



## Stanly County Board of Adjustment March 16, 2020 - Meeting Minutes

**Call to Order** Chair Cindy Fish called the meeting to order on March 16, 2020 at 6:30 p.m. in the Partnership for Children meeting room at 1000 N First Street, Albemarle, North Carolina. Bob Remsburg served as Clerk of the meeting.

Chair Cindy Fish asked Mr. Remsburg to call the roll.

**Stanly County Board of Adjustment Members Attending** Cindy Fish; Brenda Farmer; Billy Franklin Lee; David Dulin; Jennifer Lisk; Devron Furr; Richard Cosgrove, alt.; Michael Efird

**Board of Adjustment Members Absent:** David Dulin; Jim Starnes.

**Stanly County Planning Staff Attending** Bob Remsburg, Planning Director; Bailey Emrich, Planner 1

**Others Present:** Dean Crayton, Bethany Brady, community members.

**Adoption of Agenda:**

**Motion:** Richard Cosgrove

**Second:** Brenda Farmer

**Action:** The Board unanimously approved the agenda for the meeting as presented.

The Chair invited the board to review the minutes of the previous meeting which was held on October 8, 2019.

**Motion:** Billy Franklin Lee made a motion to approve the October 8, 2019 minutes as written.

**Second:** Brenda Farmer seconded the motion.

**Action:** The Board unanimously approved the motion.

Chair Fish announced the purpose of this meeting was to consider case ZV 20-01, a request by Dean Crayton and Bethany Brady, 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 Fish 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 Fish asked those testifying to come forward to be sworn in. Larry Milton, Barbra Crayton, and Brandon Burleson were sworn in.

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

Chair Fish 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 the opponents to the request.

Chair Fish asked the Clerk to present the case, ZV 20-01.

Bob Remsburg, shared the following:

Mr. Remsburg shared that Dean Crayton and Bethany Brady have requested that a variance be granted to allow them to construct a single-family home on their lot on the cul-de-sac of Merestead Way. The proposed home will not fit into the setbacks. The property is zoned RA-Residential Agricultural. The North Manor subdivision was created in 2002. The lots in the cul-de-sac on the left and right are approximately 115 feet deep. With a front setback of 50' and a rear setback of 40', this creates a build area that is 25' deep due to the incursion of the cul-de-sac into the lot. With the location of the proposed septic system and the shape of the lot, it is awkward to fit many home designs into the build area. Many ranch-style homes are 32' to 38' in depth.

Consideration should be given to the shape of the lot and the location of the approved septic system and well. There are no easements established which cross the property or other known obstructions to placement of the proposed home. Adjoining properties are either in the subdivision or contain a forest or a field for cultivation.

Traffic on Merestead way is limited to those who live in the 21 lot subdivision.

In order to grant this Variance, the following findings must be found true.

That unnecessary hardship would result from the strict application of the ordinance. The

ordinance requires a 40 foot rear setback from the property line. This property is shallow and does not allow space for the location of a normal sized home.

That the hardship results from conditions that are peculiar to the property, such as location, size, or topography and are not the result of the applicant's own actions. The lot was developed prior to the present ownership and the septic placement is dictated by the best soils on the property as established by the Environmental Health Department.

That the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. The property shape was established through the original subdivision.

That the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. The goal of the ordinance in this case is to encourage the placement of homes an equal distance from the right-of-way and to be located facing the cul-de-sac. Staff believes that approval would achieve substantial justice and not negatively affect the spirit, purpose and intent of the zoning ordinance.

Chair Fish asked if there were any questions for Mr. Remsburg.

Barbra Crayton, the contractor, gave her testimony. She stated that where the house is going, they wanted it to line up with the other homes on the street as well. They were trying to avoid putting the house further back on the lot, because that would only be a straight view of the back of the neighbors home. She stated that there is nothing but woods behind this lot so therefore it should be easy to do the 20 feet. She stated that if it had to be 40 feet it would end up being way back in the corner of the lot.

Chair Fish then asked if there were any questions for Ms. Crayton.

Richard Cosgrove asked if the only place on the home that was not in compliance was the back of the home. Ms. Crayton informed him that if you took the whole back of the home and put it at 40 feet it would not be in compliance because the property line does not go from the middle of the road, it is from the front property line. So yes, it is the only place not in compliance.

Mr. Cosgrove then asked why the variance was at the rear setback and not the front setback. She stated that it would help all the homes be in line with one another and helps the subdivision look better. Mr. Cosgrove then asked if they would be okay with a change to this variance or is 20 feet exactly what they wanted. Ms. Crayton stated that they wanted this variance so that they were not on top of the neighbors home.

Chair Fish asked if there was anyone to speak in favor of the zoning variance.

The neighbor, Brandon Burleson, stated that he was ok with the home being placed as proposed. He had enjoyed the lot being vacant, but knew that it would be developed at some time. He stated that he had lived there since 2009 and had not had a neighbor within 150 feet since he moved there. This piece of property was one of the last two to sell in the neighborhood. He preferred the variance to be granted so that the home would line up with his and other neighbors.

Chair Fish asked if there was anyone else to speak in favor. No one came forward.

Chair Fish called on any in opposition to the Zoning Variance request to speak.

Larry Milton stated that he did not want it developed because he owns 30 acres of pines on the adjoining property, on the backside. He asked Ms. Crayton how much septic line would be needed for a home like this. Ms. Crayton said that Jody Underwood came out and approved it, but was uncertain of how much it would take.

Mr. Milton then asked to show the board the damage that had been done to this portion of his property where the water had killed several of his pine trees. Jennifer Lisk asked him if this was natural damage. Mr. Milton stated that it was not. He was trying to prevent them from having a problem in the future because it will all run into where the septic will end, and he believes there is not 100% recovery.

Jennifer Lisk asked if this septic system was approved. Ms. Crayton stated that it does not run down and when it rained it is not sitting or standing on the property. She explained that they did not buy this property until the perk test passed.

Mr. Milton stated that where the stakes were put out to mark the property line are not correct and that they do not have the necessary 20 feet. Ms. Crayton stated that she had William Martin draw the survey and that he will be the one coming out to do it. Mr. Milton stated that he owns 2 feet past where the stakes are at in the ground.

Jennifer Lisk explained to Mr. Milton that the lot is what the lot is. The stakes in the ground are rough stakes and when the survey is done it will show where the actual property lines fall. Mr. Milton explained that he felt as though a decision cannot be made without a survey in hand. Ms. Crayton stated that she was not going to pay for the survey to be done until he knows that a house can be put there.

Michael Efird asked Mr. Milton how he would rectify this. Mr. Milton explained that he would suggest that they buy a new lot. He was offered this land before he bought his own that adjoins it.

Brandon Burleson stated that there had not been any issues with water on this property that he has seen, thus far. He further explained that he liked where the proposed home was going to be and that it would be more aesthetically pleasing where they wanted it. Mr. Cosgrove pointed out that the septic system will not move no matter where they put the home on the property.

Chair Fish closed the hearing.

Chair Fish asked the Board to review the findings of Fact.

Finding 1 - That unnecessary hardship would result from the strict application of the ordinance.

**Motion:** Brenda Farmer made a motion to accept finding 1 as true.

**Second:** Richard Cosgrove

This finding was approved 7-0

Finding 2 - That the hardship results from conditions that are peculiar to the property, such as location, size, or topography and are not the result of the applicant's own actions.

**Motion:** Jennifer Lisk made the motion to accept finding 2 as true.

**Second:** Billy Franklin Lee

This finding was approved 7-0

Finding 3 - That the hardship did not result from actions taken by the applicant or the property owner.

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

**Second:** Michael Efird

Richard Cosgrove did not find this to be true.

This finding was approved 6-1

Finding 4- That the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**Motion:** Brenda Farmer made the motion to accept finding 4 as true.

**Second:** Devron Furr

This finding was approved 7-0

**Motion:** Billy Franklin Lee made a motion to approve the request for a 20' zoning variance to be allowed on the property Dean Crayton and Bethany Brady.

**Second:** Jennifer Lisk

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

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

**Action:** This meeting was adjourned at 7:25.

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Cindy Fish, Chair

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Bob Remsburg, Clerk