

BOARD OF ADJUSTMENT MINUTES  
Regular Meeting  
Stanly County Commons Meeting Room  
February 10, 2009

**Call to Order**

Chairman Steve Watson called the Board meeting to order at 7:30 p.m. on Tuesday, February 10, 2009, at Stanly County Commons.

**Roll Call**

***Board Members Presiding***

Steve Watson, Chairman  
Grover Stewart, Vice Chairman  
Cathy Bennett, Secretary  
Andrew Eades  
Dr. John Eckman  
Benton Payne  
Todd Swaringen

***Absent***

***Alternate Board Members Present***

Richard Cosgrove

**Staff Attending**

Linda Evans, CZO, Planner II, Clerk to the Board

**Others Present:** List filed with February 10, 2009 minutes.

**Approval of Minutes**

Chairman Watson asked if there were any corrections to the minutes of January 13, 2009. Hearing none, Chairman Watson asked for a motion to approve the minutes of January 13, 2009.

**Motion:** Grover Stewart made a Motion to approve the minutes of January 13, 2009.

**Second:** Todd Swaringen seconded the motion.

**Action:** The Board voted unanimously to approve the minutes of January 13, 2009.

Chairman Watson 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. Janice Mills Mullis and Linda Evans were sworn in by Chairman Watson.

Chairman Watson called the first case, ZV 09-01, and asked the Clerk to present the case.

Applicant is requesting a variance to construct an accessory structure (pole barn for storage) in her front yard. The property is approximately 9.5 acres and is zoned RA-Residential Agricultural. Staff investigation shows that the house is located practically in the center of the 9.5 acre tract of land, which creates 4 to 5 acres of yard that is considered front yard as defined by Section 1302.40 of the zoning ordinance. Attached is a Plat showing that the

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ROW to the Mullis property ends at the western boundary of the property. Section 601.1 of the ordinance states that accessory structures are permitted only in a side or rear yard. During the investigation staff observed that the property is large enough that the accessory structure will not cause a negative visual impact on neighboring property or to motorists on Tucker Road.

Chairman Watson called on the applicant to come forward and present her case to the Board.

Ms. Mullis came forward and told the Board that when she purchased the property she was told by the realtor that there were no building restrictions on the land. She stated she placed the house in the open area on the property which was in the center of the almost ten acre tract of land. She stated the wooded area to the rear of her house sloped down to a creek and was not very suitable for the barn. She stated that the location where she wants to place the barn is her neighbors back or side yards. She stated that her house is approximately 1,100 feet off Tucker Road.

Grover Stewart asked Ms. Mullis if the barn will be enclosed and she stated yes, it will be a metal enclosed barn, nicely painted, no rusted tin. She stated she will keep her animals there.

Todd Swaringen asked Ms. Mullis how far from the house the barn will be and she stated approximately 300 feet. She stated the barn will be closer to her house than it will be to the neighbors house in front of her.

Chairman Watson asked Ms. Mullis what kind of animals she planned on keeping on the property. She stated maybe a horse in the future but presently she has 13 adopted cats.

Benton Payne asked Ms. Mullis if she had spoken with the neighbors about this and she replied that she had and that none of them had any opposition to her placing the barn in the proposed location.

Grover Stewart asked Ms. Mullis if there is a house to the right of the barn, showing her an aerial photograph and pointing to the structure. After looking at the photograph, Ms. Mullis stated that it is not a house, it is a barn.

Chairman Watson called on anyone else who would like to speak for or against this case to come forward.

No one came forward.

Chairman Watson stated that, if there were no other questions or comments, 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:** Andrew Eades made a motion to find this fact true based on the fact that applicant wishes to place a storage building on the property for outside storage. The location of the

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house, which is practically in the center of the 9.5 acre tract of land, creates a large amount of yard (approximately 4 to 5 acres) which, for zoning purposes, is considered front yard. This variance will represent the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land.

**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:** Grover Stewart made a motion to find this fact true based on the fact that the house is located practically in the center of the property, creating a 4 to 5 acre front yard. Applicant is unable to use this portion of her property for an accessory structure.

**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:** Todd Swaringen made a motion to find this fact true based on the fact that applicant stated that she placed the home on the property without the knowledge that she was creating a large area of yard that would be considered front yard and unusable for accessory structures.

**Second:** Dr. John Eckman 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:** Benton Payne made a motion to find this fact true based on the fact that the property is large enough that the accessory structure will not cause a negative visual impact on neighboring property or to motorists on Tucker Road; it will not substantially detract from the character of the neighborhood and it will meet all required setbacks.

**Second:** Todd Swaringen 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:** Andrew Eades made a motion to find this fact true based on the fact that the accessory structure will not influence public safety and welfare and will do substantial justice in that the benefit to the applicant will substantially outweigh the harm to neighboring property.

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

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

Chairman Stephen Watson called for a motion to either grant or deny the Zoning Variance ZV 09-01.

**Motion:** Andrew Eades made a motion to grant the Zoning Variance ZV 09-01.

**Second:** Todd Swaringen seconded the motion.

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

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**Other Business:**

Chairman Watson reported to the Board that he and Andrew Eades attended a committee meeting on February 9, 2009, to discuss the possibility of the Board of Adjustment accepting the responsibility of granting Special Use Permits *for Agriculture Fairs, Recreational, and Entertainment Activities*. He stated that nothing much was accomplished other than laying the groundwork for the zoning staff to come up with some ideas to implement the procedure and to schedule another meeting of the committee. He stated that Michael Sandy will put some things together to discuss at the next meeting; this proposal seems to be going forward at a snail's pace but, nonetheless, going forward.

Chairman Watson called for a motion to adjourn. Andrew Eades made a motion to adjourn. Todd Swaringen seconded the motion and Chairman Watson declared the meeting adjourned at 8:00 P.M.

\_\_\_\_\_  
Date

\_\_\_\_\_  
E. Stephen Watson, Chairman

\_\_\_\_\_  
Date

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