

BOARD OF ADJUSTMENT MINUTES
Regular Meeting
Central Permitting Office Conference Room
April 12, 2011

Call to Order

Chairman Andrew Eades called the Board meeting to order at 7:30 p.m. on Tuesday, April 12, 2011, in the Central Permitting Office Conference Room. Venue was changed due to conflict with use of Commons Meeting Room.

Roll Call

Board Members Presiding

Andrew Eades, Chairman
Cathy Bennett, Secretary
Richard Cosgrove
Dr. John Eckman
Benton Payne
Grover Stewart
Kevin Brickman, Alternate

Absent

Todd Swaringen, Vice-Chairman

Alternates Attending

Rebecca Carter

Staff Attending

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

Approval of Minutes

Chairman Eades asked if there were any corrections to the minutes of January 11, 2011.

Motion: Grover Stewart made a Motion to approve the minutes of January 11, 2011, as amended.

Second: Dr. Eckman seconded the motion.

Action: The Board voted unanimously to approve the minutes of November 9, 2010, as amended.

Chairman Eades addressed the audience and stated that the Stanly County Board of Adjustment is a quasi-judicial Board; therefore, the North Carolina State Supreme Court, under NCGS 153A-345, requires that the Board base its decisions only on testimony given under oath. He informed the audience that any person, who, while under oath during this proceeding, willfully swears falsely, is guilty of a Class 1 misdemeanor.

Chairman Eades asked that everyone who intends to speak on the first case, ZV 11-02, come forward and be sworn in. Senta W. Morris and Linda Evans were sworn in by Chairman Eades.

Chairman Eades asked the Board members if any one of them had a conflict with this case. No one responded.

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Chairman Eades asked the Clerk to present the first case.

Richard D. Morris is requesting a variance for an accessory structure (storage building) before the primary residence. Property is located on Canton Road, approximately 1025 feet from its intersection with Millingport Road, and is zoned RA.

Mr. Morris has constructed an accessory structure before the primary residence in order to store some of his personal belongings and building materials for his future home. Mr. Morris failed to obtain the required zoning and building permits before beginning construction and is desirous of remedying this violation. A zoning variance is required in order for him to obtain these permits. Mr. Morris is aware that, in accordance with the Board of Adjustment Rules of Procedure, he is required to obtain a building permit for construction of his residence within one year from the date of the Variance, if granted.

In order to grant this variance the Board must make the following findings of fact. From investigation, pending further testimony and evidence presented at the public hearing, the zoning staff offers the following observations regarding these findings:

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

Mrs. Morris came forward and stated that they were not aware that they needed permits to construct a storage building. They had looked into buying a storage building from Lowes but did not like the appearance of the ones at Lowes, and the cost was much more than what Mr. Morris could build the storage building for. They have a storage building at their present home that he constructed and decided to build another one like it on this property. Mrs. Morris has some of her grandmother's antiques and things for her new home that she needs storage for. Her husband is also collecting building materials for the new home, such as insulation, etc., and needs a place to store these items.

Grover Stewart asked how many acres are in the property. Mrs. Morris stated about thirty.

Richard Cosgrove asked if the storage building has electricity. Mrs. Morris stated that they are in the process of getting electricity to the building.

Mr. Stewart asked if they are planning on building the house near the storage building and Mrs. Morris stated yes.

Mr. Cosgrove asked if the storage building will remain on the property when the house is built and Mrs. Morris answered yes.

There was some discussion between the Board members and the Clerk concerning the requirement of a variance for a storage building before the primary residence. The Clerk explained that a variance would have been required even if Mr. Morris had gone through the proper permitting channels because storage buildings are considered "accessory" structures

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and are not listed in the permitted uses in any zoning district. Therefore, a permitted use is required on the property before anything accessory can be placed on the property. However, the Board of Adjustment has the power to grant a variance for an accessory structure under the condition that the property owners will obtain a building permit for the residence within twelve months of issuance of the variance.

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

No one came forward.

Chairman Eades stated that, if there were no other questions or comments, the Board would review 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: Richard Cosgrove made a motion to find this fact true based on the fact that the applicants need storage space for furniture and building materials. This variance will represent the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land.

Second: Kevin Brickman seconded the motion.

Action: The Board voted unanimously to approve the motion.

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

Motion: Grover Stewart made a motion to find this fact false based on the fact that there are no unique circumstances related to applicant's land.

Second: Dr. Eckman 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: Dr. Eckman made a motion to find this fact false based on the fact that applicants failed to obtain the proper permits for the storage building.

Second: Cathy Bennett 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 this variance will represent the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and the proposed use of the property will not substantially detract from the character of the neighborhood.

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

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granting of this variance 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: Richard Cosgrove seconded the motion.

Action: The Board voted unanimously to approve the motion.

Chairman Eades called for a motion to either grant or deny the Variance ZV 11-02.

Motion: Benton Payne made a motion to grant the Variance ZV 11-02 based on the fact that three out of five facts were true and the two that were false were insignificant to this case.

Second: Grover Stewart seconded the motion.

Action: The Board voted to unanimously approve the motion.

Chairman Eades called for a motion to adjourn. Benton Payne made a motion to adjourn. Grover Stewart seconded the motion and Vice-Chairman Swaringen declared the meeting adjourned at 8:00 P.M.

Date

Andrew Eades Chairman

Date

Clerk to the Board