

RICHMOND COUNTY BOARD OF ZONING APPEALS MEETING MINUTES

May 23, 2017

The Richmond County Board of Zoning Appeals (BZA) held its meeting on Tuesday, May 23, 2017 in the Public Meeting Room, County Administrative Building, Warsaw, VA.

The following members were present:

Elizabeth Burruss
Harry F. Smith, Jr.
R. Carter Wellford, III
Judy Sydnor

Also present: R. Morgan Quicke, County Administrator
D. Barry Sanders, Director of Code Administration
Hope Mothershead
Approximately 7 others

WELCOME

Barry Sanders called the meeting to order at 7:00 p.m.

2017 NOMINATION AND ELECTION OF OFFICERS

Elizabeth Burruss made a motion to re-appoint Harry F. Smith, Jr. as Chairman and R. Carter Wellford, III as Vice Chairman of the Board of Zoning Appeals. Judy Sydnor seconded this motion. The motions carried with a 4-0 vote (*Elizabeth Burruss – yay; Judy Sydnor – yay; Harry F. Smith, Jr. – yay; R. Carter Wellford, III – yay*).

Harry F. Smith, Jr. noted that Hope Mothershead would be the secretary of the Board of Zoning Appeals.

Chairman Smith asked everyone to stand for a moment of silence. Chairman Smith led everyone in the Pledge of Allegiance.

PUBLIC HEARING:

- Bradley W. Turner, 1005 Horsepen Road, Henrico, VA 23229, seeks a variance from the provisions of Section 2-13-10-C-2-c of the Richmond County Zoning Ordinance, which states that an encroachment shall not extend into the seaward 50 feet of the buffer area. The variance request is to allow a 20-foot encroachment of a residential dwelling into the seaward 50-feet of the buffer on a R-1 zoned residential building lot which was created prior to the Bay Act. The property is located at 1224

Little Florida Road and is further identified as TM No. 42A-18.

Mr. Sanders noted to the members that Mr. & Mrs. Turner own a parcel of land at 1224 Little Florida Road. Mr. & Mrs. Turner hope to build a reasonably sized residential dwelling on the subject property. Due to the wastewater system location and separation distances established, encroachment into the buffer area is requested.

Mr. Sanders offered that staff recommends approval of the variance for the following reasons: 1. With adoption of the Richmond County Zoning Ordinance, the parcel in question is unusually shaped and has other extraordinary site conditions as to warrant the issuance of a variance; 2. The condition of the parcel in question is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the ordinance; and 3. Authorization of the variance will not be of substantial detriment to adjacent property; the character of the zoning district will not be changed by the granting of the variance; and the variance will be in harmony with the intended purposes of the ordinance and in keeping with the public interest.

Mr. Turner added that he and his wife purchased the waterfront lot for the building of a new home. Mr. Turner turned comments over to Mr. Jeff Howeth, who is working with him on zoning matters, planning, etc.

Mr. Howeth noted that he felt the proposed drawings were within the standard for size of dwelling and the encroachment was in line with the other dwellings in the area. Mr. Howeth proposed a biofiltration system for wastewater and noted that the drainfield location/system had been approved by the health department.

Mr. Wellford asked what detriment would be present for the adjacent property. Mr. Howeth noted that the project proposed meets all legal requirements so the only detriment he would see would be site/viewing issues and trying to build on such a small lot. Mr. Wellford inquired about the use of the plans drawn for the previous landowner, Mr. Dale Herndon ("Herndon Plan").

Mr. Howeth noted that on the Herndon plan, the jurisdictional wetlands line was not measured the same as the proposed plans presented for Mr. Turner.

Mr. Smith asked if the trees on the property would be preserved. Mr. Howeth noted that they would keep as many of the trees as possible, while working around the project.

Mr. English added that the Board of Zoning Appeals had the authority to grant the requested encroachment into the seaward 50 foot buffer with proposed mitigation for encroachment impacts.

Chairman Smith opened the public comment period.

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

Elizabeth Burruss made a motion to approve the variance request. Harry Smith seconded the motion. The motion failed with a 2-2 vote (*Elizabeth Burruss – yay; Harry F. Smith, Jr. – yay; R. Carter Wellford, III – nay; Judy Sydnor - nay*).

PLEASE SEE GENERAL BUSINESS SECTION OF MINUTES FOR FURTHER INFORMATION ON THE ABOVE MOTION

Mr. Turner asked what the issues were that prevented a favorable decision. Mr. Wellford added that he thought there were other alternatives to bring the home into compliance with the 50 foot buffer.

Mr. Sanders noted that the 50 ft. buffer line on the unrecorded Herndon plat was measured from mean low water, whereas the correct measurement should be from the jurisdictional wetlands line. Randy Owens from VMRC has verified that the plan presented by Mr. Howeth is measured correctly. Richard English noted that mean low water is not the correct measurement to use to measure the 50 foot buffer. Mr. Wellford advised that he was not comfortable with it.

PUBLIC HEARING:

- William R. Champion, 1348 Sweet Willow Drive, Midlothian, VA 23114, seeks a variance from the provisions of Section 4-14-8-G of the Richmond County Zoning Ordinance, which states that docks shall be setback a minimum of 10 feet from side property lines. The variance request is to allow the location of a dock/pier on subject property. The property is located at 229 River Front Lane and is further identified as TM No. 43-40A.

Mr. Sanders noted to the members that Mr. Champion owns a parcel of land and home on River Front Lane, identified as Tax Map 43-40A. He also owns a strip of land 15' in width extending from the home parcel to the river, which property is identified as Tax Map No. 42-1-4A. Mr. Champion would like to construct a pier/dock on the 15' parcel but pursuant to the zoning ordinance, there is a setback of a minimum of 10' from the side property lines. Mr. Sanders offered that staff was going to initially recommend approval of this variance, but have since received letters from the adjoining property owners who were not in favor of pier construction due to the proximity of the other piers in the area.

Hannah Tiffany, real estate agent for Mr. Champion, addressed the members and noted that she has the property listed for sale. Ms. Tiffany noted that the allowance of a pier on the property would definitely affect the marketability of the property. Prior to application for the variance request, Ms. Tiffany wrote both neighbors about the project and received no response.

Ms. Sydnor inquired if the vacant lot owned by Mr. Martin was large enough to build upon. Mr. Sanders added that the neighbors are truly concerned for safety.

Chairman Smith opened the public comment period.

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

Judy Sydnor made a motion to deny the variance request. Elizabeth Burruss seconded the motion. The motion passed with a 4-0 vote (*Elizabeth Burruss – yay; Harry F. Smith, Jr. – yay; R. Carter Wellford, III – yay; Judy Sydnor - yay*).

PUBLIC HEARING:

Mr. Wellford notified the members that he would abstain from the following case.

- D. Edward Ramsey, P. O. Box 101, Sharps, VA 22548, seeks an after-the-fact variance from the provisions of Section 2-3-5 of the Richmond County Zoning Ordinance, which states that accessory structures may encroach into the side and rear yard areas to within 5 feet of the property lines. The variance request is to allow the location of a garage within 2.3 feet of the property line. The property is located at 342 Front Street and is further identified as TM No. 42-32.

Mr. Sanders noted to the members that Mr. Ramsey owns the subject parcel of real estate in the Sharps area. A garage was built on the property to house vehicles. Section 3-10-6 of the zoning ordinance states that a variance is appropriate only when the application of the zoning ordinance to a particular piece of property is adversely affected by reason of the “exceptional narrowness, shallowness, size or shape of the parcel” and the application of the ordinance “would effectively prohibit, or unreasonably restrict the use of the property”. Since this variance request would be more a convenience than an undue hardship, staff cannot recommend approval.

Mr. Ramsey noted that the garage was built in a hurry by a group of contractors from Pennsylvania. Mr. Ramsey advised that he was not aware of any setback restrictions and noted that the lot is only 60 feet wide. Mr. Ramsey continued to say that he talked with the neighbor at the time and made her fully aware of what was being built on the property. He also noted that the garage is currently used for storage.

Ms. Burruss questioned the fact that no one made application for a building permit at the start of the project. Mr. Sanders noted that typically the contractors of the pole buildings require the homeowner to obtain the proper permits.

Chairman Smith opened the public comment period.

Bruce and Mimi McComb of 334 Front Street, Sharps, VA – Mr. & Mrs. McComb noted that they purchased the adjacent property from Millicent Reed. While working on remodel and improvements to the home, they discovered that the garage was in the set back area and became very concerned about how it would affect their property. Mr. & Mrs. McComb feel that the garage was built without consideration of the neighbor as

Mrs. Reed was very senile when the construction began and expressed deep concern once the structure was erected. Mr. McComb shared pictures of the property line with the members and noted that he felt if Mr. Ramsey had applied for a building permit, perhaps suggestions could have been made for another location for the garage.

Mr. Robert Becker approached the members and noted that he was a resident of the Sharps community and felt that Mr. Ramsey had made adequate improvements to the property over the years. Mr. Becker has no problem with the neighbors in the community, all have been very pleasant to him.

Mr. Ramsey commented that Mrs. Reed was not senile when he talked to her about the garage construction as she was still driving and going to the store alone.

Mr. Sanders noted that a lot line adjustment had been discussed as a remedy to the encroachment but was not agreeable by all parties.

Mr. Bill Bridenstine of 310 Front Street, Sharps, VA – Mr. Bridenstine owns property in the Sharps area and also cared for Mrs. Reed in her later years. Mrs. Reed called and complained to Mr. Bridenstine about the construction of the garage.

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

Judy Sydnor noted that the garage was in violation of zoning.

Judy Sydnor made a motion to deny the variance request. Elizabeth Burruss seconded the motion. The motion passed with a 3-0 vote (*Elizabeth Burruss – yay; Harry F. Smith, Jr. – yay; R. Carter Wellford, III – abstain; Judy Sydnor - yay*).

REVIEW OF MINUTES FROM THE FEBRUARY 23, 2016 MEETING

Carter Wellford made a motion to approve the minutes from the February 23, 2016 meeting, as written. Judy Sydnor seconded the motion. The motion passed with a 4-0 vote (*Elizabeth Burruss – yay; Harry F. Smith, Jr. – yay; R. Carter Wellford, III – yay; Judy Sydnor - yay*).

GENERAL BUSINESS

Mr. Morgan Quicke advised the members that he would like to see them revisit the variance request made by Bradley Turner. Instead of a denial of the request, he would like to have time to obtain further information about the surveys, etc. Mr. Quicke asked if it was possible to revisit the motion and table the matter for further discussion. Mr. Quicke thinks that a good plan was devised by Mr. Jeff Howeth for an unusual lot.

Judy Sydnor made a motion to table the variance request of Mr. Turner for further discussion on the matter. Carter Wellford seconded the motion. The motion passed with a 4-0 vote (*Elizabeth Burruss – yay; Harry F. Smith, Jr. – yay; R. Carter Wellford, III –*

yay; Judy Sydnor - yay).

Mr. Quicke noted that information would be collected and the meeting for further discussion would be scheduled for July 25, 2017 at 7:00 p.m.

There being no further business, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Hope Mothershead,
Board of Zoning Appeals Secretary