



## Stanly County Board of Adjustment

### September 9, 2019 - Meeting Minutes

**Call to Order** Chair Cindy Fish called the meeting to order on September 9, 2019, at 6:45 p.m. in the Stanly County 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; Devron Furr; Richard Cosgrove, alt.

**Board of Adjustment Members Absent:** Michael Efird; Jennifer Lisk, Jim Starnes, alt.

**Stanly County Planning Staff Attending** Bob Remsburg: Planning Director; Bailey Emrich: Planner I

**Others Present:** Susan H. Penrod was present.

The Chair invited the board to review the minutes of the previous meeting which was held on March 19, 2019.

**Motion:** David Dulin made a motion to approve the March 19, 2019 minutes as written.

**Second:** Billy Franklin Lee seconded the motion.

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

Chair Fish announced the purpose of this meeting was to consider case ZV 19-01, a request by Susan Penrod, for a variance. The Chair explained that this is a quasi-judicial hearing and will be conducted in accordance with special due process safeguards. Along with that it was to be considered, an amendment to the rules and procedures of the Board of Adjustment.

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. Susan Penrod and Bob Remsburg were sworn in by the Chair.

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 19-01.

Bob Remsburg, Clerk, shared the following:

Susan Penrod requests a variance to allow for an addition to her lakefront property, owned by Huneycutt Properties Ltd to be within 4 feet of the right of way of Swift Island Road reducing the front yard setback requirement from 30 feet to 4 feet. The property is located at 23220 Swift Island Road, Albemarle (Tax Record #12736). The property is zoned R-20 - Residential. The required front yard setback for lake property in the R-20 district is 30 feet from the right-of-way.

The narrowness of the lot does not allow for them to add square footage to the home on the right or left side of their property. The septic was placed poorly and this blocks the addition to the back of the home. The home at the end of the road is similar to this case. It was not a self created hardship. Mrs. Penrod does not want to add a second story to the home. The home is currently without a bathroom and also without a laundry room. Several homes are already close to the road, for example across the street. 4 feet is close and the Board has the right to suggest something less intensive and is not so close to the 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 the right-of-way and reduces the available setback area. The property does not have enough available square footage to expand the home on the left or right side. The placement of the septic tank also causes the expansion on the back side of the property not possible. The only way to increase the size of the home is to expand towards the right - of - way or to create a second floor. A second floor would

require the use of steps, which in this case the couple is not able to travel up and down due to their health. The lot was developed prior to the present ownership. The goal of the ordinance in this case is to encourage the placement of homes an equal distance from the right-of-way. All neighbors within 100 feet of this property have been notified and we have not received any complaints.

Mrs. Penrod then gave her testimony explaining that this was their only option. Since they are without a shower/bath or laundry room they are having to find alternate ways of doing these things. They do not want to add a second story to their home due to their health, therefore going out on the front of their home was truly their only option due to the fact that the size of the lot was not big enough to expand on the sides. They were not planning on doing any more remodeling after this so they wanted to get as much space as they could so it would be sufficient for the both of them.

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

Richard Cosgrove asked If the red line at the lower left of the map was a property line or the right of way. Remsburg responded by saying that the property line is for zoning purposes, distinguishing the property line. It is not always accurate.

David Dulin asked about the dimensions of the home including the overhang. Mrs. Penrod responded by saying that the addition including the overhang was 20 feet. This allows us to go out 20 feet so we can have access to the shower and laundry as well. It was purchased in the late seventies by her parents and it has always been a close knit neighborhood, which speaks to the fact that no one is here to complain about it. The neighbors were all talked to. We are long time family friends so we work really hard to avoid any issues. This would not add another bedroom.

Brenda Farmer asked if the house has been staked off because it looked as though the house would be on the fence. Mrs. Pencroft responded by saying the house is caddy-cornered. The 20 feet is at the narrowest point. It is not on the fence, it includes the overhang. The overhang is a foot to a foot and a half.

Brenda Farmer asked if they needed all 20 feet. Pencroft responded by saying she was trying to get all the room she could because after this no more additions will be made to the home, this was it. Therefore the more room they got the better.

Brenda Farmer asked to make sure the survey was done from the property line and not the center of the road. Penrod stated correct, this is a private road not a county maintained road. We all work together to pay for anything done to it. She can park her car parallel on the side of the fence and not

be on the road at all.

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 rezoning request to speak. No one came forward.

Chair Fish closed the hearing.

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

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

**Motion:** David Dulin made the motion to accept finding 1 as true.

**Second:** Billy Franklin Lee

This finding was approved 6-0

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

**Motion:** Brenda farmer made the motion to accept finding 2 as true.

**Second:** Devron Furr

This finding was approved 6-0

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 a motion to accept finding 3 as true.

**Second:** David Dulin

This finding was approved 6-0

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

**Motion:** David Dulin made the motion to accept finding 4 as true.

**Second:** Richard Cosgrove

This finding was approved 6-0

**Motion:** Devron Furr made a motion to approve the request for a variance that allows the addition to the home to be constructed within four (4) feet of the front setback line.

**Second:** David Dulin seconded that motion

**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.

Chair Fish introduced the second item on the agenda, amendments to the rules and procedures to the Board of Adjustment.

Mr. Remsburg presented the proposal of some new rules and procedures concerned an up-to-date reflection of the law. This would allow the board to have more flexibility in setting meetings as well as dates.

**Motion:** David Dulin made the motion to approve the request of amending rules and procedures.

**Second:** Devron Furr

**Action:** The board voted unanimously

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

**Motion:** Brenda Farmer made the motion to adjourn

**Second:** Devron Furr

**Action:** This meeting was adjourned at 7:45 P.M.

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Cindy Fish, Chair

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Bob Remsburg, Clerk