

# **RICHMOND COUNTY BOARD OF ZONING APPEALS MEETING MINUTES**

**February 23, 2016**

The Richmond County Board of Zoning Appeals (BZA) held its meeting on Tuesday, February 23, 2016 in the Public Meeting Room, County Administrative Building, Warsaw, VA.

The following members were present:

Elizabeth Burruss  
Harry F. Smith, Jr., Chairman  
S. Louis Thompson  
R. Carter Wellford, III  
Judy Sydnor

Also present: R. Morgan Quicke, County Administrator  
James P. Carreras  
Scott Carreras

## **Welcome**

Chairman Harry F. Smith, Jr. called the meeting to order at 7:00 p.m. and asked everyone to stand for a moment of silence. Chairman Smith led everyone in the Pledge of Allegiance.

## **2016 Nomination and Election of Officers**

R. Carter Wellford, III made a motion to re-appoint Harry F. Smith, Jr. as Chairman of the Board of Zoning Appeals. Elizabeth Burruss seconded this motion. Elizabeth Burruss made a motion to appoint R. Carter Wellford, III as Vice Chairman of the Board of Zoning Appeals. S. Louis Thompson seconded this motion. The motions carried with a 5-0 vote (*Elizabeth Burruss – yay; Judy Sydnor – yay; Harry F. Smith, Jr. – yay; S. Louis Thompson – yay; R. Carter Wellford, III – yay*).

Harry F. Smith, Jr. made a motion to appoint R. Morgan Quicke as Secretary of the Board of Zoning Appeals. Elizabeth Burruss seconded this motion. The motion carried with a 5-0 vote (*Elizabeth Burruss – yay; Judy Sydnor – yay; Harry F. Smith, Jr. – yay; S. Louis Thompson – yay; R. Carter Wellford, III – yay*).

## **Review of Minutes from the July 28, 2015 Meeting**

Elizabeth Burruss made a motion to approve the minutes from the July 28, 2015 meeting as written, seconded by R. Carter Wellford, III, and they were approved unanimously.

**PUBLIC HEARING:**

- James P. Carreras, 2011 Oakengate Lane, Midlothian, VA 231121, seeks a variance from the provisions of Section 4-14-8-G of the Richmond County Zoning Ordinance, which requires a private pier to be 30 feet from the side yard setback. The variance request is to allow the construction of a private pier to be located approximately 2 feet from the property line and is further identified as parcel 11 on Tax Map 14B.

Mr. Morgan Quicke read the Public Notice and informed everyone it was advertised in the Northern Neck News for two weeks and certified notices were sent to all adjoining property owners. Mr. Quicke then read over the Case Report, which presented detailed information regarding the request and staff recommendations. Mr. Quicke read a Statement of Justification that the property owner submitted with the application, which stated “Presently, we have shared a pier with the Hastings for the past 45 years. The pier is split down the property line and is short and is in somewhat disrepair. Now is the time for a new pier. We intend to construct a new, state of the art pier that is somewhat longer with an L and a bench at the end. Mrs. Hastings, a widow, does not want to share the cost nor assume the liability of a new one. Thus, she has agreed to allow us to construct it on our side of the property line. The new pier would be a greater depth to allow our grandchildren and our neighbor’s grandchildren to the east to jump off and play and crab and fish. Due to the narrowness of the lot, a straight application of the ordinance would put the pier in the middle of the lot and would impair our beachfront as well as well as threaten the Ospreys from nesting. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance”.

Mr. Quicke reminded the Board that there are certain requirements that shall be met when authorizing a variance request, which can be found in the Code of Virginia, and may be interpreted as broad or as narrow as one sees fit.

Mr. Quicke recommended to the Board of Zoning Appeals that they approve the variance request by Mr. Carreras based on the following: the lot is exceptionally narrow at only 70’; the strict application of the ordinance would unreasonably restrict the beach access of the property by placing the pier 30’ off of each property line; there is a 10’ section in the middle of the beach/property in which this pier could be legally placed; this hardship is not generally shared, as mentioned, most property owners piers are already located to the far right property corner of the property as done prior to the zoning ordinance being in place; the authorization of this variance will not be of detriments to the adjacent property owners and the character of the district will not be changed; and placing the pier in the middle of the Carreras’ property would impact the osprey nest currently located in the middle of the property.

Ms. Burruss asked if this property falls within the Chesapeake Bay Act Overlay. Mr. Quicke responded yes, which would be the local Wetlands Board. Mr. Quicke explained that the property owner will file an application with the Wetlands Board for the proposed

groin that will be attached to the pier. He said that the Board of Zoning Appeals has jurisdiction of the 30' setback in the zoning ordinance.

Mrs. Sydnor questioned the "L" head location. Mr. Quicke verified that the "L" would be inside of the applicant's property and explained the drawing submitted with the application. Mr. Quicke said that the size of the proposed pier is in compliance with the Richmond County Zoning Ordinance.

Mr. Thompson asked if the property changes hands, what will happen. Mr. Quicke said that the variance runs with the property.

Mr. Carreras stated that he purchased the property in 1971 and the joint pier there at that time. He told the Board that he gets along very well with the adjacent property owners.

Mr. Wellford asked Mr. Carreras if he has an updated plat showing the existing house. Mr. Carreras responded no. Mr. Wellford stated that he has tried to contact the adjoining property owner and has been unsuccessful. He said that he wants to be assured that Ms. Hastings is aware of exactly what Mr. Carreras is proposing, and all the Board has to go on is a "Do Not Object" statement signed by Ms. Hastings. Mr. Carreras said he would send Ms. Hasting's phone number to Mr. Quicke.

Mr. Wellford said that this request does not meet the test that the Board of Zoning Appeals has to follow and he feels that there is not an undue hardship and the pier should be constructed in the middle of the property. Mr. Carreras said that constructing the pier in the middle of his property would affect his beach. Mr. Wellford said that he would not be able to use the up-stream side of the pier if he constructs it where it is proposed.

Mr. Wellford questioned the owner's concern for the osprey nest indicated in Mr. Carreras' justification statement. He said that he spoke with the Virginia Fish & Game and the US Fish & Wildlife Service and they have verified that there are no setback requirements from an osprey nest and that osprey's are very tolerant to people and boating.

Chairman Smith opened the public comment period.

After no public comment, Chairman Smith closed the public comment period.

Mr. Quicke said that variances are tough and very rarely does an application meet every criteria outlined in the Code. Mr. Quicke recommended that the Board grant the variance request since there is no opposition.

Mr. Wellford said that the pier is a convenience and there is no hardship.

Chairman Smith said that since a pier is already in place and the adjacent property owner does not object, he considers this request as a relocation of an existing pier. Chairman Smith recommended moving forward.

Mr. Carreras said he feels that the new pier will be very attractive and will enhance the neighbor's property.

Ms. Burruss said that originally, she didn't think it met a hardship, but since there is an existing pier that will be replaced, her opinion is it meets a hardship.

Mr. Thompson's said he is concerned that Ms. Hastings is not aware of the plan and if it will cause the value of her property to decrease.

Mr. Quicke said that in his experience, joint piers are not looked upon favorably. He said in most cases, they are a detriment to the property.

Ms. Sydnor asked if both homeowners are taxed for a pier. Mr. Quicke said he would ask the Commissioner of the Revenue.

Judy Sydnor made a motion to accept the request. S. Louis Thompson seconded the motion. The motion carried with a 4-1 vote (*Elizabeth Burruss – yay; Harry F. Smith, Jr. – yay; S. Louis Thompson – yay; R. Carter Wellford, III – nay; Judy Sydnor - yay*).

#### **GENERAL BUSINESS**

There being no further business, the meeting was adjourned at 7:35 p.m.

Respectfully submitted,

R. Morgan Quicke  
Board of Zoning Appeals Secretary