

BOARD OF ADJUSTMENT MINUTES  
Regular Meeting  
Commons Meeting Room  
June 14, 2011

**Call to Order**

Vice Chairman Todd Swaringen called the Board meeting to order at 7:30 p.m. on Tuesday, June, 14, 2011, in the Commons Meeting Room.

**Roll Call**

***Board Members Presiding***

Todd Swaringen, Vice-Chairman  
Cathy Bennett, Secretary  
Richard Cosgrove  
Dr. John Eckman  
Benton Payne  
Grover Stewart  
Kevin Brickman

***Absent***

Andrew Eades, Chairman

**Alternates Attending**

Rebecca Carter

**Staff Attending**

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

**Approval of Regular and Closed Session Minutes**

Vice Chairman Swaringen stated that the Board has two sets of minutes to approve for the May 10, 2011, meeting. He stated that the Board will approve the open session minutes first and the closed session minutes second. He reminded the Board that if anyone has any corrections or deletions, or has any discussion regarding the closed session minutes he will need a motion to go into closed session before any discussion begins regarding these minutes.

Vice Chairman Swaringen asked if there were any corrections to the regular minutes of May 10, 2011. Hearing none, the Board proceeded as follows.

**Motion:** Richard Cosgrove made a Motion to approve the regular minutes of May 10, 2011, as written.

**Second:** Kevin Brickman seconded the motion.

**Action:** Six Board members voted to approve the regular minutes of May 10, 2011. Benton Payne did not vote because he had not been present at the May 10, 2011, Board of Adjustment meeting.

Vice Chairman Swaringen asked if there were any corrections to the closed session minutes of May 10, 2011. Hearing none, the Board proceeded as follows.

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**Motion:** Grover Stewart made a Motion to approve the closed session minutes of May 10, 2011, as written.

**Second:** Dr. John Eckman seconded the motion.

**Action:** Six Board members voted to approve the regular minutes of May 10, 2011. Benton Payne did not vote because he had not been present at the May 10, 2011, Board of Adjustment meeting.

Vice Chairman Swaringen asked each Board member, if they have not already done so, to return their draft copies of the Closed Session Minutes of the May 10, 2011, meeting to the Clerk for proper disposal.

Vice Chairman Swaringen 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.

Vice Chairman Swaringen asked that everyone who intends to speak on the first case, AR 01-02, come forward and be sworn in. Julia Poplin and Linda Evans were sworn in by Vice Chairman Swaringen.

Vice Chairman Swaringen asked the Board members if any one of them had a conflict with this case. Board member Benton Payne stated that he is personally acquainted with the Poplin family and requested to step down from hearing this case. Vice Chairman Swaringen called on Alternate Rebecca Carter to come forward to sit on the Board during the hearing of Case File Number AR 01-02.

Vice Chairman Swaringen asked the Clerk to present the first case, AR 01-02, property located at 17858 Porter Hill Road

Linda Evans stated that under zoning ordinance Section 407.2, the property owners were granted a temporary zoning compliance to place a doublewide manufactured home on this property in May, 2000, for a medical hardship involving Julia Poplin's elderly grandmother, Onnie Redmond. At the one year expiration of temporary zoning compliances, the ordinance requires that hardship cases be reviewed periodically by the Board of Adjustment to establish continued hardship. The property owners have, within the proper time limits, appeared before the Board on several occasions since May, 2000, and have been granted extensions of time, the last one for a period of two (2) years, to expire on June 30, 2011. The property is zoned R-A, and is approximately 1.401 acre (approx. 62,000 square feet). At least one acre per dwelling unit is required when placing more than one dwelling unit on a single parcel of land (Section 405.3A), and 40,000 square feet per parcel is required if the property is subdivided (Section 701). This property meets neither of these requirements.

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

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Julia Poplin came forward and stated that she brought her grandmother here from out of state eleven years ago. Her grandmother is ninety six years old now and continues to need care. She asked the Board to consider extending the time to leave the manufactured home on the property so that she can have her grandmother near and continue to take care of her.

Vice Chairman Swaringen called on anyone else who would like to speak for or against this case.

No one came forward.

Vice Chairman Swaringen stated that, if there were no other questions or comments, the Board would review the finding of fact. The Secretary read, and the Board found as follows:

That the urgent hardship situation as established by the Zoning Administrator shall be upheld and the home shall be allowed to remain on subject property due to the fact that the hardship remains to exist.

**Motion:** Richard Cosgrove made a motion to find this true based on the fact that it has been established, from testimony given, that the hardship still exists.

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

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

Vice Chairman Swaringen stated that he would entertain a motion to affirm, deny, or modify the zoning administrator's decision to temporarily permit the manufactured home on the property as set out in Case File Number AR 01-02.

**Motion:** Grover Stewart made a motion to affirm the zoning administrator's decision and to extend the time for the manufactured home to remain on the property for a period of two (2) years, until June 30, 2013, for the use of Mrs. Onnie Redmond

**Second:** Richard Cosgrove seconded the motion.

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

Vice Chairman Swaringen asked the Clerk to present the next case, AR 01-01, property located at 12732 Cottonville Road.

Linda Evans stated that under zoning ordinance Section 407.2, the property owners were granted a temporary zoning compliance to place a doublewide manufactured home on this property in March, 1992, for a medical hardship involving Rayfield Ponds, a family relative and disabled veteran. At the one year expiration of temporary zoning compliances, the ordinance requires that hardship cases be reviewed periodically by the Board of Adjustment to establish continued hardship. The property owners have, within the proper time limits, appeared before the Board on several occasions since March, 1992, and have been granted extensions of time, the last one for a period of two (2) years, to expire on June 30, 2011. The property is zoned R-A, and is approximately 1.254 acre (approx. 55,000 square feet). At least one acre per dwelling unit is required when placing more than one dwelling unit on a

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single parcel of land (Section 405.3A), and 40,000 square feet per parcel is required if the property is subdivided (Section 701). This property meets neither of these requirements.

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

Mildred Caraway came forward and stated that Rayfield Ponds is seventy five years old now and needs someone to take care of him. She asked the Board to extend the time to leave the manufactured home on the property so that she could care for Mr. Ponds.

Todd Swaringen asked Mrs. Caraway about the health of Mr. Ponds. Mrs. Caraway stated that Mr. Ponds is schizophrenic and cannot provide for himself.

Grover Stewart asked Mrs. Caraway what branch of service Mr. Ponds was in and she answered that she did not know. Mr. Stewart stated that it didn't matter and asked Mrs. Caraway to thank Mr. Ponds for his service.

Vice Chairman Swaringen called on anyone else who would like to speak for or against this case.

No one came forward.

Vice Chairman Swaringen stated that, if there were no other questions or comments, the Board would review the finding of fact. The Secretary read, and the Board found as follows:

That the urgent hardship situation as established by the Zoning Administrator shall be upheld and the home shall be allowed to remain on subject property due to the fact that the hardship remains to exist.

**Motion:** Richard Cosgrove made a motion to find this true based on the fact that it has been established, from testimony given, that the hardship still exists.

**Second:** Benton Payne seconded the motion.

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

Vice Chairman Swaringen stated that he would entertain a motion to affirm, deny, or modify the zoning administrator's decision to temporarily permit the manufactured home on the property as set out in Case File Number AR 01-01.

**Motion:** Grover Stewart made a motion affirm the zoning administrator's decision and to extend the time for the manufactured home to remain on the property for a period of two (2) years, until June 30, 2013, for the use of Mr. Rayfield Ponds.

**Second:** Dr. John Eckman seconded the motion.

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

Vice Chairman Swaringen stated that the Board has before it the business of reviewing and approving the Order Interpreting the Zoning Ordinance in Case File Number AR 11-01, from the May 10, 2011, public hearing of the case. Vice Chairman Swaringen stated that each

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member had received a draft copy of this Order in their packets and may have already reviewed it. He asked the Board members to please read the Order one last time before he signs it. When the Board members had reviewed the Order, Vice Chairman Swaringen stated he would entertain a motion to modify, approve, or reject this Order.

**Motion:** Grover Stewart made a motion to approve the Order as drafted by the Board's Attorney, Michael Taylor.

**Second:** Dr. John Eckman seconded the motion.

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

The Order in Case File Number AR 11-01 was approved by the Board and signed by Vice Chairman Todd Swaringen and Board Secretary Cathy Bennett, and was placed in the file on June 14, 2011, by Board Clerk Linda Evans.

Vice Chairman Swaringen asked for a motion to adjourn. Richard Cosgrove made a motion to adjourn, seconded by Benton Payne. The meeting was adjourned at 8:00 p.m.

\_\_\_\_\_  
Date

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Todd Swaringen, Vice Chairman

\_\_\_\_\_  
Date

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