



Stanly County Board of Adjustment
June 13, 2023 - Meeting Minutes

Call to Order Chair Cindy Fish called the meeting to order on June 13, 2023 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 & Michael Efird

Absent: Billy Franklin Lee, Judy Nelms & Brenda Farmer

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 minutes from April 11, 2023.

Motion: Richard Cosgrove

Second: Brenda Farmer

Passed: 7-0

Chair Fish announced there would be three cases.

Chair Fish introduced the cases which consist of one Special Use Permit for a recreational facility on Saint Martin Road and two variance cases both of which are on Woodland Drive, Norwood. The evidentiary hearing on these matters are quasi-judicial in nature and will be conducted in accordance with special due process safeguards.

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 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".

There were no conflicts.

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".

No board member had knowledge.

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 the first case, SUP 23-03.

Bailey Emrich shared the following:

Tony Ledbetter with TRL Family Properties, LLC requests approval for a Special Use Permit for a 33.04 acre parcel located at 24076 Saint Martin Road, Albemarle, NC 28001. This would allow up to 20 park model homes and other recreational spaces such as a splash pad, pickleball courts, gaga ball court, volleyball court, commercial playground and indoor and outdoor stages to be constructed in relation to an event center (Tax Record #3102).

Tony Ledbetter has requested a Special Use Permit for a 33.04 acre parcel that is owned by TRL Family Properties, LLC in order to operate an event space with park models and recreational activities. The request indicates that there will be up to 20 park model homes which will allow a two week maximum stay. There is an existing mobile home, pavilion area and bath house on the property. The owner has indicated that the home may be replaced, the existing pavilion will be enclosed for indoor recreational activities and the bathhouse will be torn down or renovated for future use. This property had served as a campground many years ago (prior to zoning being implemented in Stanly County).

The property is zoned County, RA (Residential Agricultural) which requires a Special Use Permit per section 601.2 for recreational and entertainment activities. The space that TRL Family Properties plans to construct will hold events such as weddings, receptions, meetings, retreats, reunions, etc. Per state statute 160D-903 “A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals and other events that are taking place on the farm because of its farm or rural setting”. Since this property is designated as a bona fide farm, the event space is exempt from the Special Use Permit request and allowed by right per state statute. The recreational uses and proposed on-site housing to be used in conjunction with the event space require the Special Use Permit.

There is an area of flood zone on the property which is not allowed to be built upon but can be utilized for driveway access. Due to the environmental health assessment not being fully completed, it is unsure of where all of the recreational activities and parking will be located. The application indicated that the recreational activities will take place either to the left or right of the event space area. In your packets you have a list of proposed conditions as well as a site plan which includes the location of park models and new event space area.

There are four findings of fact that have to be met for a Special Use Permit request:

1. That the project will not materially endanger public health and safety.
2. That the project will not substantially injure the value of adjoining property.
3. That the project will be in harmony with or compatible with its neighbors and generally consistent with the comprehensive plan.
4. That the project will meet all required conditions and specifications.

The Board of Adjustment has the authority to amend, add or remove any of the proposed conditions. The property owners will have to obtain all necessary permits in order to construct or renovate all new structures on the property.

Ms. Emrich displayed images of the property which displayed the proposed areas for amenities.

Chair Fish asked if there were any questions regarding the staff report.
There were none.

Chair Fish stated since there were no objections that the staff report and related documents would be submitted into evidence.

Chair Fish invited the applicant to speak or if there was an attorney present for them to speak first.

Tony Ledbetter shared the following:

We are applying for the Special Use Permit primarily because we have already collected funds in memory of my deceased wife who the property is named after to do a commercial type playground for kids. That was the primary reason but as I met with Planning and Zoning they said to include anything we may do in the future with the property. Our first objective is playground equipment. The second project will probably involve just the venue structure which is about 6000 square feet and seat about 200. When you do the venue structure, after talking to the soil and forestry services who did all of the suitability test for the soil, we would probably go ahead and make the septic large enough to support the park model homes. Chances are the park model homes will not happen at the same time as the venue. When they do happen it probably will be five at a time, not all at once. The other thing I wanted to mention was that our real purpose in applying was that we wanted to return the property to its former use when my deceased wife's grandparents operated a campground facility there. The main thing is being able to see individuals go enjoy a play they can stay and involve themselves in recreational practices. Our heart is to see this property throughout the years maintain that form that it once had. Rather than see the land sold off to another investor. That is where our heart is and we really don't plan on doing it all over night.

A question we have received is how we will make sure that the guests don't go over into other people's property because there are ponds around. The answer is that we will probably fence in the entire property as well as having an automated gate at Saint Martin Road so we will give people access whenever they have rented it out.

Chair Fish asked if the board had any questions.

Rick Johnson "Bailey mentioned that you owned some of the adjoining property, can you point it out?"

Mr. Ledbetter showed the other properties that he owns. He indicated that the current plans are just for one parcel.

Michael Efird "Does this go all the way to Long Creek?"

Mr. Ledbetter "Yes, it does."

Chair Fish asked if there were any present to speak in opposition to the request.

Bernita Efird shared the following:

I am one of the owners of Efird Farm and rifle range. I have property adjoining this property. The rifle range was established in 1970. We serve not only Stanly but the surrounding counties as well. We also have members from the law enforcement agencies that use the range for practicing their firearms before they do their qualifications. I also have a contract with security forces to do their qualifying as well. The day that they are qualifying there is constant firing. When the people leave the range a lot of them visit the local restaurants before they head home. I think we provide a very important service because the safer they are in their gun handling the safer we are. My main concern is the people coming into the property we are talking about. The people that will be coming in for recreational events and staying in the onsite housing because I am afraid some of them may complain about the firing and the gun use and I think that they just need to be made aware ahead of time and some agreement is in place. So the county is not getting complaints about it. We have always been good neighbors and I just want it to continue.

Michael Fleming "Does your property touch this one?"

Ms. Efird "Yes, it does."

Devron Furr shared that he had been to the range and it was a very good place and extremely safe.

Mr. Remsburg "Mr. Ledbetter could add to the conditions that all visitors must be made aware of the gun range. The board could recommend that addition to the list."

Mr. Ledbetter "We have never had a problem, is there any way that we could work together where if I have a potential wedding or event going on, could I contact you to say if the date is going to be a good date?"

Ms. Efird "The problem is our members know the hours are 8:30 to sunset except for Sundays. So there would be no way for me to know if they are coming because they just know we are open."

Mr. Ledbetter "We will just make sure that people know that and understand that could be going on. I am not planning on this anytime soon but if I had some sort of christian music concert and it goes until 9 or 10 at night, would that bother you?"

Ms. Efird "It would not bother me, I would sit and enjoy it. But I am concerned about the people who hear gunfire of any kind."

Mr. Ledbetter "I am totally fine with you all putting something in the conditions that we notify the guests and also post signs that say they may hear firearms."

Michelle Baucom shared the following:

I am not necessarily in opposition but do want to speak. I own the property adjacent to the right. My mother and her husband own the parcel next to this. All of this property is part of a larger parcel that was owned by my great grandparents who did operate it as a campground. Our concerns would be mainly the boundary lines to be clearly marked for those visiting. When the property was subdivided the boundary was not clearly established. We are worried about our liability for injury or death. We can certainly put up signs but wondered what would need to be done to clearly establish those property lines. For example, there have been trespassers that have climbed in our deer stands on our property and posted photos of it on social media. There have also been children under 18 taking our boat out without permission. We want to know how this could be prevented and also the location of the park models to the property lines. The conditions state they will be at least 50 feet from the property line and that is not much space at all. We have had an accidental drowning in our family when I was a teenager and I was the responsible supervisor so we know things can happen with very little warning. The second concern is that while studies have been done on the septic systems, has it been done for the whole property. The property that I am on is spring fed so we have concerns about whether this was considered and what the dangers could be to impact our pond. The areas that are marked in blue and red in the soil evaluation are quite elevated in relation to the remainder of the property. I wanted to address the infrastructure requirements such as setbacks for access roads and the water source if that will be well or county water and the required septic systems. Much of what is there now is in a designated floodplain. Those would be the scope of our concerns related to the development.

Mr. Cosgrove "Mr. Remsburg, perhaps you can tell how far back the park models will be? Is there a required setback?"

Mr. Remsburg "There is but in that zoning district it is actually only 15 feet. So, what is proposed is 50 feet. It is considerably more but of course the board could come together with Mr. Ledbetter to make it more."

Richard Cosgrove "As it stands, those park model homes will be 50 feet from the property line?"

Mr. Remsburg "Yes, at a minimum."

Richard Cosgrove "Mr. Ledbetter, you said that you are proposing to build a fence around the property. Would that be a priority on either side of the park model homes?"

Mr. Ledbetter "The intention there is that we will probably fence in the entire campground property on both sides, the back and across Saint Martin with an automated gate. There should not be an opportunity to cross a property line or climb a 6 foot metal fence. It will be a fence that will take quite a bit of work. We will probably do that as soon as we start the playground. It will be done before the park model homes."

Michael Efird "What is going to be your water source?"

Mr. Ledbetter "There used to be a bridge at the entrance but the state came in and put a big culvert in and when they did that as part of the agreement with Myra's family, the county allowed us to be a large tap in with the intentions of doing something like we are now. There is a well there now but before anything the intention is to go to county water because the well has a lot of iron in it anyways. What I have conveyed carefully to SFS in Concord doing the survey work is that we want to lay the septic in a way that it will support everything even if the only thing we ever did was the venue. I am certain they will ensure that it will not affect local groundwater or anything.

Michael Fleming "I know the studies that will be done on the property will become immensely intimate with what is required. The lady that just spoke brought up a good point that the surrounding properties may not be kept up with or not given information. They may not even know the procedure. Is it possible for the Planning Department to meet with them to at least explain the procedure that the applicant will have to go through?"

Mr. Remsburg "All the structural work will need to get building permits which generally include zoning permits. Do keep in mind as Bailey said earlier that the event venue space is not part of the Special Use Permit because it is in the bonafide farm program. For the general issuance for the zoning compliance permit we do not really have a mechanism in place to notify neighbors. I am not sure how that would even happen. If there was an amendment that was ever done to this permit that it would come back to you. We did tell Mr. Ledbetter to think about the future and ask for those things. We can always step back and ask for something later. The proposal is a little choppy but there are steps to what he has envisioned. We really don't have a mechanism in place for that. We are open for anyone to call us and want to know what is happening because if permits have been pulled we will be able to tell them.

Richard Cosgrove "I would like to know what direction the bullets are flying from the gun range."

Mr. Remsburg showed her the parcel. **Michael Efird** expressed he had been there and explained the way the bullets are shot.

Chair Fish asked if there were any further questions.

Mr. Ledbetter "If someone in my family decides to replace the mobile home on the property with a permanent residence, do they have to get any kind of zoning change for that?"

Mr. Remsburg "Just building permits are needed."

Chair Fish asked if there were any further questions.

There were none.

Devron Furr "Could we add a condition pertaining to the fence?"

Mr. Remsburg "The board could certainly suggest that added condition with the agreement of the property owner."

Ms. Baucom "We are not asking for a fence all the way around but just something to protect them from liability and where there is a body of water."

Michael Efird "I think there should be a fence around the whole thing because if they get in the creek they end up right behind the rifle range."

Mr. Ledbetter explained where he was proposing to put up the fence.

Mr. Remsburg "This either needs to be a condition or if there is some sort of understanding and trust on the families part. The only way to put it in binding is to put it into the conditions. You can word that any way you want as far as what property lines that it should go on or if it should go around the whole thing."

Rick Johnson "It makes good common sense to do it along the right hand side and use the existing vegetation as a natural boundary."

Mr. Ledbetter "Perhaps we also need to put signage on that fence every so often so they know that if they cross the fence then they are on private property."

Chair Fish "If you are going to do signage on the fence then you could also do it along the creek."

Chair Fish "How tall are you thinking for the fence?"

Mr. Ledbetter "We are thinking of four feet but it can always be taller if needed."

Ms. Baucom "I would say six feet would be good, something that is not easy to scale."

Mr. Remsburg "In the idea of keeping this simple, I would suggest you include language that fencing and signage shall be added that discourage access to private property to the satisfaction of the adjoining property owners. We could add that as a condition because I don't see an easy solution since it is 33 acres with creeks,"

Rick Johnson "With that language, I think that they could agree."

Chair Fish stated the hearing was closed and that the additional condition would be added.

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 to find this true: Richard Cosgrove

Second: Devron Furr

Approved: 6-0

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

Motion to find this true: Richard Cosgrove

Second: Rick Johnson

Approved: 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 to find this true: Michael Efird

Second: Michael Fleming

Approved: 6-0

Standard #4 – That the project meets all other required conditions and specifications for the operation of recreational and entertainment activities in the RA Zoning District.

Motion to find this true: Devron Furr

Second: Rick Johnson

Approved: 6-0

Chair Fish asked for a motion to approve this request.

Motion: Richard Cosgrove

Second: Michael Efird

Approved: 6-0

Chair Fish "The motion to approve has been approved".

Chair Fish "Those affected by this decision will have 30 days to appeal this ruling to the Stanly County Superior Court."

Chair Fish introduced the second item, ZV 23-01.

Bailey Emrich shared the following:

Chris Lambert requests a variance for a single family home to be built within 5 feet of the side yard property line on a parcel located at Woodland Drive, Norwood, NC 28182 (Tax Record #36526). Chris Lambert owns a parcel of land containing 0.53 acres and is 22,634 square feet on Woodland Drive. Mr. Lambert is requesting a 7 foot variance in order to build a single family dwelling within 5 feet of the east side property line. The property is zoned County, R20 (Residential) and is a lake front lot. Mr. Lambert has indicated the reasoning for this request is there is a 25 foot utility easement that runs through the center of his property.

He has to build outside of that easement per the utility company. Therefore, it reduces the area on his property that he is able to utilize. The home will have to be placed to the right or left of the easement. The R20 zoning district requires a 12 foot side property line setback. The property has not received a site evaluation from Environmental Health.

The four standards that must be met for approval are:

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.

If these standards are found to be true, then it would be appropriate to approve the request. All neighbors within 100 feet of the property were notified by mail and a sign was posted on the property.

Chair Fish asked if there were any questions.

Michael Fleming “When I looked up the definition of setback, it included anything that was 30 inches above ground. Which includes a gutter. Nothing attached to the building can penetrate the setback, have the applicants been made aware?”

Ms. Emrich “With zoning, we tell them that it is the closest point of the home to the property line.”

Chair Fish invited the applicant to speak or if there was an attorney present for them to speak first.

Michael Sandy shared the following:

I am representing Mr. Lambert and Mr. Long tonight. Mr. Lambert would like to ask for a 5 foot variance. This property was subdivided in 2004 and progress energy created the properties and the homes were already on the lots. The easement supplies water to the lake from the Piney Point water system. Mr. Lambert is going to have to ask one way or the other for a variance because no matter how he would place the home he has to be so far away from that utility easement. He is looking to place a 2500-2800 square foot house on the lake. He would like to be as close as he can to the left side property line. We felt like it would benefit the public in order to place the home there because if he built on the right side of the lot then he would be back in the cove which is more of a sensitive area for the environment. Duke energy has already given preliminary approval for this. He has spoken to all the neighbors and no one had a concern. Mr. Lambert currently lives across the street so his own home would be the only one with an obstructed view.

Chair Fish asked if there were any questions.

Richard Cosgrove “I could assume that you have talked to the Longs about all of this?”

Mr. Lambert “The Longs and I are friends. His house is on a small lot and he is going to add onto my side. We are both fine with the reduced setback.”

Michael Fleming “5 foot, is this a 2 story home? Are you going to be able to maintain the side of the home with a ladder?”

Mr. Lambert “It won't be a real 2 story home, it will just have a roof area on the left side. But, yes I will be able to maintain it.”

Michael Fleming “One of the things the zoning code does is separate homes so we do not have a jumping fire. 10 feet is all there would be between the two of you. Building code requires fire resistant construction if you are closer than 10 feet. Are you okay with that?”

Mr. Lambert “I am a contractor and I am aware so I do not have a problem at all and neither does Mr. Long.”

Chair Fish asked if there was anyone present to speak in opposition.
There were none.

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?

The Board finds this standard True

Motion to find this true: Rick Johnson

Second: Richard Cosgrove

Vote:6-0

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?

The Board finds this standard true.

Motion to find true:Michael Fleming

Second:Michael Efird

Vote:6-0

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 to find true: Rick Johnson

Second: Michael Efird

Vote:6-0

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.

Make a ruling on Finding #4 – **The Board finds this standard true.**

Motion to find true: Michael Fleming

Second: Devron Furr

Vote: 6-0

Chair Fish asked for a motion to approve the variance.

Motion: Devron Furr

Second: Richard Cosgrove

Vote: 6-0

Chair Fish “The motion to approve has been approved”.

Chair Fish “Those affected by this decision will have 30 days to appeal this ruling to the Stanly County Superior Court.”

Chair Fish introduced the second item, ZV 23-02.

Bailey Emrich shared the following:

Michael and Vicky Long request a variance for an addition to their single family home to be built within 5 feet of the side yard property line on a parcel located at 49190 Woodland Drive, Norwood, NC 28182 (Tax Record #36525).

Mr. & Mrs. Long own a parcel of land containing 0.35 acres on Woodland Drive. The Longs are requesting a 7 foot variance in order to put an addition onto the side of the home and be within 5 feet of the southwest side property

line. The property is zoned County, R20 (Residential) and is a lake front lot. The Longs have indicated the reasoning for this request is the location of the septic system and existing tree line vegetation.

The septic system is placed next to the home on the east side of the property and the septic lines run behind the home (lakeside). Environmental Health does require a 10 foot minimum setback between a septic system and a dwelling. There is also an existing tree line that is approximately 35 feet wide. Therefore, there is little area left to be built upon on the east side and rear of the property. The R20 zoning district requires a 12 foot side property line setback.

The four standards that must be met for approval are:

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.

If these standards are found to be true, then it would be appropriate to approve the request. All neighbors within 100 feet of the property were notified by mail and a sign was posted on the property.

Chair Fish asked if there were any questions.
There were none.

Chair Fish asked those in favor of the request to come up.

Michael Sandy shared the following:

There was a lot line adjustment done in 2002 and Mr. Lambert gave the Longs some land to fix the property line. The Longs would like to add on to the home but as stated, the septic is the main issue. The home has been there for many years and the new addition will not be large. The current tax value of the property is 300,000 but with the addition hopefully will increase the property value and be able to update the home. There is public water out in the area. They are not blocking anyone's view.

Chair Fish asked if there were any questions.
There were none.

Chair Fish asked if there was anyone present to speak in opposition.
There were none.

Chair Fish "If there are no objections or discussions I declare the evidentiary hearing closed."

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?

The Board finds this standard true

Motion to find true: Michael Fleming

Second: Richard Cosgrove

Vote:6-0

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?

The Board finds this standard true

Motion to find true: Michael Efird

Second: Rick Johnson

Vote: 6-0

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?

The Board finds this standard true

Motion to find true: Devron Furr

Second: Michael Efird

Vote: 6-0

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.

The Board finds this standard true

Motion to find true: Michael Fleming

Second: Richard Cosgrove

Vote: 6-0

Chair Fish asked for a motion to approve the variance.

Motion to approve: Rick Johnson

Second: Michael Efird

Vote: 6-0

Chair Fish “The motion to approve has been approved”.

Chair Fish “Those affected by this decision will have 30 days to appeal this ruling to the Stanly County Superior Court.”

Chair Fish “If there is no other business I will entertain a motion to adjourn.”

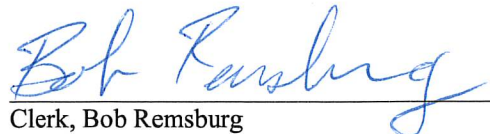
Motion: Richard Cosgrove

Second: Michael Efird

Vote: 6-0

Time adjourned: 8:08


Chair, Cindy Fish


Clerk, Bob Remsburg