

RICHMOND COUNTY BOARD OF ZONING APPEALS MEETING MINUTES

September 25, 2012

The following members were present:

Brad Croxton, Chairman
Bristow Balderson, Vice Chairman
Harry Smith, Jr.
S. Louis Thompson (Roger Thompson)

Members Absent:

Elizabeth Burruss, Secretary

Also present: Morgan Quicke, Asst. Co. Administrator/Director of Planning & Zoning
T. Richard English, Code Compliance Officer
Brian Fletcher, Delta Marine
Randy Packett
Robert & Nancy Creecy
Bill & Kathy Herbert

Brad Croxton, Chairman, called the meeting to order at 7:00 p.m. and welcomed members and guests.

Public Hearing to consider the following:

Robert A. Creecy of 3316 Grove Avenue, Richmond VA 23221 seeks a variance from the provisions of Section 4-14-8D of the Richmond County Ordinance to allow for a pier to exceed 150 feet in length as measured from mean low water (MLW) on a tidal shoreline. The property is located on Totuskey Creek and is further identified as parcel 40A on Tax Map 30.

Morgan Quicke said the property owners were notified as required by the code and they had not received any negative or positive comments as of that time.

Brad Croxton read the following ordinance:

Maximum length of a pier or dock shall be only so long as to obtain a depth of five (5) feet of water as measured at mean low water (MLW) on tidal shorelines or the normal water level on non-tidal water, except that the length of any pier or dock shall not exceed one hundred fifty (150) feet from mean low water (MLW) on tidal shorelines or forty (40) feet from the normal water line on non-tidal waters.

Robert Creecy said their property was located near Accokeek point, in the mouth of Totuskey Creek, adjacent to the Packett property known as Shipyard. He noted they were the first piece of high ground coming into the creek on the left side. There is a half a mile of open harsh next to their property on one side. There is an unusual mud flap that extends well beyond the 150 of mean low water making it necessary for them to come before the Board of Zoning appeals asking for a variance. He noted they were back 15 months later asking the Board to reconsider under the following circumstances: (1) they worked with County Administration to rectify the previous situation and resolved it within the deadline established, (2) he had studied the Zoning Ordinance and thought of better options. He presented a letter from VMRC and the Army Core of Engineers approving the pier.

Brad Croxton opened the meeting for public comment.

Randy Packett said he was a partial owner of Shipyard Landing, an adjoining property to Mr. Creecy. He felt Mr. Creecy's request for a variance had been well stated. He said the project had no negative effects on the adjourning property owners and his family was in favor of the request.

Bill Herbert was also in favor of the request.

Morgan Quicke read the following staff report:

Looking over the previous application from Mr. Creecy in June 2011, I would like to point out some of my observations-

- The issue that the BZA should look at is "hardship", not Pier Length. Looking through the information from the previous hearing it seems to me that the issue of public safety was an important factor in denying the Creecy's request. Public Safety is an important aspect, and both VMRC and USACE have approved this length which indicates to me that they feel this length is safe at this location.
- The BZA is tasked with looking at hardship, not necessarily public safety in this instance.
- I think a good way for the BZA to look at this issue and the concept of hardship, is to look at the request as if Mr. Creecy is applying for a pier length of 155' rather than 220'
- What would the board's position be if the variance request was for 155'?
- If the board would be more inclined to grant that variance at 155' then it would indicate that at 150', Mr. Creecy has a hardship.

- Therefore the pier length is not the issue, the issue is at 150' from MLW Mr. Creecy has a hardship.
- One might say that if that were the case then application could be made for a 300' pier in this exact location and what is to stop someone from being able to do something that would clearly put public safety in jeopardy?
- The answer would be that neither VMRC nor USACE would approve such application.

Additional Comments

- Undue hardship may not be self inflicted and purchasing property knowing that a variance will be required to allow the full intended use is not a self inflicted hardship.
- Another factor for denial in 2011 seemed to be a concern with Mr. Creecy having outstanding zoning violations on his property. All zoning infractions have been remedied and Mr. Creecy is in full compliance with the Richmond County Zoning Ordinance.
- Additionally, Richmond County is unique that the Zoning Ordinance regulates maximum Pier length. Surrounding counties do not involve themselves with pier lengths and leave this strictly to VMRC and USACE

The Board of Zoning Appeals had brief discussion.

Harry Smith made a motion to approve the variance from the provisions of Section 4-14-8D of the Richmond County Ordinance to allow for a pier to exceed 150 feet in length as measured from mean low water (MLW) on a tidal shoreline

Bristow Balderson seconded the motion. Harry Smith, Bristow Balderson and S. Louis Thompson were in favor. Brad Croxton was opposed.

General Business:

Bristow Balderson made a motion to accept the minutes from the September 27, 2011 meeting as written and they were unanimously approved.

There being no further business the meeting was adjourned at 7:40 pm.

Respectfully Submitted,

Brad Croxton, Chairman