



Stanly County Board of Adjustment  
April 11, 2023 - Meeting Minutes

**Call to Order** Chair Cindy Fish called the meeting to order on April 11, 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, Billy Franklin Lee, Judy Nelms, Brenda Farmer & Michael Efird

**Absent:** Rick Johnson & Devron Furr

**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:** Billy Franklin Lee

**Second:** Brenda Farmer

**Passed:** 7-0

**Chair Fish** asked for a motion to adopt the minutes from March 13, 2023.

**Motion:** Richard Cosgrove

**Second:** Brenda Farmer

**Passed:** 7-0

**Chair Fish** announced there would only be one case.

Chair Fish introduced the case SUP 23-03 a request by Andrew Foster in representation of Richard and Claudia Swanson, for a Special Use Permit in order to operate Lake Tillery Kayaking from the property located at 23302 Swift Island Road, Albemarle, NC 28001 (tax record #9178).

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”.

*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 SUP 23-02.*

**Bailey Emrich shared the following:**

Richard and Claudia Swanson have requested a Special Use Permit for their 2.8 acre parcel located at 23302 Swift Island Road, Albemarle, NC 28001. Andrew Foster will be representing the Swansons and he has indicated that no new structures will be built on the property in relation to the Lake Tillery Kayaking. Customers will only be allowed to put their kayaks into the lake at the dock which is owned by the Swansons. Customers are by reservation only and up to four cars are to be allowed in the driveway at one time. Mr. Foster will provide the safety regulations and life jackets for the customers.

Section 603.2 of the Stanly County Zoning Ordinance indicates that recreational uses are required to obtain a Special Use Permit. Outdoor Recreational Services is defined in the Stanly County Zoning Ordinance in section 13.3 as “establishments engaged in providing outdoor recreation services such as public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that which the recreational use is located”.

Ms. Emrich went over the list of proposed conditions on the property. She shared that the board has the authority to amend, remove or approve any of the listed conditions.

Ms. Emrich then proceeded to show maps of the property and list the four standards that must be met in order to obtain a Special Use Permit.

**Chair Fish** "Are there any questions from the Board or parties present regarding the staff report?"  
There were none.

**Chair Fish** "If there are no objections, the staff report and related documents are submitted into evidence for this case."

**Chair Fish** "We will now hear from the applicant and other proponents of this request. If there are attorneys present we ask that you go first."

**Andrew Foster shared the following:**

This business itinerary that we have is that locals and tourists will be able to come to our residential dock and rent up to four kayaks or one canoe and venture onto lake tillery. They will be able to make reservations in advance, sign a waiver and make a payment. After this is complete they will be able to come to our waterfront location at 23302 Swift Island Road and park their vehicles in our driveway at which point a representative of Lake Tillery Kayaking will go over safety information and any questions. No additional permanent structures will be added to the property in relation to Lake Tillery Kayaking. The waterfront dock will be used but will not be added onto. We want people to come and enjoy the area and lake tillery is such a view. The business will not be invasive and will not be a hindrance on the surrounding area. It is not going to be an eyesore. I believe it is respectful to the locals and neighbors as a whole.

**Chair Fish** "Are there any questions from the board, staff or parties present?"  
There were none.

**Mr. Swanson** "I am the property owner and we are fully in favor of what is going on here."

**Chair Fish** "Those are all the witnesses listed on the sign up sheet."

**Chair Fish** "Are there any further questions?"

**Chair Fish** "I declare the evidentiary hearing closed."

Chair Fish stated that they will now review the four standards required for approving the Special Use Permit.

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:** Michael Fleming

**Approved:** 7-0

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

**Motion to find this true:** Michael Efird

**Second:** Brenda Farmer

**Approved:** 7-0

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 Fleming

**Second:** Richard Cosgrove

**Approved:** 7-0

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:** Michael Fleming

**Second:** Billy Franklin Lee

**Approved:** 7-0

**Chair Fish asked for a motion to approve this request.**

**Motion:** Richard Cosgrove

**Second:** Michael Efird

**Approved:** 7-0

**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 asked if there was any further business.

There was none.

**Chair Fish asked for a motion to adjourn.**

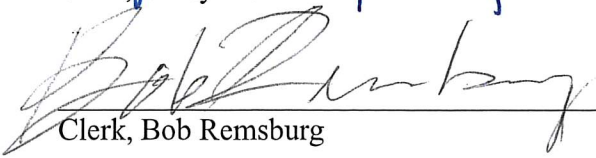
**Motion:** Michael Efird

**Second:** Richard Cosgrove

**Approved:** 7-0

Time of Adjournment: 6:48 PM

  
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Chair, Cindy Fish

  
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Clerk, Bob Remsburg