



Stanly County Board of Adjustment
May 10, 2022 - Meeting Minutes

Call to Order Chair Cindy Fish called the meeting to order on May 10, 2022 at 6:30 p.m. in the Gene McIntyre meeting room at 1000 N. First Street, Albemarle, North Carolina. Bob Remsburg served as Clerk of the meeting.

Stanly County Board of Adjustment Members attending Brenda Farmer, Billy Franklin Lee, Richard Cosgrove, Michael Fleming, Cindy Fish, Rick Johnson, Devron Furr

Absent: Michael Efird

Stanly County Planning Staff Attending Bob Remsburg, Planning Director; Bailey Emrich, Planner 2

Others Present: Lester Starnes & June Starnes

Chair Cindy Fish asked for a motion to adopt the agenda if no changes needed to be made.

Motion: Richard Cosgrove

Second: Michael Fleming

Approved: 7-0

Chair Fish asked for a motion to adopt the minutes from the March 15, 2022 meeting.

Motion: Rick Johnson

Second: Billy Franklin Lee

Approved: 7-0

Chair Fish asked for a motion to approve the Housing Appeals Board meeting minutes from March 15, 2022.

Motion: Richard Cosgrove

Second: Devron Furr

Approved: 7-0

Chair Fish shared the following:

Tonight's case is Item ZV 22-01 a request by Lester Starnes to allow for the side setback of his carport to have a 15 foot variance. This will allow for the carport to be on the property line.

All persons who wish to testify in this case should have signed up on the Attendee Sign-In Sheet for this hearing. If you have not signed and wish to speak please sign now. All those audience members and staff wishing to testify please proceed to the front of the room to be sworn in. The Stanly County Board of Adjustment is a quasi-judicial board. Therefore, the North Carolina State Statutes, requires that the board base its decisions only on testimony given under oath. Any person who, while under oath during this proceeding, willfully swears falsely, is guilty of a Class 1 misdemeanor. If anyone refuses to be sworn,



your statements will not be treated as evidence on which to base a decision but merely as arguments. I'm going to ask you to repeat each phrase after me. If you are able, please raise your right hand.

Bob Remsburg, June Starnes & Lester Starnes were all sworn in.

Chair Fish stated:

Before opening the evidentiary hearing, I'd like to give Board members a chance to reveal any possible conflicts that you may have and withdraw from these proceedings if necessary.

There were none

Any Board members who have any information or special knowledge about the case that may not come out at the hearing tonight, please describe that information for the record so that interested persons will know and can respond.

There were none

First we will hear from the Planning Staff, then we will hear from the Applicant and their Witnesses and then we will hear from the Opponents to the request

Parties may cross-examine witnesses after the witness testifies when questions are called for. If you want the Board to see written evidence such as reports and maps or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his/her testimony.

The Board cannot accept reports from persons who are not here to testify. Attorneys who speak should not give factual testimony but may summarize their client's case. Before you begin your testimony, please clearly identify yourself for the record.

I now open the evidentiary hearing on Item #ZV 22-01 and ask for testimony from the County Staff.

Bob Remsburg shared the following:

Lester Starnes requests a variance for the carport of his home located at 20508 Running Creek Church Road, Locust (Tax Record #140357) to be on the south side property line. Per North Carolina State Building Code the carport is considered attached therefore the required setback would be 15 feet from the side property line. This would allow for a 15 foot variance on the south side of the property in order to accommodate the carport. The property is zoned R-A – Residential Agricultural. The septic system is located in the front yard.

The carport was placed on the property without proper permits. Once Mr. Starnes became aware of this issue and attempted to pull permits; it was realized the carport was sitting 1.3 feet across the property line of 20510 Running Creek Church Road. The carport is 24 feet in width and 20 feet in length. Mr. and Mrs. Starnes acquired 20 square feet from Mr. and Mrs. Martinez in order for the carport to be entirely on their property. They did not acquire additional property to accommodate the 15' setback requirement. Mr. and Mrs. Starnes did get an up-to-date survey completed after this transaction. There are four standards to be met and we place a sheet that went into a little more depth about this at your spots.

Bob explained the four standards and how they related to the property in question.



Bob went through the slideshow to show the survey, aerial view of the property, and the garage structure itself.

The staff cannot decide whether this is acceptable or not. You really need to prove that all of these are true as far as the standards. In this case I think that is a difficult task to do for all four. Generally it is the rule for all four to be found true but it is not unheard of for that to not happen and something to still pass.

Richard Cosgrove asked "Is the garage at the front or back the part that is on the other person's property?"

Mr. Remsburg stated "It is more the back. If you look you can see that the lot is getting squeezed the further you go back on the property."

Billy Franklin asked "The line of trees that you see, are those the adjoining property owners? Is there a home on the adjoining property?"

Bob stated "Yes the trees are the neighbors and there is a home on the adjoining property but there is a substantial distance. It is not very close to the line. In a normal situation we do like for homes to have at least 30 feet of separation. In an instance where we allow two homes on the same lot they have to have at least 0 feet of separation on the same lot."

Billy Franklin asked "In discovering that the carport was built without permits, was he penalized for that?"

Bob stated "He will be. They are waiting for the end result of the hearing. If you do not grant the variance he will be required to move or tear down the carport in order to meet the required setback. Anytime someone has built something without permits they are double fee'd."

Cyndi Fish asked "When he found out that the carport was on the neighbors property, he bought just 20 feet?"

Bob stated "It is 20 square feet not just 20 feet of width."

Brenda Farmer asked "What is the red building?"

Bob stated "I believe that is the neighbors and it may be across the property line. A Lot of times people do not get permits for these but they are required."

Chair Fish asked if any other parties present had questions for Bob.
None did

Chair Fish invited the Starnes to come and share their testimony.

Lester and June shared the following:

We are asking for a variance. Afer building the open car shed we ahd an inspector come out and look at the building and we found out we were one foot over the proeprty line and di not have a permit. We had the land surveyed and got a new deed. We bought enough land for 2,000 dollars from the neighbors for it to be on our property. Unfortunately wemade an honest mistake and are trying to correct it.



Michael Fleming asked “We have seen the inside. What is the outside material?”

Lester stated “Vinyl siding.”

Rick Johnson asked “What did you pay the 2,000 for?”

Lester stated “It was for 20 square feet. We just wanted to get it off of their property. We made a mistake and we just moved here and I did not know the rules in Stanly County or even Cabarrus county. We never built anything.”

Michael Fleming stated “IOs the overhang the measured distance? How big is the overhang on the side that faces the neighbor?”

Lester stated “ 6 or 8 inches.”

Michae Fleming stated “Is there a gutter on that? How do you plan to maintain that?”

Lester stated “I have a pipe that runs down.”

Chair Fish asked if staff had any further comments.

Bob reminded the board of the four findings of fact and if it is appropriate to approve them or not.

Chair Fish closed the hearing. No other testimony is allowed.

Chair Fish stated “The Board will now review the four standards required for approving this Zoning variance.”

Standard #1 - The unnecessary hardship results from the strict application of the ordinance;

Do I have a motion to find this standard true based on the evidence submitted?

Make a ruling on Finding #1 – The Board finds this standard (True/False)

Motion: Richard Cosgrove Second: Devron Furr

True: 7-0

Standard #2 – The unnecessary hardship results from conditions that are peculiar to the applicant’s property.

Do I have a motion to find this standard true based on the evidence presented?

(Take the vote) Those in favor say “aye”; those against say “nay”. (Take a hand vote if a split vote so vote can be recorded.)

Make a ruling on Finding #2 – The Board finds this fact (True/False)

Motion: Billy Franklin Lee Second: Richard Cosgrove

True: 7-0



Standard #3 – The unnecessary hardship is not a self-created hardship:

Do I have a motion to find this standard true based on the evidence presented?

Make a ruling on Finding #3 – The Board finds this standard (True/False)

Motion: Richard Cosgrove Second: Brenda Farmer

False: 5-2

Standard #4 – 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.

Do I have a motion to find this standard true based on the evidence presented?

Make a ruling on Finding #4 – The Board finds this standard (True/False)

Motion: Devron Furr Second: Richard Cosgrove

True: 6-1

(After the review of the Standards, Chair asks for a motion.) Do I have a motion to approve the Zoning Variance? Second?

Motion: Billy Franklin Lee Second: Brenda Farmer

Approved: 7-0

Chair Fish stated:

The motion to approve has been approved. Those with standing in the matter have thirty days to appeal this to the Stanly County Superior Court.

If there is no further business for the Board, I will entertain a motion to adjourn this meeting.

Motion: Rick Johnson

Second: Richard Cosgrove

Approved: 7-0

Time Adjourned: 7:10 PM


Chair, Cindy Fish


Clerk, Bob Remsburg