

MINUTES OF THE FRANKLIN COUNTY BOARD OF ADJUSTMENT

AUGUST 27, 2007

The Franklin County Board of Adjustment held its regular monthly meeting on Monday, August 27, 2007 in the Franklin County Administration Building, 113 Market Street, Louisburg, North Carolina.

PRESENT: Shane Brantley, Robert Carlson, Chuck Griffin, Cynthia Hayes, Scott Lerew, and Stuart May
ABSENT: Tammy Ray
STAFF: Bryan Batton, Scott Hammerbacher, and Donna Wood

Chairman Shane Brantley called the meeting to order at 7:00 p. m., and welcomed those in attendance.

Scott Lerew moved, seconded by Stuart May, to adopt the agenda. The motion passed unanimously.

Scott Lerew then moved, seconded by Chuck Griffin, to adjust the agenda by moving the Election Of Officers from Item #1 to Item # 3. The motion passed unanimously.

The board then reviewed the following agenda items:

- #1. Request for A Variance from Article 8 (Table of Area, Yard and Height Requirements) of the Franklin County Unified Development Ordinance (UDO) by S & L Coughlan located at 126 Big Horn (Lake Royale, Lot 1403C) in the AR District in Cypress Creek Township

Scott Hammerbacher stated the variance request is to allow for a reduction of front setback requirements from 30 feet to 21 feet and a reduction of the accessory building separation requirement from 10 feet to 5 feet for the property located at 126 Big Horn Drive. He explained that accessory structures are allowed in front yards at Lake Royale, and the existing accessory building is only 5 ft from the camper.

Lisa Coughlan, 116 Duckwood Drive, Southern Shores, NC 27949 was sworn in, and stated the lot is steep and there was already a camper on it with an attached deck when they purchased it. She explained that they decided to put in a new park model, and they went to the Lake Royale Property Owners Association (POA) twice and asked if permits were required. They were told nothing was required if they were just putting a camper in the same spot. She explained that 12 contractors would not accept the job to place the new park model on the lot because the lot is really steep. She stated that the camper is exactly where it previously was. She stated that there is now someone new in the Lake Royale Property Owners Association (POA) complaining about the setbacks, and now they cannot sell the property. She stated that the shed has electricity connect to it, and cannot be moved. She stated her neighbor, Bobby Davis, has the same problem with his steep lot. She stated that the driveway is really steep, and they have had to put in a cement driveway.

Shane Brantley asked if the shed was already there. Mrs. Cloughlan stated the shed was there, and the contractor never moved it. Scott Lerew asked if the shed can be moved because of a tree. Mrs. Cloughlan stated it was moved about a foot over when she was not there. Mr. Lerew stated it looks like the shed could be moved about 5 feet closer to the road. Mrs. Cloughlan stated that it could not be moved because of the steepness of the lot. She stated the property is much steeper than it appears in the photographs submitted to the board. Chuck Griffin stated that engineering could be required to relocate the shed. It was explained that the Franklin County Unified Development Ordinance (UDO) requires a 5 feet side setback and the UDO and building code requires a minimum of 10 feet between buildings. Mr. Hammerbacher stated that no permits were obtained by the contractor. Robert Carlson asked when the new park model was put in. Mrs. Coughlan stated the park model was moved in June 2006, and now they are trying to sell the property. She stated that four potential buyers have been told there is a problem with the camper being out of compliance. Mr. Lerew explained that attention was drawn to the situation when she purchased it and replaced the camper. Mrs. Coughlan stated it is out of her power, and it is impossible for the camper to be moved. She stated she was charged \$5,000 to put in the camper. County Attorney Bryan Batton asked if it is unreasonable to move the shed 5 feet. Mrs. Coughlan stated it is unreasonable, and machinery would have to move a lot of ground. Mr. Lerew stated the property could be cut out or boosted up on one side. Chuck Griffin stated there could be a problem with water coming on the property. Real estate agent Barbara Franks was sworn in and explained that due to the topography, it would be a real hardship to get equipment in there and she cannot imagine being able to do it. She stated Mrs. Coughlan tried to ask the right people the right questions. She stated that she has had the property listed for one month, and 3 or 4 people have looked at this property, but have been told by the POA that it is out of compliance. She stated no disclosure is required since this is not a residential lot, and campers are like personal property.

There was no opposition. Chairman Brantley closed the public hearing. Scott Lerew stated this is a catch 22 situation since the contractor did not do what he was suppose to do. He stated the County does not always catch setback problems. Bryan Batton stated there is a problem since campers are not intended to be used as residences. Scott Lerew asked if a variance is granted could it be conditioned to require that proper permits be obtained. Bryan Batton stated the variance could be conditioned to require final official complete certification of the final building permit. Scott Hammerbacher informed the board they could review the camper and shed separately. The board reviewed the variance checklist. Scott Lerew moved to vote on the camper only. Scott Lerew moved, seconded by Stuart May to accept the findings of fact for the camper.

Vote on motion:

Ayes: Brantley, Carlson, Griffin, Lerew, May

Noes: None

The motion passed unanimously

Scott Lerew moved, seconded by Stuart May, to approve the variance for the camper.

Vote on motion:

Ayes: Brantley, Carlson, Griffin, Lerew, May

Noes: None

The motion passed unanimously.

The board reviewed the variance checklist for the shed, and discussed the extension and continuation of a non-conforming use. Scott Lerew moved, seconded by Shane Brantley, to confirm the findings of facts for the shed.

Vote on motion:

Ayes: Brantley, Griffin, May

Noes: Carlson, Lerew

Stuart May moved, seconded by Chuck Griffin, to grant the variance for the shed.

Vote on motion:

Ayes: Brantley, Griffin, May

Noes: Carlson, Lerew

The motion was denied due to the lack of a 4/5th vote of approval.

The board stated the shed will have to be moved or torn down. Planning staff stated they will contact the petitioner to remove the shed within a reasonable time. Chuck Griffin stated that he asked if there was enough room to move the shed and it was stated that it could be moved, but now it is said that she can not move it. Shane Brantley moved, seconded by Chuck Griffin to reconsider the findings of fact.

Vote on motion:

Ayes: May, Lerew, Brantley, Griffin, Carlson

Noes: None

The motion passed unanimously.

The board re-reviewed the findings again. Scott Hammerbacher stated the board can consider a variance to reduce the 10 feet separation between buildings or from the front right-of-way. Scott Lerew asked if the site plan is accurate. Planning staff stated the site plan is not an actual survey. Mr. Lerew stated the finding should be changed to reflect that the shed cannot be moved closer to the road.

Chuck Griffin moved, seconded by Stuart May, to approve the findings of facts.

Vote on motion:

Ayes: Brantley, Griffin, May

Noes: Carlson, Lerew

Chuck Griffin moved, seconded by Stuart May, to approve the variance to allow the shed to remain where it is.

Vote on motion:

Ayes: May, Brantley, Griffin

Noes: Lerew, Carlson

The motion was denied due to the lack of a 4/5th vote of approval.

Mr. Hammerbacher explained that the appeals process is to Superior Court.

- #2. Request For A Conditional Use Permit for a recreation area and swimming pool by C. Lawrence Vaughan, III located at the intersection of Hagwood Road (State Road 1750) & Stallings Road (State Road 1746) on 6 acres in the R-30 District in Dunn Township

Scott Hammerbacher stated that The Paddock Subdivision, a 13 lot subdivision, was recently approved by the Planning Board.

Larry Vaughan, 15 South Main Street, Wendell, NC 27591 was sworn in and stated this is a simple request to install a recreation facility to be placed as far away from residences as possible. Chuck Griffin asked how close this will be to the nearest residence, the hours of operation, and the capacity of the pool. He stated 100 kids could be loud. Mr. Vaughan stated it is approximately 1,000 feet to the closest residence, and the hours of operation will be until sundown.

Rick Benton, Box 3775, Raleigh 27627 was sworn in and explained that they have not thought about capacity since they are planning to open the facility to other people in the area. Scott Lerew asked how they will operate the pool, by key or other manner. Mr. Benton explained they plan to have a management group to run it. He explained that the home owners association of the subdivision will pay dues, and other people can join. Scott Lerew stated that public health, safety, and welfare needs to be addressed. Shane Brantley stated that the septic system will determine the size of the pool. Mr. Hammerbacher explained that the fire code will determine this also. Mr. Lerew asked whether a lifeguard will be on duty. Mr. Hammerbacher explained that the building code addresses the safety issue by requiring gates or locks. Mr. Hammerbacher stated there is no specified use on property to the north due to soil constraints. He stated that signs were posted on the property and the request was advertised.

Donnie Eatmon, 161 Rossie Jones Road, Middlesex NC was sworn in and stated this use is needed in our county. He explained that the closest pool is in Wendell. There was no opposition.

Chairman Brantley closed the public hearing, and the board reviewed the conditional use permit findings checklist. Stuart May moved, seconded by Chuck Griffin to affirm the findings of facts.

Vote on motion:

Ayes: Brantley, Carlson, Griffin, Lerew, May

Noes: Noes

The motion passed unanimously.

Stuart May moved, seconded by Shane Brantley, to grant the conditional use for the recreation area and swimming pool.

Vote on motion:

Ayes: Brantley, Carlson, Griffin, Lerew, May

Noes: None

The motion passed unanimously.

#3. Election of Officers

Clerk Donna Wood called for nominations for Chairman. Stuart May nominated Chuck Griffin as Chairman. Mr. Griffin declined. Stuart May nominated Robert Carlson. Mr. Carlson declined. Robert Carlson nominated Scott Lerew as Chairman. It was seconded by Scott Lerew. Stuart May nominated Shane Brantley as Chairman. It was seconded by Chuck Griffin. Cynthia Hayes moved to close the nominations on the names as stated. It was seconded by Chuck Griffin, and passed by unanimous vote. Shane Brantley was approved as Chairman by a majority vote. (May, Brantley, Griffin, & Hayes)

Chairman Brantley called for nominations for Vice-Chairman. Scott Lerew nominated Stuart May as Vice-Chairman. It was seconded by Shane Brantley. Shane Brantley moved, seconded by Stuart May to close the nominations. Stuart May was unanimously approved as Vice-Chairman.

Tammy Davis was unanimously approved as Clerk to the Board of Adjustment.

With there being no further business before the Board, Chairman Brantley adjourned the meeting at 8:35 P. M.

Shane Brantley – Chairman
Franklin County Board of Adjustment

Donna Wood – Clerk
Franklin County Board of Adjustment