

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Commons Meeting Room
January 8, 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
Rebecca Carter, Alternate
Houston B. Clark, II, Alternate

Absent

Grover Stewart
Kevin Brickman

Staff Attending

Linda Evans, CZO, Planner II, Clerk to the Board
Tim Swaringen, CZO, Zoning Enforcement Officer

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 November 13, 2012, Regular Meeting Minutes

Vice Chairman Swaringen asked if there were any corrections to the regular minutes of November 13, 2012. Hearing no objections or corrections, Vice Chairman Swaringen asked for a motion.

Motion: Richard Cosgrove made a Motion to approve the regular minutes of November 13, 2012, as written.

Second: Benton Payne seconded the motion.

Action: The Board voted unanimously to approve the minutes of the November 13, 2012, regular meeting as written.

Vice Chairman Swaringen asked the Clerk to present the first case, ZV 13-01.

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Mrs. Evans stated that Heather Little, on behalf of David A. Shealy, requests a Variance to allow him to place an accessory structure (storage building) in his front yard. The property is approximately 3.3 acres and is zoned RA Residential Agricultural.

Mr. Shealy's home is located at the rear of his property and is more than 200 feet from the right-of-way of Carters Acres Road. The septic tank, drain field, and repair areas are in close proximity to the home and are located to the south, east, and west of the home, as shown on the attached Environmental Health drawing. The well is to the north of the home. The home faces east to the driveway which comes into the property from the adjacent property. Since the home faces the driveway and not Carters Acres Road, the applicant considers his front yard to be toward the driveway. The zoning ordinance (Section 1302.40) deems all of the property between the north side of his home and Carters Acres Road to be his front yard, without regard to orientation of the home.

Vice Chairman Swaringen asked that everyone who intends to speak on the first case, ZV 13-01, come forward and be sworn in. Heather Little, Linda Evans and Tim Swaringen 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 13-01. No one responded.

Vice Chairman Swaringen asked the applicant to come forward and state her case to the Board.

Mrs. Little came forward and stated that she is requesting to construct a garage in what is considered by the zoning department to be her front yard. She stated that she considered that area a side yard because of the orientation of the home. She stated that the proposed location of the garage is the only place on the property to place a structure because of the location of the septic system and the topography of the property.

Vice Chairman Swaringen asked for comments or questions from the Board.

Benton Payne asked Mrs. Little if the structure will meet all zoning setbacks and she answered that it will. Mrs. Evans also confirmed that it will be compliant with the zoning regulations.

Benton Payne asked if they intend to use the current driveway that comes into the property or if a new driveway will be put in to access the garage. Mrs. Little stated that the plan at this time is to use the current driveway. She stated that the building will be completely hidden from the road because of the trees between the building and the road.

Vice Chairman Swaringen stated that, if there are no other questions or comments, the Board will review the findings of fact. Ms. Bennett read, and the Board found as follows:

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That 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 applicant's property contains a very large amount of what the zoning ordinance considers front yard. Without a variance, applicant would not be able to use this area for his benefit.

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: Richard Cosgrove made a motion to find this fact true based on the fact that the location of the home at the rear of the property, location of the septic system, and the orientation of the front of the home create unique circumstances for the applicant.

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: Dr. Eckman made a motion to find this fact true based on the fact that the location of applicant's home near the rear of the property and the location of the septic system does not allow him sufficient room to place an accessory structure in a side or rear yard.

Second: Benton Payne 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: Dr. Eckman made a motion to find this fact true based on the fact that the storage building 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: Richard Cosgrove seconded the motion.

Action: The Board voted unanimously to approve the motion.

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 substantially outweigh the harm to neighboring property owners.

Second: Cathy Bennett 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: Benton Payne made a motion to grant the Variance.

Second: Richard Cosgrove seconded the motion.

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Action: The Board voted unanimously to approve the motion.

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

Mrs. Evans gave the Board an update on case number ZV 12-04, Ollie Almond. She stated that the NCDOT had determined that none of the deck Mrs. Almond had constructed encroached into the state's right-of-way. Therefore, by order of the Board, Mrs. Almond was not required to remove any part of the existing deck. She obtained the required permits in November, 2012, but has not called for any building code inspections at this point. Her permits will expire in May, 2013, if she has not called for an inspection by that time.

Vice Chairman Swaringen asked for a motion to adjourn. Benton Payne made a motion to adjourn, seconded by Dr. Eckman. The meeting was adjourned at 8:00 p.m.

Date

Todd Swaringen, Vice Chairman

Date

Clerk to the Board