

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Stanly County Commons Meeting Room
December 8, 2009

Call to Order

Chairman Steve Watson called the Board meeting to order at 7:30 p.m. on Tuesday, December 8, 2009, at Stanly County Commons.

Roll Call

Board Members Presiding

Steve Watson, Chairman
Grover Stewart, Vice Chairman
Dr. John Eckman
Todd Swaringen
Cathy Bennett
Andrew Eades
Richard Cosgrove, Alternate

Absent

Benton Payne

Alternates Present

Kevin Brickman

Staff Attending

Linda Evans, CZO, Planner II, Clerk to the Board
Tim Swaringen, Code Enforcement Officer

Others Present: List filed with December 8, 2009 minutes.

Approval of Minutes

Chairman Watson asked if there were any corrections to the minutes of November 10, 2009. Hearing none, Chairman Watson called for a motion to approve the minutes of November 10, 2009.

Motion: Grover Stewart made a Motion to approve the minutes of November 10, 2009.

Second: Andrew Eades seconded the motion.

Action: The Board voted unanimously to approve the minutes of November 10, 2009, as written.

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 on the first case stand and be sworn in. Linda Walker and Linda Evans were sworn in by Chairman Watson.

Chairman Watson called the first case, ZV 09-04 Linda Walker, and asked the Clerk to present the case.

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Stanly County Commons Meeting Room
December 8, 2009

Applicant is preparing to divide her approximately 19 acre tract of land into two parcels, one approximately 15 acres and the other approximately 4 acres. She states that she is doing this in order to pay off her mortgage, sell 15 acres, and continue living in her home on the 4 acre tract. Dividing the property in order to sell 15 acres will render one of the existing barns located on the 15 acre parcel non-compliant with the setback requirements. The required setback for a horse barn from any property line is 50 feet, and 150 feet from pre-existing residences not resided in by the property owner. If Ms. Walker divides the property and sells the 15 acres as indicated on the attached map, the barn will be 10 feet from the property line and approximately 65 feet from her residence. Therefore, she is asking for a Variance to allow her to have a horse barn that is 10 feet from the property line and 60 feet from her residence. Ms. Walker states that two people who have horses have expressed an interest in purchasing the property but a sale has not been confirmed at this time, therefore, she feels the 15 acres will be more marketable with the horse barns. In addition, she is getting rid of her horses and will have no need for the barns.

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

Ms. Walker came forward and stated that she would like to divide her property in order to sell the majority, an approximately 14 acre tract. She stated that she would like to continue to live in her home and will need to sell the property in order to avoid foreclosure. She stated that she has looked into selling the property as a whole but found that she would not profit enough from the sale to purchase another property without a mortgage. Therefore, she would not be any better off to sell the property as a whole.

Chairman Watson asked for questions from the Board.

Grover Stewart asked Ms. Walker if it is foreseeable that she will recover some of her income in the near future. Ms. Walker answered that she did not expect to recover any income and, in fact, her situation could possibly get worse.

Mr. Stewart asked if she has anyone who is genuinely interested in the property and she stated that she has two prospective buyers but an official offer has not been made until the matter of the barn is cleared up.

Todd Swaringen asked if the driveway will be on the property with the residence when the property is divided. Ms. Walker answered that it would.

Richard Cosgrove stated that he has no problem with Ms. Walker dividing the property but he is concerned that if Ms. Walker should at some point in the future sell the property the buyer will have a barn ten feet from his property line. Ms. Walker replied that she feels that a future buyer would most likely be a horse person because the neighborhood attracts this type. She also stated that anyone who buys the property will be aware that the barn is ten feet from their property line and, if they don't like it, they won't buy the property.

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Stanly County Commons Meeting Room
December 8, 2009

Chairman Watson stated that the decision to divide the property in this way actually places Ms. Walker between a rock and a hard place. If she divides the property with the barn ten feet from the property line she may have a more difficult time selling the property in the future. At the same time, if she doesn't divide and sell the property, she may not be able to keep it.

Chairman Watson asked for questions from the Board.
There were none.

Chairman Watson asked if anyone else wished to speak regarding this case.
No one came forward

Chairman Watson stated that if there is no further discussion he would request that the Secretary read the findings of fact.

Cathy Bennett read as follows:

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

Motion: Richard Cosgrove made a motion to find this fact true based on the fact that applicant resides on the property is unable to continue to pay the existing mortgage on the total property; selling the majority of the property will keep it from going into foreclosure and will allow her to continue to live in her residence.

Second: Andrew Eades 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: Todd Swaringen made a motion to find this fact true based on the fact that the horse barn currently meets setbacks from property lines and property owner's residence.

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: Grover Stewart made a motion to find this fact true based on the fact that applicant did not place the barn on the property; it was already there when she acquired the property in August, 2006.

Second: Dr. 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: Steve Watson made a motion to find this fact true based on the fact that this use of the property will not substantially detract from the character of the neighborhood.

Second: Andrew Eades seconded the motion.

Action: The Board voted unanimously to approve the motion.

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Stanly County Commons Meeting Room
December 8, 2009

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, on balance, the benefit to the applicant will substantially outweigh the harm suffered by the public.

Second: Richard Cosgrove seconded the motion.

Action: The Board voted unanimously to approve the motion.

Chairman Watson called for a motion on ZV 09-04.

Grover Stewart stated that he would like to see a condition placed on the Variance to specify that, if the barn is destroyed in the future by any means, it will be required to meet zoning setback codes when rebuilt.

Chairman Watson asked Mr. Stewart if he wanted to put that into the form of a Motion.

Motion: Grover Stewart made a motion to approve ZV 09-04 based on the findings of fact and with the condition that, if the barn is destroyed in the future by any means, it shall be required to meet zoning setback codes when rebuilt.

Second: Andrew Eades seconded the motion.

Action: The Board voted unanimously to approve the motion.

Chairman Watson informed Ms. Walker that ZV 09-04 is granted with the condition that if the barn is destroyed in the future by any means, it will be required to meet zoning setback codes when rebuilt.

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 7:55 P.M.

Date

E. Stephen Watson, Chairman

Date

Clerk to the Board