

BOARD OF ZONING APPEALS
September 28, 2016

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON WEDNESDAY, SEPTEMBER 28, 2016 AT 7:30 P.M.

Those present were: Richard Herring, Chairman
 Frank Morris, Vice-Chairman
 Wesley Wills, Member
 Bob Runkle, Member
 Lyle Durrer, Member

Those absent were: Brent Wilson, Alternate Member
 Stephanie Golon, County Planner

Staff present were: Dale Herring, Ex-Officio Member
 Bart Svoboda, Zoning Administrator
 Shawn Leake, Zoning Officer
 Marsha Alley, Secretary

CALL TO ORDER

The Chairman called the meeting to order and asked Mr. Svoboda to determine a quorum by roll call.

DETERMINATION OF QUORUM

Mr. Svoboda took a roll call to establish a quorum.

PUBLIC HEARINGS

Greene County Youth Center requests a 20 ft. front setback line variance from Article 4-3-1 of the Greene County Zoning Ordinance which requires a 50 ft. front setback. This request is to allow for the addition of dugouts and other structures to the existing outdoor recreational facility which is identified on the County Tax Maps as 60B-(A)-9 containing approximately 3.70 acres and zoned A-1, Agriculture and located at 175 Sassafras Lane. (VAR#16-002)

Mr. Herring asked Mr. Svoboda for a report.

Mr. Svoboda read the request and offered a description of the property and the request for the addition of dugouts and other structures. He reviewed the setback requirements and the nearby easements and how they affect the proposal. He presented a PowerPoint presentation that included sketches, aerial photos, and photos of the existing and proposed dugouts. He explained that the dugouts would be constructed in essentially the same spot. He referred to the Code of Virginia relating to the criteria used in the granting of a variance. He described the zoning of the property and the

surrounding area. He stated that staff found the request to be straight forward in that there is not an increase in traffic or more cars per game, no additional fields, etc. but using walls for the dugouts instead of fences, noting that the use is the same.

Mr. Wills asked how the adjoining property owners were notified.

Mr. Svoboda stated that adjoining property owners were notified by first class mail in addition to the request appearing in the legal ad section of the Greene County Record which are both in accordance with the Code of Virginia.

Someone asked to speak from the floor.

Mr. Herring stated that there would be an opportunity for the public to speak once they have signed up to do so.

Mr. Herring asked Mr. Svoboda if granting this variance would have any effect on future road expansion.

Mr. Svoboda explained that it would not, given that the right-of-way is sixty feet wide in that area.

The Chairman swore in speakers and opened the public hearing.

David Mack, President of the Greene County Youth Center (GCYC), addressed the BZA. He explained that the GCYC has begun a project to update the facility by demolishing some structures in order to provide new dugouts. He stated that the dugouts are becoming a safety hazard and that they have raised enough money to replace the existing dugouts with a permanent structure. He added that the new dugouts would be larger and safer for the players in allowing more room for waiting out weather in a permanent structure. He noted that they would also limit parental and spectator influence during a game. He explained that they had demolished the existing dugouts and applied for the building permit when the issue with the northwest dugout was discovered. He stated that the dugouts would be basically in the same spot but a little larger to allow for older children and to include a storage area as well. He added that an engineer was consulted to measure the lines in an effort to find a solution, noting that the only option would have been to flip the field which is impossible to do while maintaining the size of the field and without impacting the other two fields as well. He stated that the GCYC hopes to reduce some noise with the permanent structures in place and to reduce the number of spectators near the adjoining properties. He added that no additional work has been done pending the outcome of tonight's meeting.

The following citizens addressed the Board voicing their comments and concerns:

- Olimpia Lucey, adjoining property owner: submitted photos for review; residents

of Lake Rucker have been at odds with the Youth Center for years; at first, they had two ball fields, then gained additional land for parking, etc.; they were previously approved with a condition of no new lights and a restriction of hours; at that time, the Lake Rucker area was zoned A-1 but has been rezoned to mixed uses; every proposal from the GCYC has been approved by the Board of Supervisors (BOS); the GCYC asked that the light restriction be removed and it was approved requiring the lights to be off by 10 pm; residents are affected by noise and dirt; described the GCYC as akin to a malignancy in that it keeps growing until it consumes; the Zoning Ordinance is written for a reason and not for one party; asked the Board of Zoning Appeals (BZA) to do the right thing.

- John Lucey, adjoining property owner: requested a postponement because it is a piece-milled approach; referred to the Code of Virginia reference that the hardship cannot be caused by the applicant, noting that the GCYC has brought this upon themselves due to the piece milled design of the fields; the GCYC has never had a diagram of the area as a whole; requested that the request be postponed until there can be a comprehensive review of what the GCYC wants; questioned what "other structures", as noted, would include; asked for a postponement but added that if the BZA decides to grant the request for a variance, they would consider safety, trash along the trails in the woods, road safety issues, and similar items; noted that he lives directly south of the ball fields.
- Thomas Eddins: had no comment as he was in attendance as a part of the applicant.

There being no further comment, the public hearing was closed.

Mr. Herring explained that the BZA is not involved with any other questions other than the variance request tonight, adding that the BZA has nothing to do with items that have been decided in the past.

Mr. Lucey asked why fields cannot be moved and restated that the request has been piece milled.

Mr. Durrer asked how long the dugout that was taken down had been in use.

Mr. Mack estimated that it had been in place for more than thirty years.

Mr. Durrer asked if any complaints had been received.

Mr. Mack stated that there had been complaints.

Mr. Durrer asked if the county had received any complaints.

Mr. Svoboda stated that no zoning complaints had been received but added that

complaints have been received from neighbors regarding noise, trash, kids playing in the road.

Mr. Durrer noted that the BZA is not considering those items.

Mr. Svoboda agreed and reiterated Mr. Herring's comments in that the BZA is charged with considering the variance. He explained that the conditions to which Mr. Lucey refers were assigned by the BOS during the special use permit process. He stated that the BZA is charged with reviewing the variance request and applying conditions that would be required as a result of granting the variance such as screening, etc.

Mr. Durrer agreed that he was asking about zoning complaints.

Mr. Morris asked if the dugouts currently meet setback requirements along the property line that adjoins the Lucey property.

Mr. Svoboda stated that the dugouts do meet setback requirements along that property line. He referred to the Rapidan Service Authority (RSA) comments which include a sketch that addresses the easement location as it relates to the proposed dugouts.

There was a brief discussion relating to the water line easement and the location of the dugouts and property lines.

Mr. Durrer clarified that RSA has already stated that the request would not affect the water line.

Mr. Svoboda agreed.

Mr. Wills asked if the applicant would have to return to the BZA if they chose to connect electricity to the building.

Mr. Svoboda stated that they would not need to return to the BZA for that type of need. He added that the variance can be conditioned to limit the variance to a specific structure.

Mr. Herring asked if the bleachers and storage building are not included in the variance request because they are movable.

Mr. Svoboda explained that he was not aware of a storage building being in the setback.

There was discussion regarding the storage building which may be on the other parcel and the side and front setbacks.

Mr. Wills asked if there is a way to identify the area that structures could be built within should the variance be granted without restriction.

Mr. Svoboda pointed out the property line specifying the area.

Mr. Wills clarified that any structures could be built as long as they were located within that area.

Mr. Svoboda stated that if the variance is not specifically approved for this structure, then the overall setback will be reduced to the varied setback on that parcel.

Mr. Lucey indicated that he had a question.

Mr. Herring informed Mr. Lucey that the public hearing had been closed and allowed him to ask one more question.

Mr. Lucey recalled the reference regarding the hardship being created by the applicant and stated that this is what happened with the design of the baseball field and added that he does not think that they need a variance.

Mr. Wills asked the applicant if there is a master plan for other needs for the area.

Mr. Mack stated that the GCYC does not have a master plan and described the proposed dugout to include a fence that would go from the dugout and up the line which would not easily allow enough room to add other structures. He noted that the space there allows for people to walk and ambulance access.

Mr. Wills asked if electricity is needed in that area.

Mr. Mack stated that he did not foresee that need.

Mr. Lucey indicated that he had a question.

Mr. Herring reminded Mr. Lucey that the public hearing was closed.

Mr. Lucey stated that he understood but that something was mentioned that he needed to address.

Mr. Herring informed Mr. Lucey that he could ask this question and then no more.

Mr. Lucey stated that he would leave after this question. He stated that the GCYC now has the authority to use that property in any athletic endeavor, such as soccer fields, etc. He added that a master plan does not exist and that they can get whatever they want.

He added that he has no objection to soccer fields but noted that whatever it is right now does not mean that is what it will be in the future. He stated that he would leave now. He left the room briefly and returned.

Mr. Morris made a motion to approve variance, VAR#16-002.

Mr. Durrer seconded the motion.

Mr. Herring asked if the motion was for approval as presented.

Mr. Morris stated that it was his intention.

There was discussion regarding the variance being specific to the dugout only and the installation of electricity. There was additional discussion regarding the future construction of other structures in that area.

The BZA reviewed their duties as they relate to this case and how conditions could be applied if necessary.

There was a review of the existing motion and a brief discussion on whether or not to amend the motion.

Mr. Morris stated that he would like for his motion to stand as originally stated since the area restricts the likelihood of construction there.

There was continued discussion regarding the distance from the property line to the variance line and whether or not other structures could be constructed in that area.

The vote was taken for Mr. Morris' originally stated motion.

AYE

Mr. Wills

Mr. Durrer

Mr. Runkle

Mr. Morris

Mr. Herring

NAY

The motion to approve VAR#16-002 carried by a unanimous vote.

OLD/NEW BUSINESS

There was no Old/New Business to discuss.

MINUTES

Mr. Durrer made a motion to approve the minutes of July 27, 2016 as presented.

Mr. Morris seconded the motion.

The vote was taken and the minutes of July 27, 2016 were approved by a unanimous vote.

OTHER MATTERS

Mr. Svoboda offered an update relating to planning a refresher course for training. He stated that emails have been shared between staff and training officials and a meeting to review and plan a training date is scheduled for October between staff and training officials.

Mr. Svoboda reminded the BZA of their interest in revising the by-laws and noted that the proposed language has been provided.

Mr. Durrer clarified that the discussion of the revision took place at a previous meeting and has already been approved but that tonight would be to approve the language revision within the bylaws.

Mr. Svoboda agreed.

Mr. Morris made a motion to approve the revision to the bylaws.

Mr. Durrer seconded the motion.

Mr. Runkle asked if the manner in which the prayer is established needs to be determined. He asked who would be responsible for saying the prayer.

Mr. Herring stated that Mr. Morris had volunteered to say a simple prayer.

Mr. Morris agreed.

Mr. Runkle asked if anything needed to be determined about how this should be done.

Mr. Morris asked if someone other than the Chairman can say the prayer.

Mr. Svoboda stated that they could.

Mr. Runkle asked what types of prayers would be said, such as Christian, Universal, Muslim, etc. and if there would be a determination of religious denominations of Greene County citizens are in order to assure that the number of specific prayer would coincide

with number of denominations. He added that these are issues that may need to be addressed.

Mr. Herring added that if it becomes an issue, it could always be changed.

Mr. Svoboda pointed out that the Board of Supervisors and the Planning Commission had decided to allow a moment of silence, adding that it is up to the BZA.

Mr. Runkle stated that the reason he raised the issues was due to the possibility of litigation.

Mr. Morris stated that it is being done on the state level and that he could not imagine there being a concern at a small locality level.

Mr. Runkle stated that the state Attorney General addresses the challenges on the state level and asked who would handle those challenges at the locality level. He also asked if Greene County needs to set itself up to have hundreds of thousands of dollars in litigation over something like this. He added that he is just raising the issue and that he has no particular axe to grind but noted his concern that it is a potential for problems.

Mr. Herring asked if there were any other comments.

Someone indicated a comment from the audience. Mr. Herring informed the public that this is not an issue for public discussion.

Mr. Wills stated that if this became an issue, it could always be amended, noting that it is occurring at the Congressional and State levels. He added that there should be a way to do it in a way that is not offensive and could be multi or non-denominational.

Mr. Herring asked for other comments.

Mr. Runkle stated that he had raised the issue and that people have stated how they feel.

The vote was taken.

AYE

Mr. Wills

Mr. Morris

Mr. Durrer

Mr. Herring

NAY

Mr. Runkle

The motion to approve the revision to the bylaws carried by a 4-1 vote.

Mr. Svoboda gave an update on upcoming meetings and public hearings. It was noted that there will be a public hearing for a variance in October and that if there were no public hearings scheduled for November, then it is likely to hold the year-end meeting then. He reminded them that the November meeting would be held on Thursday, November 17th due to the Thanksgiving Holiday the following week.

Mr. Svoboda stated that the training opportunities would likely be after the first of the year, hopefully on a regularly scheduled meeting night but that it remains to be scheduled.

Mr. Herring informed the BZA that he had met with Mr. Barkley, County Administrator, regarding the possibility of having legal counsel available to the BZA. He added that Mr. Barkley indicated that he would speak with the BOS in regard to setting up a budget line to possibly fund that request.

Mr. Svoboda stated that he would follow up with Mr. Barkley so that the request could be included in the next budget cycle.

ADJOURNMENT

Mr. Durrer made a motion to adjourn the meeting.

Mr. Wills seconded the motion.

The consensus vote was taken and the motion carried by unanimous vote.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marsha Alley

Marsha Alley, Secretary

Richard W. Herring 10/26/2016

BZA Chairman

Date