



BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Commons Meeting Room
January 9, 2018

Call to Order

Vice-Chair David Dulin called the Board meeting to order at 7:30 p.m. on Tuesday, January 9, 2018, in the Commons Meeting Room. The Chair asked the Clerk to call the roll.

Roll Call

Board Members Presiding

Jennifer Lisk
Houston B. Clark, II
Devron Furr
David Dulin
Cindy Fish

Absent

Marvin Smith
Michael D. Efir
Jim Starnes
Billy Franklin Lee

Staff Attending

Bob Remsburg, Planner, I

Vice-Chair Dulin called on the Board to review the minutes of the last meeting, December 12, 2017.

Motion: Buddy Clark made a Motion to approve the minutes of December 12, 2017 as written.

Second: Jennifer Lisk seconded the motion.

Action: The Board voted unanimously to approve the minutes of December 12, 2017 as written.

Board members agreed by consensus to keep the officers through the appointment of new board members likely in July. Officers will be Marvin Smith, Chair and David Dulin, Vice-Chair.

Vice-Chair Dulin explained that the purpose of the meeting was to consider the Case #ZV18-01, a request by William S. Wall, Jr. for a variance. The Vice-Chair explained that this is a quasi-judicial hearing and will be conducted in accordance with special due process safeguards.

Vice-Chair Dulin outlined the statutory requirements that restrict the board to base its decisions only on testimony given under oath. Any person who swears falsely is guilty of a Class 1 misdemeanor.

Vice-Chair Dulin asked those testifying to come forward to be sworn in. Bob Odom; William S. Wall, Jr.; James Snuggs; and Bob Remsburg were sworn in by the Vice-Chair.

Vice-Chair Dulin asked if any board member had any possible conflicts and needed to withdraw from the case. Each indicated that they believed they could rule fairly based upon the facts to be presented in the case.

Mr. Robert Odom, attorney requested to be allowed to sit at a table near the front of the room to utilize for his papers and note taking. This was approved by consensus of the Board.

Vice-Chair Dulin opened the hearing and indicated that the order of business would be that first, we will hear from the Planning Department staff, then we will hear from the Applicant and their witnesses, and lastly we will hear from opponents to the request.

Vice-Chair Dulin asked the Clerk to present the case, ZV18-01.

Bob Remsburg, Clerk, shared the following:

William S. Wall, Jr. requests a variance to allow him to place an 8'x10' accessory building on his property closer to the required side yard setback than is allowed by the Stanly County Zoning Ordinance. The proposed accessory building will be located up to 8 feet closer to the north side lot line at 17592 Randalls Ferry Road (Tax Record #14173). The required setback is ten (10) feet from the line. Mr. Wall's lot is a lake front property and is approximately fifty-five (55) feet wide at the location of the building. A pre-existing driveway and septic system create the need to construct the accessory building closer to the lot line than allowed by the ordinance. Mr. Wall had begun construction prior to realizing that he had an issue being that close to the property line. Construction has not been completed. Mr. Wall would like to have an 8'x10' accessory building to house yard tools and equipment in order to maintain the property. The home appears to be less than 10 feet from the property line. The driveway, septic and home have been in place for many years. Land on the lake side drops off and is not suitable for access to an accessory building. The deed for this property was conveyed in 2016. The structures, driveway and septic were already in place. The lot was created when the property was subdivided in the mid-1960s. This was prior to the adoption of the Zoning Ordinance or the Subdivision Ordinance by the county. The goal of the ordinance in this case is to prevent conflict between neighbors and allow access for maintenance of the structure and any vegetation. Since this is an 8'x10' building, the scale does not create a significant nuisance to public safety or visual impact. With the lake as the primary visual attraction in the area, this accessory structure on the road side of the property will not cause a negative visual impact on neighboring properties.

Vice-Chair Dulin asked if there were any questions for Mr. Remsburg.

Robert Odom asked for permission to question Mr. Remsburg. The Board agreed.

Mr. Odom asked questions regarding the placement of the building, the permit process, who had inspected the property and if other options for placement of the building were feasible.

Mr. Remsburg explained the situation further and indicated that the building could potentially be placed closer to the road. The issue was reported by a neighbor and the staff investigated and discovered the setback issue and the lack of permits.

Vice-Chair Dulin called on the applicant to come forward and present their case to the Board.

Mr. William Wall testified that he had not realized that permits were necessary for this small structure and that he thought the setback from the property line was sufficient. He explained that this was a small storage building needed to store yard tools and equipment. The house has limited storage for these items. The placement of the building, if allowed, was the ideal location.

Buildings in the neighborhood are generally very close together. The driveway location and the steep slope of the lot made other locations less desirable. Mr. Wall indicated that the building had been built by a contractor friend and it had been set into the ground with posts and then framed on-site. The posts were placed in concrete to prevent the building from slipping downhill. His realtor had pointed out the basic property lines but a survey had not been done. He did not think the building would create a visual issue and was not a fire hazard. There would be no electrical power to the building. He asked the Board to grant the request so that construction could be completed.

Mr. Odom questioned Mr. Wall why he did not realize that a setback from the property line was needed. Mr. Wall replied that he had lived most of his life in apartments and had never considered the role of setback requirements. Mr. Odom requested to submit photos as evidence. These were accepted by the Board. Mr. Odom pointed out that the back of the building is approximately 2 feet from the railroad ties. There was some discussion about the property line location between Mr. Odom and Mr. Wall. Mr. Odom asked about placement of the building further up the slope toward the road. He believes there would be less drainage issue there. Mr. Wall was concerned about creating too much distance from the house. It may be possible to move the building without substantial damage. Mr. Odom feels that this building being so close to the front door of his client would diminish the value of their property.

Vice-Chair Dulin asked if there were others to speak in favor of the Variance. There were none.

Vice-Chair Dulin asked if there were any to speak in opposition to the Special Use Permit.

Robert Odom, attorney, explained that he was representing the neighbors who are most affected, Tillery Lake House, LLC. (Mr. Dulin) from Maryland. Mr. Odom testified that the developers created the problem over 40 years ago by making such narrow lots. He explained that there were setbacks established for a reason. Mr. Wall had done what suited him the most, not considering the impact on neighbors. The building could have been accommodated further up on the property and not been so close to Mr. Dulin's entrance. His clients would like to see the building moved further up toward the road. It should be possible to move. At present it is within 8 to 10 feet of the house. Mr. Odom requested that James Snuggs, contractor come forward. Mr. Snuggs was doing work for the Dulin family. Mr. Snuggs explained that he was not protesting the variance request, but was able to address questions as a contractor and as someone familiar with the situation. A photo was shown with the building close to several railroad ties on the ground. The general consensus from Mr. Wall and Mr. Odom was that the railroad ties were close to the property line and that the building was about 2 feet from the line. Mr. Snuggs indicated that the building was the first thing you see from Mr. Dulin's entrance. He indicated that he thought the aesthetics of the building and its closeness to the Dulin's entrance would be detrimental to the Dulin residence. Mr. Snuggs felt that the building could be moved and placed without a variance.

Mr. Odom summarized the position of his clients stating that the Wall lot had sufficient space to locate the structure without a variance. His clients were willing to work with Mr. Wall to come to a solution.

Mr. Wall asked about the location of the property line. No survey had been completed when he acquired the property in 2016. There were questions about the location of the water line, septic system and the property line.

The Board questioned the location of the property line and discussed whether some language could be drafted that would allow the building to remain. There were no exact numbers that could be established because property owners did not know the location of the property line and no survey was available.

Vice-Chair Dulin asked the Board to consider what should be done. After some discussion trying to establish what could be done, the Board determined that a delay would be best to allow time for a survey and a solution to be recommended.

Motion: Buddy Clark made a Motion to table the request for a variance for 60 days. When that time had elapsed, Mr. Wall would need to notify the staff of what the actual setback variance needed would be based on an accurate survey.

Second: Devron Furr seconded the motion.

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

There being no further business, Devron Furr made a motion to adjourn. Jennifer Lisk seconded the motion and all approved. The meeting was adjourned at 9:00 p.m.

David Dulin, Vice Chair

Robert Remsburg, Clerk