



Stanly County Board of Adjustment
October 24, 2022 - Meeting Minutes

Chair Fish announced that there will be an installation of a new member, Judy Nelms. Judy was appointed by the Board of County Commissioners earlier in the summer and this is the first meeting since her appointment. She will serve as an alternate member.

Bob Remsburg conducted the swearing in ceremony for Mrs. Nelms. Mrs. Nelms was officially sworn in and will now serve as an alternate member for the Stanly County Board of Adjustment.

Call to Order Chair Cindy Fish called the meeting to order on October 24, 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 Billy Franklin Lee and Judy Nelms

Absent: Brenda Farmer and Michael Efird

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

Others Present: refer to sign in sheet - (Board of Adjustment meeting minutes binder)

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

Motion: Devron Furr

Second: Richard Cosgrove

Passed: 7-0

Chair Fish asked for a motion to adopt the minutes from July 13, 2022.

Motion: Richard Cosgrove

Second: Michael Fleming

Passed: 7-0

Chair Fish announced there would only be one case.

Chair Fish introduced the case ZV 22-03 a request by Robert Brannan to have a reduced setback of 20 feet from Paradise Lane and 0 feet from the rear 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 "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 "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 "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 "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 ZZV 22-03.

Bob Remsburg, Planning Director shared the following:

Robert Branna has requested a variance to allow for the construction of a new single family home to be within 20 feet from the front property line and 0 feet from the rear property line. This would reduce the required 30 foot setback from the front property line which is road side and the required 10 foot setback from the rear property line which is lakeside. The property is located at 47333 C Paradise Lane, Norwood. It is zoned R,20 residential. You have a map that was provided which should help you see exactly what he is dealing with. The property is sort of an L-Shaped piece bending around the cove of the lake. He does own the property that is labeled as number one to the south but the property to the north is the one in question and they are actually two separate lots in the subdivision when it was created. Due to the shape of the lot, location of the septic system and the structure that they are planning to put there it really does not fit too well. This has passed its environmental health and it is not in the flood zone .

Mr. Remsburg displayed the proposed structure.

Chair Fish asked if there were any questions from the parties present.

There were none.

Chair Fish invited the applicants and parties of this request. She invited attorneys to go first, if present.

Representing Mr. Brannan, Michael Sandy presented the following:

Mr. Brannan does reside part time on Lake Tillery. I did some research on this project and there was already a 20 foot variance on lot 12 which he currently already owns. These lots were created in the early 60s and they went by the subdivision and zoning regulations at that time. So, when he purchased these lots they were pre-existing. He is planning to build a home and the home will not take away from the value of the area, it is probably going to be a 450 - 600,000 dollar taxable home. The hardships were created on this lot from the original plat. The lots were not very deep on the lake side. The rules and regulations were a lot different at the time and these homes were built during the sixties and seventies and they were smaller fishing cabins and block homes. It is not something he bought knowing those conditions were in place with that lot. The applicant wants to get the proper approvals. Septic approval on lot 14 has been approved by environmental health. Being that lot 12 already has a 20 foot road side setback and 0 on the lake, it is consistent with the spirit and intent of the ordinance. None of the neighbors are here and none have called planning staff and they have all been notified.

Mr. Sandy showed the proposed septic area and site plan.

Mr. Sandy asked if there were any questions.

Richard Cosgrove "What would happen to the house on lot 12?"

Mr. Sandy "It will remain, nothing will change on it."

Rick Johnson "So, the house on lot 12 appears to be almost on the property line?"

Mr. Sandy "On the survey it appears to be 10-12 feet off of the property line. It received a 7 ½ foot variance."

Michael Fleming "Will this be a one or two story home?"

Mr. Brannan "Two stories and I would like to point out that the gravel drive you see that really is a private drive and it is 10 feet. There are only two other homes on that drive that serve that drive."

Michael Fleming "Will the porch have a roof over it?"

Mr. Branna "Yes"

Michael Fleming "Have you decided on the material for the porch?"

Mr. Brannan "No, we have not decided on that at this point."

Michael Fleming "The reason I am concerned about the back lot line is because I would like to know if Duke Energy is okay with this. They govern a lot of what happens when you get to that rear lot line."

Michael Sandy "Duke Energy only deals with what is on their side of the line. Unless you are infringing on them they don't care about materials, they only look at the structure."

Bob Remsburg “In general in zoning we cannot look at materials. State statute is pretty clear on that unless we do a developer's agreement or conditional zoning which this board does not get involved with, we cannot regulate that.”

Chair Fish “What is the traffic level on this road?”

Michael Sandy “This is a dead end road. OParadise Lane probably sees 200 cars per day but this side road probably has only 20 cars a day.”

Michael Fleming “Have you looked at alternate ways to face the home? If you rotate the bottom half of the home towards the West I think it would free up alot of that rear lot line.”

Michael Sandy “Yes you are correct but as of now the view to the lake is what is being inhibited on lot 12. So for them to be able to enjoy the lake view, this would be their only option. The topography also is another issue. It becomes steep and would not be conducive. There is a drainage culvert that comes from Paradise Lane so it carries water from the upper road down. So, it is hard to get too much movement of the home.”

Chair Fish invited any opposing the request to speak.
There were none.

Chair Fish shared that after the evidentiary hearing is declared closed no further evidence can be brought forth.

Chair Fish closed the hearing.

Chair Fish “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**

Motion: Richard Cosgrove Second: Devron Furr

Vote: 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?

Make a ruling on Finding #2 – The Board finds this fact **TRUE**

Motion: Richard Cosgrove Second: Billy Franklin Lee

Vote: 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**

Motion:Rick Johnson Second:Devron Furr
Vote:6-1

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**

Motion:Devron Furr Second:Billy Franklin Lee
Vote:7-0

Do I have a motion to approve the Zoning Variance? Second?

Motion: Rick Johnson Second:Devron Furr
Vote:7-0

The motion to approve has been approved.

Chair Fish “Those with standing in the matter have thirty days to appeal this to the Stanly County Superior Court.”

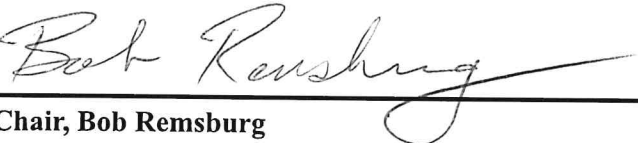
Chair Fish “ If there is no further business for the Board, I will entertain a motion to adjourn this meeting.”

Motion by:Rick Johnson Second by:Devron Furr
Vote:7-0

Time Adjourned :6:59 P.M.



Chair, Cindy Fish



Chair, Bob Remsburg