



BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Commons Meeting Room
September 11, 2018

Call to Order

In the absence of the Chair and Vice-Chair, the Board decided by consensus to have Devron Furr serve as Chair for the meeting.

Acting Chair Devron Furr called the Board meeting to order at 7:35 p.m. on Tuesday, September 11, 2018, in the Commons Meeting Room. The Chair asked the Clerk to call the roll.

Roll Call

Board Members Presiding

Jim Starnes
Houston B. Clark, II
Devron Furr
Billy Franklin Lee
Cindy Fish

Absent

Marvin Smith
Michael D. Efir
Jennifer Lisk
David Dulin

Staff Attending

Bob Remsburg, Planner, I
Tim Swaringen, Zoning Enforcement Officer

Chair Furr called on the Board to review the minutes of the last meeting, January 9, 2018.

Motion: Buddy Clark made a Motion to approve the minutes of January 9, 2018 as written.

Second: Jim Starnes seconded the motion.

Action: The Board voted unanimously to approve the minutes of January 9, 2018 as written.

Chair Furr explained that the purpose of the meeting was to consider the Case #ZV18-02, a request by Thomas Loftin. for a variance. The Chair explained that this is a quasi-judicial hearing and will be conducted in accordance with special due process safeguards.

Chair Furr 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.

Chair Furr asked those testifying to come forward to be sworn in. Thomas Loftin, Tim Swaringen, and Bob Remsburg were sworn in by the Chair.

Chair Furr 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.

Chair Furr 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.

Chair Furr asked the Clerk to present the case, ZV18-02.

Bob Remsburg, Clerk, shared the following:

Robbie Brewer requests a variance to allow the construction of an addition to a home owned by Thomas Loftin to be within 5 feet of the right of way of Swift Island Road reducing the front yard setback requirement from 30 feet to 5 feet. The property is located at 23206 Swift Island Road, Albemarle (Tax Record #17371). The property is zoned R-20 – Residential. The required front setback for lake property in the R-20 district is 30 feet from the right-of-way.

The pre-existing septic system location prevents the construction of an addition on the southwest side and the lakeside of the existing home. This situation has been confirmed by the Stanly County Environmental Health Department. A variance would be needed if an addition was attempted on the northeast side of the home and the space on the lake side is also insufficient to meet setback and avoid the septic field and the flood zone. Mr. Brewer does not want to add a second floor to the home as this is for their residence and steps may not be navigable in the future. The remaining option would be to construct the additional bedroom on the street side of the house. This home is located at the end of Swift Island Road and the right-of-way has an angular encroachment into the property. Mr. Loftin has requested a variance to come within 5 feet of the Swift Island Road right-of-way.

In order to grant this variance, the Board must make findings of fact and should consider the following facts: The ordinance requires a 30 foot front setback from right-of-way. This property is oddly shaped on the right-of-way and reduces the available setback area. The present house placement and the septic tank and field situation prevent an addition to the lake side and the southwest side of the structure. The only way to increase the size of the home is to expand toward the right-of-way or to create a second floor. A second floor would require steps which does not meet the petitioner's need. The lot was developed prior to the present ownership and the septic placement was established to meet the requirements at the time of installation. The establishment of the angular right-of-way line is unusual and creates part of the issue for expansion. This was created when the property was subdivided many years ago. The goal of the ordinance in this case is to encourage the placement of homes an equal distance from the right-of-way. Since this is the last home on Swift Island Road and the odd angle of the right-of-way, the nearness to the road should not be particularly obvious or obnoxious. If an attempt was made to move the septic field and construction was to occur on the lakeside, the visual landscape for neighbors may be obstructed. On the street side, this should not be an issue. Staff believes that approval would achieve substantial justice and maintain the spirit, purpose and intent of the zoning ordinance.

Chair Furr asked if there were any questions for Mr. Remsburg. There were none.

Chair Furr called on the applicant to come forward and present his case to the Board.

Mr. Thomas Loftin came forward and described the need to add a bedroom, bath and laundry to the small home at 23206 Swift Island Road, Albemarle. He indicated that the wall should be 7 ½ to 8 feet from the right-of-way, but the request was for 5 feet to accommodate any overhang. He

has recently moved here from Wyoming and fixed up the small home. The septic system was as described earlier. The well has been abandoned and filled. The well house has been removed.

Chair Furr asked if there were others to speak in favor of the variance. There were none.

Chair Furr asked if there were any to speak in opposition to the variance. There were none.

Chair Furr closed the hearing.

Chair Furr asked the Board to review the Findings of Fact.

Finding 1 - That the project will not endanger public health or safety.

Motion: Billy Franklin Lee made the motion to accept finding 1 as true.

Second: Buddy Clark

This finding was approved 5-0.

Finding 2 - That the project will not substantially injure the value of adjoining property.

Motion : Cindy Fish made the motion to accept finding 2 as true.

Second: Buddy Clark

This finding was approved 5-0.

Finding 3 - That the project will be in harmony with or compatible with its neighbors and is generally consistent with the Stanly County Land-Use Plan.

Motion: Billy Franklin Lee made the motion to accept finding 3 as true.

Second: Buddy Clark

This finding was approved 5-0

Finding 4 - That the project meets all other required conditions and specification for the construction of placement of the structure.

Motion: Buddy Clark made the motion to accept finding 4 as true.

Second: Billy Franklin Lee

This finding was approved 5-0

Motion: Buddy Clark made a Motion to approve the request for a variance that allows the addition to the home to be constructed within five (5) feet of the front setback line.. .

Second: Billy Franklin Lee seconded the motion.

Action: The Board voted unanimously to approve the motion.

The chair informed those present that anyone affected by this decision has thirty (30) days to appeal this to the Stanly County Superior Court.

Chair Furr introduced the second item on the agenda, AR 18-01- a request from the Planning staff to review their expectations for interpreting Section 313.3, Manufactured Home, Class A and Class B definition of “no visible exposed concrete block”.

Mr. Remsburg explained that manufactured homes on individual lots could have brick, stone, stucco or some sort of covering that would not have any underlying concrete block exposed. K-rock, a thick plastic material, is also acceptable on Class B homes. Tim Swaringen answered several question about a recent concern regarding what sort of coating would qualify.

The Board member discussed the pros and cons of concrete block, parge coatings, stucco and related materials. Some Board members had experience working with some of these materials and gave good insight. The final consensus was that in order to meet the requirement, the concrete block must be coated sufficiently that no mortar lines are visible. The Board also determined that split-faced block would not be acceptable as a skirting material.

Motion: A motion was made by Jim Starnes to define “no visible exposed concrete block” to mean that the coating or covering is sufficient that the use of block is not evident.

Second: Cindy Fish

Action: The Board voted unanimously to approve the motion.

With all business completed, the chair asked for a motion to adjourn the meeting.

Motion: Jim Starnes made the motion to adjourn

Second: Cindy Fish

Action: The meeting was adjourned at 8:30 PM.

Devron Furr, Acting Chair

Robert Remsburg, Clerk