

BOARD OF ADJUSTMENT MINUTES  
Regular Meeting  
Stanly County Commons Meeting Room  
May 13, 2008

**Call to Order**

Chairman Bob Loflin called the Board meeting to order at 7:30 p.m. on Tuesday, May 13, 2008, at Stanly County Commons.

**Roll Call**

***Board Members Presiding***

Bob Loflin, Chairman  
Virgil Hinson  
Rayvon Burleson  
Stephen Watson  
Cathy Bennett  
Grover Stewart  
Andrew Eades, Alternate

***Absent***

Marvin Smith, Vice Chairman

**Staff Attending**

Linda Evans, Planner, Clerk to the Board  
Rebecca Eberhardt, Zoning Code Enforcement Officer

**Others Present:** List filed with May 13, 2008, minutes.

**Approval of Minutes**

Chairman Loflin asked if there were any corrections to the minutes of March 11, 2008. Hearing no corrections, Chairman Loflin asked for a motion to approve the minutes of March 11, 2008,

**Motion:** Stephen Watson made a Motion to approve the minutes of March 11, 2008, as submitted.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the minutes of March 11, 2008.

Chairman Loflin announced that it is required by law that each person speaking at this public hearing be sworn in and requested that everyone who intends to speak stand and be sworn in. Paul Schadt, Kenneth Horne, Rebecca Eberhardt, and Linda Evans stood and were sworn in by the Chairman.

Chairman Loflin announced the first case as follows:

**Item 1** - ZV 08-02 Paul J. Schadt - Applicant is requesting a variance to allow him to construct an accessory structure that does not meet the required setbacks to the Progress Energy line (required setback 10 feet) and the side property line (required setback 10 feet). Property is zoned R-20 and is located at 11023 Willow Oak Road.

Board member Stephen Watson requested to recuse himself from the Board on this case only, stating that he owns property adjacent to the applicant's property and that he had inadvertently had ex parte communication regarding the case. Chairman Loflin granted Mr. Watson's request and Mr. Watson stepped down from the Board for ZV 08-02.

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Chairman Loflin called on Linda Evans to present the case:

Applicant is requesting a variance to locate an accessory structure that extends to one (1) foot of his side property line and zero (0) feet to the Progress Energy line. The required setbacks are ten (10) feet to the side property line and ten (10) feet to Progress Energy's line. Property is zoned R-20.

Chairman Loflin called on the applicant to come forward and present his case to the Board. Paul Schadt came forward and asked the Board's permission to withdraw his request for a side setback variance. He stated that he would be able to construct a garage that would extend no closer to the side property line than the existing structure which, according to the zoning staff, is "grandfathered." Mr. Schadt stated that he is only requesting a variance from the Progress Energy line of the originally stated ten (10) feet.

Chairman Loflin stated that Mr. Schadt's petition has been amended to state that the request for a side setback variance has been withdrawn and the Board will consider only the request for a ten (10) foot variance from the Progress Energy line.

Grover Stewart asked Mr. Schadt how long he had owned the property and Mr. Schadt stated approximately five years. Mr. Stewart also asked if the garage is going to be attached and Mr. Schadt answered no.

Chairman Loflin asked if Environmental Health had approved his location of the garage and Mr. Schadt stated that the location had been inspected and approved by Environmental Health. Chairman Loflin asked Mr. Schadt if the construction and appearance of the garage would fit in with the neighborhood and Mr. Schadt answered that it would. Chairman Loflin asked Mr. Schadt when he would begin construction of the garage and Mr. Schadt answered next week. Chairman Loflin reminded Mr. Schadt that he only has twelve (12) months to begin construction or the variance will expire.

Chairman Loflin called on anyone else who would like to speak in favor of this case. No one came forward.

Chairman Loflin called on anyone wanting to speak against this case to come forward. No one came forward.

Chairman Loflin stated that, if there were no other questions, he would have the Secretary read the findings of fact. The Secretary read and the Board found each fact as follows:

That applicant cannot secure a reasonable return from this property without the variance.

**Motion:** Grover Stewart made a motion to find this fact true based on the fact that applicant is placing garage in only feasible location on the property.

**Second:** Rayvon Burluson seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

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That a hardship exists resulting from unique circumstances related to applicant's land.

**Motion:** Rayvon Burleson made a motion to find this fact true based on the fact that Mr. Schadt's property meets the requirements for placing a garage on the property but due to the shape of the property and the location of the septic system he is unable to meet the required setback.

**Second:** Cathy Bennett seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That the existing hardship is not the result of applicant's own actions.

**Motion:** Grover Stewart made a motion to find this fact true based on the fact that, after taking into consideration the location of the septic system, the applicant has chosen the best location to place the garage on the property.

**Second:** Rayvon Burleson seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That, if granted, the variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit.

**Motion:** Rayvon Burleson made a motion to find this fact true based on the fact this variance will not substantially detract from the neighborhood and this request is the least possible deviation from the ordinance. No evidence was given at the public hearing to disprove this fact.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That, if granted, the variance will secure the public safety and welfare and will do substantial justice.

**Motion:** Virgil Hinson made a motion to find this fact true based on the fact that the benefit to the applicant will outweigh the harm to the public and no evidence was given at the public hearing to disprove this fact.

**Second:** Cathy Bennett seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

Chairman Loflin called for a motion to either grant or deny the Variance for ZV 08-02.

**Motion:** Rayvon Burleson made a motion to grant the Variance, ZV 08-02 for the ten (10) foot setback from the Progress Energy line only, based on the foregoing findings of fact.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

**Item 2 - ZV 08-03 Kenneth Horne –** Applicant is requesting a variance to allow him to construct an in ground pool that does not meet the required setback to the Progress Energy line. The required setback is ten (10) feet. Property is zoned R-20 and is located at 16412 Indian Mound Road.

Chairman Loflin called on Linda Evans to present the case:

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Applicant is requesting a variance to locate an accessory structure (in ground pool) that extends to zero (0) feet to the Progress Energy line. The required setback is ten (10) feet to Progress Energy's line. Property is zoned R-20.

Chairman Loflin called on the applicant to come forward and state his case.

Mr. Horne came forward and stated that he is requesting a variance to place an in ground pool up to the Progress Energy line. He stated that his home had been placed on a knoll for drainage purposes and was close to the Progress Energy line. He stated that his septic lines and repair area were in the front yard toward Indian Mound Road and the only place he could put the pool in the front yard would be close to Indian Mound Road, which has a 55 mph speed limit.

Grover Stewart stated that he had inspected the property and agreed that this was the most feasible location to place the pool.

Mr. Burlison asked Mr. Horne how far the pool would be from the house. Mr. Horne stated that it would be approximately twenty five feet.

Chairman Loflin asked how long he had lived there and Mr. Horne said eight and one-half years. Chairman Loflin asked how far it was from the Progress Energy line to the water and Mr. Horne stated approximately seventy feet.

Chairman Loflin called on anyone else who would like to speak in favor of this case. No one came forward.

Chairman Loflin called on anyone wanting to speak against this case to come forward. No one came forward.

Chairman Loflin stated that, if there were no other questions, he would have the Secretary read the findings of fact. The Secretary read and the Board found each fact as follows:

That applicant cannot secure a reasonable return from this property without the variance.

**Motion:** Stephen Watson made a motion to find this fact true based on the fact that applicant was placing the pool in the most feasible location on the property.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That a hardship exists resulting from unique circumstances related to applicant's land.

**Motion:** Stephen Watson made a motion to find this fact true based on the fact that Mr. Horne's property meets the requirements for placing a pool on the property but the location of the septic system limits him as to where he can place the pool and he is unable to meet the required setback.

**Second:** Cathy Bennett seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

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That the existing hardship is not the result of applicant's own actions.

**Motion:** Virgil Hinson made a motion to find this fact true based on the fact that, after taking into consideration the location of the septic system, the applicant has chosen the best location to place the pool on the property.

**Second:** Stephen Watson seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That, if granted, the variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit.

**Motion:** Rayvon Burleson made a motion to find this fact true based on the fact this variance will not substantially detract from the neighborhood and this request is the least possible deviation from the ordinance. No evidence was given at the public hearing to disprove this fact.

**Second:** Grover Stewart seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

That, if granted, the variance will secure the public safety and welfare and will do substantial justice.

**Motion:** Grover Stewart made a motion to find this fact true based on the fact that the benefit to the applicant will outweigh the harm to the public and no evidence was given at the public hearing to disprove this fact.

**Second:** Stephen Watson seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

Chairman Loflin called for a motion to either grant or deny the Variance for ZV 08-03.

**Motion:** Stephen Watson made a motion to grant the Variance, ZV 08-03, based on the foregoing findings of fact.

**Second:** Virgil Hinson seconded the motion.

**Action:** The Board voted unanimously to approve the motion.

There being no other business Chairman Loflin called for a motion to adjourn. Stephen Watson made a motion to adjourn. Andrew Eades seconded the motion and Chairman Loflin declared the meeting adjourned at 8:05 P.M.

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Date

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Bob Loflin, Chairman

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Date

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Clerk to the Board