tim Love – Property owner
Jeff Hinson – ex-husband of adjacent property owner, Pam Hinson

Vice-Chairman Cosgrove asked if there were any corrections to the minutes of June 9, 2015. Hearing none, the Board proceeded as follows.

Motion: John Eckman made a Motion to approve the minutes of June 9, 2015, as written.

Second: Kevin Brickman seconded the motion.

Action: The Board voted unanimously to approve the minutes of June 9, 2015, as written.

Vice-Chairman Cosgrove asked those testifying to come forward to be sworn in. Tim Love, Jeff Hinson and Bob Remsburg were sworn in by the Vice-Chairman.

Vice-Chairman Cosgrove asked the Clerk to present the case, ZV 16-01.

Bob Remsburg, Clerk, stated that Tim and Deborah Love had requested a variance to all them to place a site-built home on the property at the northwest corner of NC 24/27 and Molly Springs Road. This property is zoned RA which has a required rear yard setback of 40 feet. The rear property line is a right-of-way designated for a subdivision street that was never constructed. The property owners have been unable to purchase additional property to add to the lot and have not requested that the 30' right-of way be closed. The lot is approximately 150 feet deep and the proposed home is 57' deep. The topography of the lot includes a steep slope on the front of the lot necessitating the locating of the home further from the road. The Office of Environmental Health has approved the property for a septic system for a 2-bedroom home to be located west of the proposed house location with a repair

area at the southeast lot corner with Molly Springs Road. Traffic along NC 24/27 is approximately 13,000 vehicles per day. The property owner wishes to build the home as far as possible from the noise of the traffic. The property was inherited by the present landowner. The previous owner conveyed a portion of the road frontage to the NC Department of Transportation resulting in a more shallow lot. The road construction created a steep slope on the front of the property. The previous home was removed due to its encroachment into the new right-of-way. Staff opinion is that the benefit to the applicant will outweigh the harm to neighboring property in that the applicant will have the benefit of a home. The structure will not cause a negative visual impact on neighboring property.

Vice-Chairman Cosgrove called on the applicant to come forward and present their case to the Board.

Tim Love explained the reason for the request was to locate the house away from the steep slope and to avoid the proposed septic field areas. He knew of no plans to develop the unimproved right-of-way. Mr. Love provided a copy of the 1948 Nisbet Subdivision which shows the original lots and 30' road designation. Mr. Love explained that he had attempted to purchase the land across from the unimproved right-of-way, but that the price designated by the owner was out of range.

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

Jeff Hinson, ex-husband of the adjacent property owner (Pamela Hinson), explained that he had purchased the property behind the unimproved right-of-way in 1995. He was interested in protecting the property for his children and grandchildren. The right-of-way could be improved and opened at any time and he wanted to avoid a problem in the future. Having the rear of the proposed home within 17 feet of the property line was just too close especially if the road was developed and needed ditches and utility improvements. The subdivision lots could still be utilized and would likely be developed when sewer is available in the area. The several homes that have been built do have a public water supply.

Vice-Chairman Cosgrove stated that, if there were no other questions or comments, the Board would review the finding of fact. Clerk Bob Remsburg read the finding of fact, and the Board found as follows:

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

Motion: Benton Payne made a motion to find this fact true based on the evidence submitted and the fact that the steep slope on the front of the property makes the required setback difficult to meet without placing the proposed home further toward the rear of the property.

Second: John Eckman seconded the motion.

Action: The Board voted 6-1 to approve the motion. (Cosgrove, Eckman, Efird, Brickman, Furr, Lisk in favor; Payne against)

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

Motion: Kevin Brickman made a motion to find this fact true based on the fact that the slope of the land and the required location for septic fields necessitates the location of the home.

Second: Michael Efird seconded the motion.

Action: The Board voted unanimously to approve the motion.

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

Motion: John Eckman made a motion to find this fact true based on the fact that the property was inherited by the current owners and that a portion of the property was acquired by NC Department of Transportation for improvements to NC 24/27.

Second: Kevin Brickman seconded the motion.

Action: The Board voted unanimously to approve the motion.

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: Devron Furr made a motion to find this fact true based on the fact that the owner will have a new home and the structure will not cause a negative visual impact on the neighboring property.

Second: John Eckman seconded the motion.

Action: The Board voted 6-1 to approve the motion. (Cosgrove, Eckman, Efird, Brickman, Furr, Lisk in favor; Payne against)

The Board discussed the options of whether to grant the variance or to add any conditions to the variance. Mr. Love was asked about changing the house design to meet setbacks which he did not desire to do. There was also a question of whether the house could face east toward Molly Springs Road. The lay of the land and because Molly Springs is a private road, this option was ruled out.

Having approved the Findings of Fact, Michael Efird made a motion to approve the variance based on the Findings of Fact.

Second: Devron Furr seconded the motion.

Action: The Board voted unanimously to approve the motion.

Vice-Chairman Cosgrove invited the Board members to select a slate of officers for the remainder of the fiscal year. With several terms having expired, Board members expressed a desire to wait until appointments and reappointments were made by the Board of County Commissioners.

Vice-Chairman Cosgrove made a motion to elect a slate of officers for 2015-2016.

Second: No Board member offered a second to the motion.

Action: With no second, the motion died and the Board will consider taking action at a later meeting. The current officers will continue to serve until the Board takes action.

There being no further business, Vice-Chairman Richard Cosgrove asked for a motion to adjourn. John Eckman made a motion to adjourn, seconded by Jennifer Lisk . The meeting was adjourned at 8:45 p.m.

Richard Cosgrove, Vice-Chairman

Bob Remsburg, Clerk to the Board