

BOARD OF ADJUSTMENT MINUTES  
Regular Meeting  
Stanly County Commons Meeting Room  
July 8, 2008

**Call to Order**

Chairman Bob Loflin called the Board meeting to order at 7:30 p.m. on Tuesday, July 8, 2008, at Stanly County Commons.

**Roll Call**

***Board Members Presiding***

Bob Loflin, Chairman  
Marvin Smith, Vice Chairman  
Virgil Hinson  
Rayvon Burluson  
Stephen Watson  
Cathy Bennett  
Grover Stewart

***Absent***

Alternate Andrew Eades Present

**Staff Attending**

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

**Others Present:** List filed with July 8, 2008, minutes.

**Approval of Minutes**

Chairman Loflin asked if there were any corrections to the minutes of May 13, 2008. Hearing no corrections, Chairman Loflin asked for a motion to approve the minutes of May 13, 2008, **Motion:** Marvin Smith made a Motion to approve the minutes of May 13, 2008, as submitted.

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

**Action:** The Board voted unanimously to approve the minutes of May 13, 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. Robert Cohen, Steve Wallace, Rebecca Eberhardt, and Linda Evans stood and were sworn in by the Chairman.

Chairman Loflin called the first case and asked the Clerk, Linda Evans, to present the case: ZV 08-04 Robert A. Cohen and H.S. Lanning - Applicants are requesting a variance to allow a home that extends into the required front setback of Fifty (50) feet and both required side setbacks of Fifteen (15) feet on the north side and twenty-five (25) on the south side. Property is zoned R-20 and is located on the corner of Wood Land Drive and Piney Point Road. Applicants have approval from Environmental Health for a septic system on the lot owned by applicants across Wood Land Drive.

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

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Robert Cohen came forward and stated that he is representing himself and his partner H.S. Lanning who is out of town at the present time. He stated that he is requesting a variance to place a house on a small lake property. He presented pictures of the house to the Board. He stated that his intention is to enhance the neighborhood and increase the tax value of the property. He presented signed statements from several property owners in the neighborhood who have no objection to this request. Chairman Loflin informed Mr. Cohen that the Board could only take sworn testimony as evidence but the letters would be placed in the file as a matter of information only. Chairman Loflin asked what size house would be placed on the property and Mr. Cohen stated 28 X 40. Chairman Loflin asked Mr. Cohen when he would begin construction of the house and Mr. Cohen stated he planned to obtain the permits the next day and pour the footing this week if possible.

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. Steve Wallace came forward. He stated that he bought a cabin on the street about 10 years ago. He obtained a variance in 1998 and enlarged the cabin. He has a large investment in his property and does not want to see smaller homes placed on the vacant lots on the street. Lake property is already dense because of improper planning in the past and he doesn't want the neighborhood to look like Ocean Isle Beach. He agrees that the property has been improved since Mr. Cohen purchased the property and removed the old boats that were stored there. He suggested that several of the smaller lots should be combined so that larger homes could be built on them. He is not for or against this request but he wants to insure the neighborhood stays a quality neighborhood. He is concerned that, if the Board grants the variance, a precedent will be set for smaller homes and it will look like a beach area.

Marvin Smith stated that a precedent had already been set because other lake property had been given variances, Mr. Wallace's own property being one of those. Mr. Smith also stated that each variance is considered on a case by case basis and no property has the same situations.

Steve Watson agreed with Mr. Smith and further stated that the Board considers each property individually. An example of this is that Mr. Cohen is able to pump sewer to a lot that he owns across the street and other smaller vacant lots may not have this opportunity. Also, this is a corner lot and requires an additional 10 feet setback from one side.

Chairman Loflin stated that the Board of Adjustment is just one hurdle a builder has to face when building a home; Environmental Health also has to approve the property for septic system and well.

Mr. Cohen asked if he could speak again and Chairman Loflin granted permission. Mr. Cohen stated that the other two lots were a little larger and were not on a corner and would not require the extra 10 feet setback that a corner lot does. Therefore, those lots may not require a variance to construct a larger house.

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Rayvon Burluson asked if Mr. Cohen if he is building this house for resale and Mr. Cohen answered yes. Mr. Burluson stated that he would like to see a fence placed on the side toward the road in case there were small children in the house.

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:** Steve Watson made a motion to find this fact true based on the fact that this is a sub-sized lot that is considered buildable because it was created prior to the adoption of the zoning ordinance and has not been made smaller since that time.

**Second:** Marvin Smith 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:** Marvin Smith made a motion to find this fact true based on the fact that the lot does not provide enough space to construct a residence of adequate size without the variance.

**Second:** Grover Stewart 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:** Steve Watson made a motion to find this fact true based on the fact that a minimum lot size was not required when this lot was created and has passed on to current owner as originally platted, without a reduction in size.

**Second:** Marvin Smith 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:** Marvin Smith 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:** Steve Watson 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:** Rayvon Burluson 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:** Grover Stewart seconded the motion.

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

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Chairman Loflin called for a motion to either grant or deny the Variance for ZV 08-04.

**Motion:** Virgil Hinson made a motion to grant the Variance ZV 08-04 as requested based on the foregoing findings of fact.

**Second:** Steve Watson 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. Steve Watson made a motion to adjourn. Marvin Smith seconded the motion and Chairman Loflin declared the meeting adjourned at 8:45 P.M.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bob Loflin, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk to the Board