

BOARD OF ADJUSTMENT MINUTES  
Regular Meeting  
Commons Meeting Room  
January 10, 2012

**Call to Order**

Vice Chairman Todd Swaringen called the Board meeting to order at 7:30 p.m. on Tuesday, January 10, 2012, 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, Alternate

***Absent***

Andrew Eades, Chairman  
Rebecca Carter, Alternate

**Staff Attending**

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

**Approval of November 8, 2011, Regular Meeting Minutes**

Vice Chairman Swaringen asked if there were any corrections to the regular minutes of November 8, 2011. 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 8, 2011, as written.

**Second:** Kevin Brickman seconded the motion.

**Action:** The Board voted unanimously to approve the minutes of the November 8, 2011, regular meeting as written.

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.

Board member Benton Payne entered the meeting and apologized for being late. Vice Chairman Swaringen asked Mr. Payne if he had any recommendation for modifications to the Minutes of November 8, 2011. Mr. Payne answered that he did not and Vice Chairman Swaringen stated that the November 8, 2011, minutes would stand as previously approved.

Vice Chairman Swaringen asked the Board members if any one of them had a conflict with the first case. No one responded.

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Vice Chairman Swaringen asked the Clerk to present the first case, ZV 11-04.

Mrs. Evans stated that applicant, Marie Richards, is requesting a Variance to permit a residence that extends to 19.5 feet from the northern side property line and 13.6 feet from the southern side property line (see attached map). The property is approximately .7329 acre and is zoned RA Residential Agricultural. Section 701 of the ordinance specifies that primary structures are required to be fifteen (15) feet from any side property line, with an additional ten (10) feet on the side street line of a corner lot.

Mrs. Richards stated that she had wanted to surprise her husband, who was in China on an extended business trip, with an addition to the residence. She stated that she was not aware that permits were required to add on to a residence when the work is not being done by a building contractor. She stated that her brother had constructed the additions. When applicants were advised by a building inspector that permits are required, they immediately came to the Permit Office to obtain the proper permits; at which time, the zoning officer discovered that the additions did not meet required zoning setbacks. After being informed of the setback violation Mrs. Richards applied for a Variance to remedy this situation.

Vice Chairman Swaringen asked that everyone who intends to speak on the first case, ZV 11-04, come forward and be sworn in. Marie Richards, Tim Swaringen, and Linda Evans were sworn in by Vice Chairman Swaringen.

Vice Chairman Swaringen called on the applicant to present her case to the Board.

Mrs. Richards came forward and stated that she and her husband had talked about adding a garage to their home. She stated that, while he was away on a business trip, she decided to surprise him and have the garage built. She stated her brother was moving here from the north and he agreed to do the construction for her. She stated that she was not aware that permits were needed when you do the construction yourself. She stated that shortly after her husband came home they were advised by the Inspections Department that permits were required and they were in violation.

There was some discussion between the Board members and the Zoning Enforcement Officer as to whether, on the opposite side of the home, the conversion of the deck to a room was actually a violation since it appeared the deck was there before the road was put in, thus it would be considered legally non-conforming. The conclusion to this discussion was that the conversion of the deck to a room did in fact create a violation because the non-conformity was increased by the overhang when the roof was added.

Tim Swaringen, Zoning Enforcement Officer, stated that this case is a good candidate for a Variance and one reason the Board of Adjustment is established. He stated that, based upon testimony, he has no objection to the Board granting the Variance.

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

That applicant cannot secure a reasonable return from this property without the Variance.

**Motion:** Grover Stewart made a motion to find this fact true based on the evidence submitted and the fact that the applicant cannot receive any return from the addition to the residence if she is required to remove the addition.

**Second:** Cathy Bennett 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:** Grover Stewart made a motion to find this fact true based on the fact the road was put in after the structure was placed on the property.

**Second:** Kevin Brickman 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 the applicant failed to get the proper permits before beginning construction.

**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:** Richard Cosgrove made a motion to find this fact true based on the fact that the addition to the residence will not cause a negative visual impact on neighboring property and it will not substantially detract from the character of the neighborhood.

**Second:** Grover Stewart 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.

**Motion:** Dr. Eckman made a motion to find this fact true based on the fact that the addition to the residence will not influence public safety and welfare and will do substantial justice in that the benefit to the applicant will substantially outweigh the harm to neighboring property.

**Second:** Benton Payne 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:** Dr. Eckman seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Todd Swaringen, Vice Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk to the Board