



Stanly County Board of Adjustment
June 14, 2022 - Meeting Minutes

Call to Order Chair Cindy Fish called the meeting to order on June 14, 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

Richard Cosgrove, Michael Fleming, Cindy Fish, Rick Johnson, Devron Furr and Michael Efird

Absent: Brenda Farmer and Billy Franklin Lee

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

Others Present: Rhonda Marrone, Denise Alexander, Howard Chandler, Martha Garber & Gary Garber

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

Motion: Richard Cosgrove

Second: Michael Efird

Passed: 6-0

Chair Fish asked for a motion to adopt the minutes from May 10, 2022.

Motion: Michael Fleming

Second: Devron Furr

Passed: 6-0

Chair Fish announced there would only be one case.

Chair Fish introduced ZV 22-02- a request by Rhonda Marrone to have a reduced side setback of 5 feet from the west side property line and 20 feet from the front property line for a new single family home.

Those who signed in on the sign up sheet to speak came forward to recite the swearing in ceremony.

Chair Fish stated "The Stanly County Board of Adjustment is a quasi-judicial board. Therefore, the North Carolina State Statute, 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 statement will not not be treated as evidence on which to base a decision but merely as arguments".



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

No Board members had a conflict.

Chair Fish stated "Any Board members who have any information or special knowledge about the case that may come out at the hearing tonight, please describe that information for the record so that interested persons will know and can respond".

Chair Fish explained the proceedings.

Chair Fish stated "Parties may cross examine each witness 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."

Chair Fish asked Planning Staff to share the details of ZV 22-02.

Mr. Remsburg shared the following:

Some of the information you received said east side setbacks and part of that was because we used a map that Environmental Health had used and their map was upside down. Rhonda Marrone's request is for a potential new single family home at 46383 Beach Road, New London to have a reduced side setback of 6 feet from the west side property line and 20 feet from the front property line due to the location of the septic system and the location of the neighbor's well. This lot is approximately 5,000 square feet in size and previously contained a garage which has since been removed and did not meet the required front or side setbacks and is zoned R20, which is like all other lakefront lots. The normal required setbacks would be 30' from the front, 12' from the sides, and 10' from the rear. The home to be built is 24' wide on a 50' wide lot. This would require the west side setback to be reduced to 5'. The designated location of the septic system as established by the Environmental Health Department on the rear of the property (lake side) would move the home closer to the front property line, making the front setback 20 feet instead of the required 30 feet.

NC Dept. of Environmental Quality rules as enforced by the Stanly County Environmental Health Department requires that any structure be at least 25 feet from an existing well and the zoning ordinance requires a primary structure to be 12 feet from the side property line. The property located to the east side has an existing well that is approximately 5 feet from the property line. The adjoiner has not indicated to the Environmental Health Department that they are willing to abandon the well or grant a variance to the required well setback requirement. Adjoining homes have approximately 14 foot side setbacks, according to GIS. Many homes are close to the side setbacks due to the size of the lots when created.

Mr. Remsburg went through slideshow images of the lot and proposed home site.

Keep in mind you have the four standards that need to be met.

Standard #1 - the unnecessary hardship results from the strict application of the ordinance;
Standard #2 - the unnecessary hardship results from conditions that are peculiar to the applicant's property;
Standard #3 - the unnecessary hardship is not a self-created hardship;
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.

Mr. Remsburg showed an image of the most recent survey.

Richard Cosgrove stated "It looks to me like the home is on top of the septic field."

Mr. Remsburg stated "I think there is enough space there that the environmental health department determined the best area. I think they realized there was no way to put a home on this parcel and avoid all of the good dirt area. That whole area was approved for septic but it does not necessarily take that whole area for the septic system."

Ms. Marrone shared "The septic area had a pre-existing tank and the field has terracotta already in place and so when the county came and looked at it they said I need a new septic tank in that location so it could hook up to the existing lines. It is going to be a new tank and the connections to the existing pipes that are already there will need to be completed. Which is why we are reduced in where we have to go.

Richard Cosgrove stated "I understand, I am just wondering how you can cover up part of your septic field with your house, but apparently there will not be any septic under that small corner of the house."

Mr. Remsburg stated "Correct, I believe there is a small distance you have to have between a structure and line work."

Michael Fleming asked "In section 704 in the third paragraph it allows accessory buildings and I realize that this is principal but it does allow the accessory building to be within 20 feet of the front property line provided certain things are maintained like a visual clearance. When you have seen the site can you say that if we allow the home to be 20 feet from the front line, will visual clearance be allowed?"

Mr. Remsburg stated "The house to the right is roughly 13 feet from the front. The house to the left is quite far back. I don't know where the systems are on the adjoining lots. The homes in this area are most times close to the road and side property line."

Richard Cosgrove asked "Is it normal to see two variances on one lot?"

Mr. Remsburg stated "I have seen this done a good bit especially on the lake. A lot of the time it has to do with where the septic has to go."

Devron Furr asked "How did the garage end up on this lot by itself before?"

Mr. Remsburg stated "We are not sure and some of the neighbors may be able to answer that. The county does not allow lots to have an accessory structure on the property alone unless it is 3 acres."

The neighbors shared that the 2 lots were owned by the same family and at one time there was a mobile home on the property that has since been taken away.

Chair Fish invited Rhonda Marrone to speak in favor of her request.

Rhonda Marrone shared that it was difficult to try and fit the home to meet the restrictions. To maintain the distance from the well and from the rear she worked with the surveyor and the builder to make sure it would be able to fit. It has been upsetting to the neighbors because of all the different things that happened. Before the

surveyor came out, a surveyor from the seller did one and there were some issues with it. Some issues with the neighbors had to do with what they were told from the seller's surveyor. It is a concern when dealing with people's property and that is understood.

Chair Fish asked if there were any questions
There were none

Chair Fish invited those opposing the request to come up.

Denise Alexander shared that she neighbored this property and most of her questions had been answered. She was under the assumption most of the other homes in the neighborhood met the setbacks, that was a concern based on the rest of the neighborhood. There are other lots in the neighborhood that we would be concerned that they would want the same treatment. She shared that she was confused how it can be only 5 feet on one side and 20 feet on the other side and not more centered on the lot. She shared concerns about the setback of 5 feet beside her property because of the overhang. She shared she wants her to be able to build there but did not understand why it was all one one side.

Michael Efird shared that there has to be a 25 foot offset from a well to a structure. Mr. Earnhardt owns the closest well and it would not meet that 25 feet.

Michael Fleming shared that the variance with Environmental Health is much different than the variance with zoning. Environmental Health issues variances concerning setbacks from wells and septic systems which deal with public safety issues. The zoning the board can change is more about the use of land and how the land is used. He shared it can be understood why Environmental Health would not want to grant a variance.

Mr. Remsburg shared that it is two separate questions. A variance can be granted with Environmental Health but that is not under the purview of the Zoning Department or the Board of Adjustment. Unless something changes it is the understanding that isn't an option at this point. They may be willing to consider that but it has not been approved so that is currently not an option. The county policy is to measure from the closest point of the structure. Many of the homes are very close to the 12 foot setback and many are closer.

Howard Chandler shared there are three stakes driven on his property line and it is difficult to find out which one is accurate. There have been two different surveyors there and they are not sure which one is right. Mr. Chandler stated that his well is right next to the property line.

Mr. Resmburg shared that staff relies a lot on the surveyors. Mr. Drake, who did the last survey, does a lot of surveying in the county. He will rely on coordinates, previous deeds, may check adjoining deeds just to make sure it all matches up. It can come close to a couple of inches but when you get a small lot every inch counts and it is hard. It would not be surprising if you heard a surveyor say that they were close but were unsure.

Ms. Marrone shared that the surveyor came out to double check everything. There are two stakes because the property is not straight across, it is angled. The surveyor talked to Denise and Mrs. Marrone to explain how this had to be done. The land was initially one plot but was then subdivided out and became these smaller lots.

Chair Fish asked how far Mr. Chandler's home was from Mrs. Marrone's property.
Mr. Chandler stated maybe 10 foot or more. He was not sure because of the several stakes.

Mr. Chandler discussed his concern with the unclear property line issue.

Rick Johnson shared he was experienced in the mapping industry and that since he was there new technology has come along. Some areas of concern were always on the water.

Michael Efird asked how close Mr. Chandler's home was to the front property line.

Mr. Chandler shared 15 or 16 feet.

Martha Garber shared that based on the survey it has to be 20 feet from the line on the west side because of the Environmental Department. She shared she did not understand why that was because it had nothing to do with that side of the home. She stated it did not make sense to have 5 feet on one side and 20 feet on the other side.

Mr. Remsburg shared the rule statewide for a well is that it has to be 25 feet from the structure. My understanding is that it is not an option in this case. If the Chandlers would grant that variance through Environmental Health then the home could be shifted. The concern would be contamination of the well.

Michael Fleming shared that he also had an issue with this whenever he added to his home on Lake Tillery.

Gary Garber shared that there has already been a structure built which was the old building. There is going to be a concrete slab still there. He shared he would say that from the environmental standpoint that if there was already a structure there could it not be shifted to that existing slab.

Ms. Marrone shared she was required to take the building down. She shared that she has to cut the slab to just 20 feet up to her house. She shared her home would not be built on the slab because it was required to be taken out.

Mr. Remsburg shared that an at grade slab does not apply to zoning. Regulations allow easements and driveways up to the property lines.

Mr. Garber asked if the well was being used actively.

Mr. Earnhardt shared that it was not being used actively but he may use it in the future.

Mrs. Alexander shared that it was not that they did not want her home there they just wanted it in the boundaries.

Chair Fish stated if there were no further comments from the public she would close the public hearing and the Board would begin reviewing the four standards.

Standard #1 - That the project will not materially endanger public health or safety; if located where proposed, and if developed and operated according to the plan submitted;

Motion: Michael Fleming made a motion to approve

Second: Michael Efird

Passed: 6-0

Standard #2 – That the project will not substantially injure the value of adjoining property.

Motion: Devron Furr made a motion to approve

Second: Michael Fleming

Passed: 6-0

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

Motion: Rick Johnson made a motion to approve

Second: Michael Efird

Passed: 6-0

Standard #4 – That the project meets all other required conditions and specifications.

Motion: Michael Fleming made a motion to approve

Second: Devron Furr

Passed: 6-0

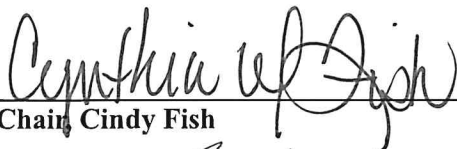
Chair Fish asked for a motion to approve or deny the zoning variances

Motion: Rick Johnson
Second: Michael Efird
Approved: 6-0

Chair Fish stated that those affected had thirty days to appeal the decision to the Stanly County Superior Court.

Chair Fish asked for a motion to adjourn

Motion: Michael Efird
Second: Richard Cosgrove
Passed: 6-0



Chair, Cindy Fish



Clerk, Bob Remsburg