

BOARD OF ZONING APPEALS
October 26, 2016

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON WEDNESDAY, OCTOBER 26, 2016 AT 7:30 P.M.

Those present were: Richard Herring, Chairman
 Frank Morris, Vice-Chairman
 Bob Runkle, Member
 Brent Wilson, Alternate Member

Those absent were: Lyle Durrer, Member
 Wesley Wills, 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.

PLEDGE OF ALLEGIANCE & PRAYER TO OPEN MEETING

Mr. Herring lead the Pledge of Allegiance to open the meeting.

Mr. Morris offered a prayer to open the meeting.

PUBLIC HEARINGS

Roseann Collins requests a 17-foot side setback line variance from Article 4 of the Greene County Zoning Ordinance which requires a 30-ft. side setback line. This request is on property that is identified on the County Tax Maps as 50E-(10)-77 located at 619 Chapel Road containing approximately 2.09 acres and is zoned A-1, Agriculture. (VAR#16-003)

Mr. Herring asked Mr. Svoboda for a report.

Mr. Svoboda read the request and gave a staff report. He stated that the applicant purchased the property in 2003. He explained that in preparing to sell the house, it was

discovered that the previous owner had not obtained a building or zoning permit for the addition that was built in 1993 and encroaches into the side yard setback. He added that the applicant applied for the building permit for the addition on August 27, 2016. He noted that the applicant is requesting a 17-ft. side yard setback to address the encroachment issue and bring the structure into compliance.

Mr. Svoboda reviewed the survey and aerial photo to demonstrate property lines and setbacks. He added that there is a buffer in existence. He explained that if the lot was a nonconforming lot, the setback could have been reduced to 15 feet. He noted that the lot is conforming so a variance is required. He reviewed the criteria for granting a variance, noting that the issue is not inflicted by the current property owner and that some items are now included in property closings that were not included when the property sold earlier. He added that the applicant is present to answer questions.

Mr. Runkle asked for clarification of setbacks on the displayed survey.

Mr. Svoboda explained that the side setback is in question.

Mr. Runkle asked if the house would meet the setback requirements without the unpermitted addition.

Mr. Svoboda stated that it appears that the house without the addition would likely meet the setback requirements.

Mr. Herring asked if the existing storage building meets the setback.

Mr. Svoboda stated that the storage building does meet the required five-foot setback.

Mr. Wilson asked how the issue would be discovered if not mentioned by the property owner.

Mr. Svoboda explained that the only reason that the county was made aware was because the applicant came into ask about the building permit for the addition.

Mr. Herring asked if the applicant would be required to obtain a building permit at this time.

Mr. Svoboda explained that a building permit would be required in order for the Building Inspections Department to be able to inspect the addition to assure that it was constructed in accordance with the building code.

There was discussion regarding need for a building permit.

Mr. Leake pointed out that the Building Official has already visited the site.

Mr. Herring asked if the Home Owners Association (HOA) has been advised.

Mr. Svoboda indicated that the applicant would address that question.

Mr. Morris reviewed the guidelines for approval and asked if conditions could be applied to the existing structure.

Mr. Svoboda stated that conditions could be applied to the approval of a variance such as the variance would be in effect for the 24-ft. existing addition only.

Mr. Morris asked if there would be any legal impact if conditions are applied.

Mr. Svoboda explained that the variance request is not for 17 ft. all the way around but noted that the BZA is perfectly within its purview to condition the variance to address the specific situation.

Mr. Herring asked what grounds would be appropriate for the granting of a variance based on the criteria.

Mr. Svoboda read the criteria for granting the approval of a variance.

Mr. Morris noted that it is a hardship.

The Chairman swore in the speakers and opened the public hearing.

Roseann Collins, applicant, addressed the Board. She stated that the survey that was included in the BZA packets was performed when the home was purchased in 2003 and that the title company did not address the survey with the county, noting that if that had been done, the previous owner would be here and not her. She explained that the previous owner did not speak with the Home Owners Association, adding that the covenants require a 10-ft. setback. She stated that the previous owner did not get any of the required permits and that she has applied for the building permit and for the Health Department permit. She added that since this happened, she has paid permit fees, taken a job out of state and left that job due to having to manage two homes, and has lost two buyers for the property. She stated that she feels like the realtor failed her and that the title company and the bank have failed her as well. She added that someone should have found this during her purchase of the home and that she has been left holding the bag. She asked for approval of the variance.

Mr. Wilson asked the applicant if her request for the variance would apply to the addition only.

Ms. Collins agreed that she only needs the variance on that one side.

Mr. Morris asked Ms. Collins if she had any future plans to build on the property.

Ms. Collins stated that she planned to move.

Mr. Wilson asked if she would be agreeable with a condition for the existing structure.

Ms. Collins stated that she just wants whatever will make it legal with the county.

Mr. Herring stated that he had visited the site and noticed that it is a good distance from neighbors and that they should not be affected.

Mr. Svoboda added that all of the adjoining property owners were notified in accordance with the Code of Virginia and that no comments were received.

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

Mr. Wilson made a motion to approve the request for a 17-ft. side yard setback variance (VAR#16-003) with the following condition:

- The variance is limited to the existing 24 x 24 ft. addition that has currently been added to the home.

Mr. Morris seconded the motion.

There was discussion regarding the size of the addition and the clarification of the motion.

The motion was clarified as follows:

Mr. Wilson made a motion to approve the request for a 17-ft. side yard setback variance (VAR#16-003) with the following condition:

- The variance is limited to the existing 24 ft. addition as shown on the physical survey which is dated June 30, 2003.

The vote was taken.

AYE

Mr. Wilson

Mr. Runkle

Mr. Morris

Mr. Herring

NAY

The motion to approve VAR#16-003 carried by a 4-0 vote.

OLD/NEW BUSINESS

Mr. Svoboda informed the Board that Mr. Chandler is not available for training until the first part of 2017. He stated that scheduling is pending and that he will keep everyone posted on the details.

MINUTES

Mr. Morris made a motion to approve the minutes of September 28, 2016 as presented.

Mr. Runkle seconded the motion.

The vote was taken and the minutes of September 28, 2016 were approved by a 3-0 vote as Mr. Wilson abstained since he did not attend that meeting.

OTHER MATTERS

Mr. Svoboda reminded everyone that there will be no meeting in November. He added that there will be a year-end meeting in December which will include an appeal from David Vanderveer, noting that he was unable to attend the November meeting so the appeal was scheduled for December.

Mr. Svoboda informed everyone that the December meeting will be held on Thursday, December 22nd at 7:30 pm due to the holiday week schedule.

Mr. Morris asked how the process would work if Mr. Vanderveer decides to defer again in December when he finds a splinter in his toe or something.

Mr. Svoboda stated that he is hoping that a deferral will not happen in December.

Mr. Morris asked if the county can begin to fine him since he will not come in and do what he is supposed to do.

Mr. Svoboda stated that he does not anticipate agreeing to move that date; however, a deferral would have to be reviewed at that time if it is received.

Mr. Herring asked if Mr. Svoboda could give a review of the gist of the request.

Mr. Svoboda stated that he cannot offer any insight into the request because it is an appeal. He noted that information will be provided for the meeting. He added that Mr. Vanderveer is appealing the decision of the Zoning Administrator and that he does not want to try to explain it in a tainted manner that may benefit him. He did state that the

appeal is in regard to an appeal of the determination of violation based on the new tourist lodging ordinance regulations.

Mr. Herring asked if this is the same thing that has been presented in the past or if it is something different.

Mr. Svoboda stated that it is a little different because the ordinance has changed and a new notice went out. He added that he felt safe to say that much since nothing has been discussed that will not be advertised in the newspaper.

Mr. Morris clarified why he asked his earlier question about the Home Owners Association regulations and the conditioning of the variance approval noting that he did not want to bring on any legal impact to the BZA.

Mr. Svoboda explained that adding conditions is perfectly appropriate if the BZA believes that impacts may occur that could, for example, affect neighboring properties.

There was discussion regarding the addition of conditions to the granting of a variance and how the Home Owners Association covenants and restrictions would be enforced by the HOA.

Mr. Herring asked if there was any way for the BZA to receive their packets earlier.

Mr. Svoboda stated that the packets are sent as the information is compiled and noted that an effort would be made to get them out as quickly as possible.

Mr. Herring asked if there had been any changes to the rules for advertising, such as for tax sales.

Mr. Svoboda stated that he was not aware of any changes and added that he was not familiar with the particular regulations for the advertisement of tax sales. He pointed out that the notification signs that are posted on the property for land use applications are not required by the Code of Virginia but that the posting is done as an effort to inform the public.

ADJOURNMENT

Mr. Runkle made a motion to adjourn the meeting.

Mr. Morris 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 A. Henning 1/5/2017
BZA Chairman Date