

BOARD OF ADJUSTMENT MINUTES
Special Called Meeting
Commons Meeting Room
February 25, 2014

Call to Order

Chairman Todd Swaringen called the Board meeting to order at 7:30 p.m. on Tuesday, February 25, 2014, in the Commons Meeting Room.

Roll Call

Board Members Presiding

Todd Swaringen
Richard Cosgrove
Dr. John Eckman
Benton Payne
Kevin Brickman
Houston B. Clark, II
Michael D. Eford

Absent

Alternate Attending

Jennifer H. Lisk

Staff Attending

Linda Evans, CZO, Planner II, Clerk to the Board
Tim Swaringen, Zoning Enforcement Officer
Michael Sandy, Planning Director

Chairman Swaringen asked if there were any corrections to the minutes of January 14, 2014. Hearing none, the Board proceeded as follows.

Motion: Richard Cosgrove made a Motion to approve the minutes of January 14, 2014, as written.

Second: Kevin Brickman seconded the motion.

Action: The Board voted unanimously to approve the minutes of January 14, 2014, as written.

Chairman Swaringen addressed the audience and stated that the Stanly County Board of Adjustment is a quasi-judicial Board and that the North Carolina State Supreme Court requires that the Board base its decisions only on testimony given under oath. He informed the audience that any person, who, while under oath during this proceeding, willfully swears falsely, is guilty of a Class 1 misdemeanor.

Chairman Swaringen called anyone who wished to speak on this case to come forward and be sworn in. Staff members Michael Sandy, Tim Swaringen, and Linda Evans were sworn in, along with applicants Jeffrey Crisco, Sandra Crisco, Thurmond West, Larry Barbee, and other members from the audience who wished to speak.

Chairman Swaringen asked the Clerk to present the first case, ZV 14-01.

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Linda Evans stated that Larry Barbee, on behalf of Cameron B. Barbee, requests a Variance to allow him to place an approximately 48' X 40' accessory structure (storage building) in his front yard. The property is approximately 9.53 acres and is zoned RA Residential Agricultural. An inspection of the property revealed that the location of the septic tank, the topography of the property, and the power line easement make it impractical to place an accessory structure in a location other than the site Mr. Barbee has proposed. Applicant's manufactured home is over 450 feet from Hazard Road and 135 feet from his rear property line. Applicant plans, in a few years, to build a site built home on the property that will be behind the manufactured home. At that time, the manufactured home will be removed from the property. The storage building will be constructed with brick underpinning, vinyl siding, shingled roof and will be aesthetically compatible with the proposed site built home when constructed at a later date.

Chairman Swaringen asked the applicant to come forward and state his case.

Larry Barbee stated his son owned the property. He stated that it had been difficult to find a place on the property where the soil would perk for a septic tank. He also stated that, due to the property line running at an angle and the power line easement, the location of a home site was limited, even though the property is approximately 10 acres in size. The property also has some wetland areas which are not suitable for building.

Benton Payne asked Mr. Barbee to come forward and point out on the map where the storage building will be placed in relation to the existing manufactured home on the property. Mr. Barbee came forward and several Board members looked on while he pointed out the location.

Hearing no further discussion, Chairman Swaringen asked Richard Cosgrove to read the findings of fact. Mr. Cosgrove read and the Board found as follows.

That unnecessary hardship would result from the strict application of the ordinance.

Motion: Dr. Eckman made a motion to find this fact true in that the applicant is required by the ordinance to place the storage building in an inconvenient location due to the topography of the land, the power line easement, and the location of the septic system.

Second: Houston B. Clark seconded the motion.

Action: The Board voted unanimously to approve the motion.

That the hardship results from conditions that are peculiar to the property, such as location, size, or topography and are not the result of applicant's own actions.

Motion: Richard Cosgrove made a motion to find this true due to the fact that applicant's property is peculiar because of the property line and the topography of the property. The location of the home causes a large portion of his property to be considered front yard. The power line easement is also a factor in placing the storage structure on the property. The structure will not cause a negative visual impact on the surrounding area.

Second: Dr. Eckman seconded the motion.

Action: The Board voted unanimously to approve the motion.

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That the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self created hardship.

Motion: Houston B. Clark made a motion to find this to be true in that the limited area for location of the septic system, the topography of the land, and the power line easement are factors that are not determined by the applicant and which the applicant has no control over.

Second: Kevin Brickman seconded the motion.

Action: The Board voted unanimously to approve the motion.

That 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.

Motion: Dr. Eckman made a motion to find this to be true in that the accessory structure will meet all setbacks and will be in compliance with all other regulations. The structure will not cause a negative visual impact on neighboring property.

Second: Michael Efird seconded the motion.

Action: The Board voted unanimously to approve the motion.

Chairman Swaringen asked for a motion to approve, deny, or modify ZV 14-01.

Motion: Houston B. Clark made a motion to approve ZV 14-01.

Second: Dr. Eckman seconded the motion.

Action: The Board unanimously voted to approve the motion.

Chairman Swaringen asked the Clerk to present the next case, SUP 14-02.

Linda Evans stated that under Section 415 of the zoning ordinance, applicant is requesting a Special Use Permit to operate a Rural Based Business, specifically a business to repair and sell recreational vehicles, on his property. In addition, applicant is requesting to have outside storage of recreational vehicles he is using for parts, various miscellaneous parts used in the repair process, recreational vehicles he is repairing for sale, and recreational vehicles ready for sale and removal by the purchaser. The property is zoned RA- Residential Agricultural.

If granted, the Special Use Permit will run with the property and each successive property owner will be allowed to operate the Rural Based Business provided the required regulations are met. At any time the regulations are not continually met the Board of Adjustment may revoke the Special Use Permit. In addition, applicant has been informed that he is required to meet certain state building and environmental health codes and he has agreed to comply with these if the Special Use Permit is granted.

Staff recommends that, if the Board grants a Special Use Permit for a Rural Based Business on subject property, the following conditions (and any other conditions the Board deems necessary) shall be imposed on said permit:

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1. That applicant is required to construct a building that is adequate to conduct all operations of repair and store all miscellaneous parts thereof inside an enclosed building.
2. That the Board set a time limit of one (1) year for construction of the building to be complete and specify in the Order that after that time, all repair work shall be done inside the building and all miscellaneous parts shall be stored inside the building.
3. That the Board limit the total number of outside storage of recreational vehicles used for parts and for sale combined to twenty (20) on the property at any given time.
4. That the Board waive the 500 foot requirement and allow buildings housing the Rural Based Business that are not less than 250 feet from residences not occupied by owner of subject property.

Chairman Swaringen called on the applicant to come forward and present his case to the Board.

Thurmond C. West came forward and stated that he is just trying to work in Stanly County and maintain his family. He stated he is not interested in running a business at his home and that he wants to keep his property neat and clean. He stated that most of his sales of recreational vehicles are conducted on the internet and he has only a few vehicles at any one time on his property. He stated that he deals mostly with scratch and dent units and he only does minor repairs and cleanup on these units. He stated he has no problem with the neighbors and they are all agreeable with him having the business and vehicles on his property.

Todd Swaringen asked Mr. West to describe how he operates his internet business. Mr. West stated that most of his sales are conducted by purchasing a vehicle online. That vehicle is then taken to a "trust yard" where it is held until it is resold and the buyer picks it up. Some units are scratched or dented or just need cleaning and those units are brought to his property where he does minor repairs and then he delivers them to the buyer. He stated he is appreciative of the zoning office letting him have twenty units on his property but he is not likely to ever have that many at any one time. He stated he may expand his space for storage of more vehicles if he is granted the special use permit but he understands he can only have twenty at one time.

Kevin Brickman inquired about the September 4, 2013, complaint regarding the open storage on his property and asked if that had been remedied. Mr. West stated that he no longer has open storage on the property.

Mr. West stated that he was confused about who had complained in the first place. He said he was told by the zoning office that a neighbor complained but when he asked all of his neighbors about it he found none them had filed a complaint. He stated that someone is lying.

Houston Clark asked staff what determines the size of the building that is required and who makes that decision. Linda Evans stated that the building must be large enough to keep all

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vehicles in excess of twenty and all parts used for repair, with no outside storage of parts. Tim Swaringen stated that the building had to have doors large enough to pass a recreational vehicle through and space inside the building to do repairs on the vehicle. Also, if Mr. West has more than twenty vehicles at one time, the number over twenty must be stored inside the building. Mr. Clark stated that the ordinance says the size limit of the building is 3000 square feet which is not an enormous building.

Kevin Brickman asked how long the shells of a recreational vehicle he is using for parts will stay on the property after he has removed all the usable parts. Mr. West stated the vehicle will be removed as soon as he has removed all the usable parts. He stated he does not want to keep units on his property that he has no use for.

David Gardin came forward and expressed support for Mr. West operating the recreational vehicle business on his property. He stated that Mr. West keeps the property clean and neat and he asked that the Board approve the Special Use Permit.

A sign for the business was discussed and it was determined that a sign is permissible under zoning regulations. Mr. West stated that the sign is small and is not visible from the road and is located by the door on one of the buildings he uses for an office.

Chairman Swaringen asked Richard Cosgrove to read the findings of facts. Mr. Cosgrove read and the Board found as follows.

That the use shall not adversely affect the health or safety of persons residing or working in the neighborhood.

Motion: Buddy Clark made a motion to find this fact true based on the evidence submitted.

Second: Richard Cosgrove seconded the motion and added that he believes Mr. West will maintain the property in good condition because he lives on the property.

Action: The Board unanimously voted to approve the motion.

The use shall not be detrimental to public welfare or be injurious to property or public improvements in the neighborhood.

Motion: Michael Efird made a motion to find this fact true.

Second: Dr. Eckman seconded the motion.

Action: The Board unanimously voted to approve the motion.

Chairman Swaringen asked for a motion to approve, deny, or modify SUP 14-02.

Motion: Houston B. Clark made a motion to approve SUP 14-02 with the four (4) conditions that were recommended by staff and set out in this Motion as follows:

1. That applicant is required to construct a building that is adequate to conduct all operations of repair and store all miscellaneous parts thereof inside an enclosed building.

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2. That the Board set a time limit of one (1) year for construction of the building to be complete and specify in the Order that after that time, all repair work shall be done inside the building and all miscellaneous parts shall be stored inside the building.
3. That the Board limit the total number of outside storage of recreational vehicles used for parts and for sale combined to twenty (20) on the property at any given time.
4. That the Board waive the 500 foot requirement and allow buildings housing the Rural Based Business that are not less than 250 feet from residences not occupied by owner of subject property.

Second: Benton Payne seconded the motion.

Action: The Board unanimously voted to approve the motion.

Chairman Swaringen informed Mr. West that his Special Use Permit had been granted. Mr. West stated that he wanted assurance that his permit would not be taken away; that he didn't want to spend several thousand dollars and then the county tell him he couldn't operate his business on the property.

Chairman Swaringen advised Mr. West that he will be allowed to continue his business on the property as long as he continually meets the four conditions recommended by staff and set out in the Order of the Board. Chairman Swaringen also stated that the Special Use Permit stays with the property even if it is no longer in his ownership, as long as the conditions are continually met. If those conditions are not continually met, then the permit can be revoked.

Mr. Cosgrove suggested to Mr. West that he keep a copy of those conditions posted on a wall in his office to remind him of the regulations he needs to follow.

Chairman Swaringen asked the Clerk to present the next case, SUP 14-03.

Linda Evans stated that applicant is requesting a Special Use Permit, under section 601.2, to operate an Entertainment Activity on the above-referenced property. Applicant intends to use the property for weddings, receptions, showers, family reunions, and corporate functions. She intends to construct a "barn" type facility for indoor activities. She has met with Environmental Health, Building & Inspections and Fire Marshall to obtain regulations the facility will be required to meet before operations begin. The property is zoned RA-Residential Agricultural.

Under Section 601.2 of the zoning ordinance, the Board of Adjustment has the power to grant a Special Use Permit to operate an Entertainment Activity. If granted, the Special Use Permit will run with the property and each successive property owner will be allowed to operate an Entertainment Activity on this property, provided the required regulations are met. At any time the regulations are not continually met the Board of Adjustment may revoke the Special Use Permit.

Staff asked that the Board consider imposing the following conditions if the SUP is granted:

- 1) That the number of guests at any one event is limited to a maximum of 300 guests.

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- 2) That the property meets the required number of bathrooms for a maximum of 300 guests, including handicapped accessible units.
- 3) That the property meets the requirements for adequate, specific parking areas for the guests.
- 4) That the property is adequately lighted, including the parking areas.
- 5) That parking areas be accessible for wheel chairs, walkers, and persons with disabilities.
- 6) That only weddings, receptions, parties, showers, family reunions, and corporate functions will be allowed and no fairs or carnivals will be permitted on the property.
- 7) That this Special Use Permit does not become effective until a Certificate of Occupancy has been issued.

Chairman Swaringen asked the applicant to come forward and state her case.

Sandra and Jeffrey Crisco came forward. Mr. Crisco stated that he realizes Stanly County has other venues for recreational and entertainment activities. He stated that most of the present venues provide for only outdoor functions and they want to have a facility that will allow both indoor and outdoor functions. He stated they are proposing to build a barn type facility that can be used open or closed and have heating and air conditioning when needed. Mrs. Crisco stated that they have talked with all the neighbors and they seem to be agreeable with this project.

Kevin Brickman asked if food will be prepared on the property or if the kitchen is for catering purposes only. Mrs. Crisco answered that the kitchen will only be used for catering and no cooking will be done on the property.

Mr. Cosgrove asked Mr. Crisco to explain "open" facility. Mr. Crisco stated that it will be a large barn with sides/doors that can be removed for an open air function or closed and the facility heated or air conditioned if needed.

Kevin Brickman noted that the structure is two levels. Mrs. Crisco stated that there will be two suites upstairs, one for the bride and one for the groom to prepare for the wedding.

Mr. Brickman also noted that the plans for the structure contained two rooms that were labeled BR and asked if the upstairs suites will allow overnight stays. Mrs. Crisco stated there will be no overnight usage of the facility and the BR indicates bathroom, not bedroom.

Dr. Eckman asked if the property contains enough space for parking for 300 guests and Mr. Crisco answered that there is room to have the required parking spaces.

Kevin Brickman asked about the surface of the parking area. Mr. Crisco answered that the handicapped spaces will be paved and the remainder will be grassed area.

Chairman Swaringen asked Richard Cosgrove to read the findings of facts. Mr. Cosgrove read and the Board found as follows.

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That the use shall not adversely affect the health or safety of persons residing or working in the neighborhood.

Motion: Kevin Brickman made a motion to find this fact true based on the evidence submitted.

Second: Dr. Eckman seconded the motion.

Action: The Board unanimously voted to approve the motion.

The use shall not be detrimental to public welfare or be injurious to property or public improvements in the neighborhood.

Motion: Richard Cosgrove made a motion to find this fact true.

Second: Michael Efird seconded the motion.

Action: The Board unanimously voted to approve the motion.

Chairman Swaringen asked for a motion to approve, deny, or modify SUP 14-03.

Motion: Kevin Brickman made a motion to approve SUP 14-03 with the seven (7) conditions recommended by staff as follows:

- 1) That the number of guests at any one event is limited to a maximum of 300 guests.
- 2) That the property meets the required number of bathrooms for a maximum of 300 guests, including handicapped accessible units.
- 3) That the property meets the requirements for adequate, specific parking areas for the guests.
- 4) That the property is adequately lighted, including the parking areas.
- 5) That parking areas be accessible for wheel chairs, walkers, and persons with disabilities.
- 6) That only weddings, receptions, parties, showers, family reunions, and corporate functions will be allowed and no fairs or carnivals will be permitted on the property.
- 7) That this Special Use Permit does not become effective until a Certificate of Occupancy has been issued.

Second: Benton Payne seconded the motion.

Action: The Board unanimously voted to approve the motion.

Chairman Swaringen asked for a motion to adjourn. Houston Clark made a motion to adjourn, seconded by Benton Payne. The meeting was adjourned at 8:50 p.m.

Todd Swaringen, Chairman

Clerk to the Board