

**BOARD OF ZONING APPEALS
SPECIAL CALLED MEETING
MINUTES
JANUARY 22, 2008
5:30 P.M.**

The Board of Zoning Appeals of the Town of Rocky Mount, Virginia, met at the Allen O. Woody, Jr. Municipal Building on Tuesday, January 22, 2008 at 5:30 p.m. with Chairman Charles L. Hutto, Jr. presiding.

The following members were present:

Chairman Charles L. Hutto, Jr., and Vice Chair Susan Hapgood; Board of Zoning Appeals (BZA) Members Sanford "Lyn" Robertson, Lucas Tuning, and John Speidel; Planning & Zoning Administrator Paul D. Stockwell, and Deputy Clerk Stacey B. Sink.

APPROVAL OF AGENDA

- Motion was made by Vice Chair Hapgood to approve the agenda as presented with motion on the floor being seconded by BZA Member Tuning. There being no discussion, let the record show that the motion on the floor passed unanimously.

APPROVAL OF MINUTES

Prior to the meeting, the BZA Members received the following draft minutes for review and consideration of approval:

- December 6, 2007
- Motion was made by BZA Member Tuning to approve the minutes as presented with motion on the floor being seconded by BZA Member Speidel. There being no discussion, let the record show that the motion on the floor passed unanimously.

PUBLIC HEARING

Let the record show there were no public hearings at this time.

OLD/NEW BUSINESS

- A) Old Business

Let the record show that there was no old business to discuss at this time.

B) New Business

- Bobby Taylor's Request to Build a Single-Family Home on a Non-conforming Lot

Prior to the meeting, the Planning & Zoning Administrator provided the BZA Members with the following brief description of Mr. Taylor's request:

Pursuant to Article 13-7 of the Town of Rocky Mount Zoning and Development Ordinance, the BZA will meet to discuss the use of Bobby Taylor's lot identified as Franklin County Tax Map and Parcel Number 2100035500. Mr. Taylor wishes to make an addition to build a single-family home. The property is lots 4, 5, and 6 on Orchard Avenue. The lot has seventy-five (75) feet instead of the required one hundred (100) feet of road frontage. According to Article 13-7, the BZA must approve the request of a nonconforming lot so long as it meets the setback requirements of the board. The single-family home may be built using current setback requirements of the zoning ordinance. Thus the BZA can approve the request without any variance or required public hearing.

Chairman Hutto opened the floor to anyone wishing to come forward to speak in regards to Mr. Taylor's request.

Brenda Arrington, with Long and Foster Realtors, came forward to speak, indicating that she, along with Gaye Clingenpeel, sold Mr. Taylor the lot. Ms. Arrington stated that she has been in contact with several people, including a former Town employee, who was not aware of the new compliance issue, and a local attorney, who told her that he was aware of the ordinance but did not think the Town was enforcing the ordinance at this time. Ms. Arrington further stated that together, both she and Ms. Clingenpeel, have forty years of experience and neither of them were aware of this compliance issue. They also did some research prior to coming to the meeting and found about twelve houses in the Town of Rocky Mount that had been built in the past few years on lots that had less than one hundred (100) feet of road frontage. Also, on Orchard, of the eleven (11) adjacent lots, including the lot in question, the road frontages range from sixty-nine (69) to one hundred nine (109) feet with an average of eighty-one (81) feet. The lot in question has seventy-five (75) feet of road frontage. Mr. Taylor's concern is that he has bought a property that he can't build on. Mr. Taylor is a contractor and the market is slow. He bought the property to keep his employees working rather than have them on unemployment. It would pose a hardship to him and of course there would be recourse back to the sellers who are honorable people. In closing, Ms. Arrington asked the BZA Members to please take her concerns into consideration. She also stated that the house Mr. Taylor wishes to build will be compatible with the neighborhood.

Bobby Taylor (who resides at 205 Cherokee Hills Road, Bassett, VA 24055) came forward to address the BZA, stating that he has been a life-long resident of Franklin County. He wants to build a single-family home. Some of his workers are present tonight because they need the job. The market is slow and the workers are local residents who need the work to keep their families fed and kids in school. He further stated that he would appreciate the BZA Members' approval so his employees could go to work.

Vice Chair Hapgood questioned Mr. Taylor if he was unaware of the one hundred (100) feet requirement, stating that he had been before the BZA before and that he had been a builder in the Town and County for many years, with Mr. Taylor confirming that he was unaware of the requirement and that he doesn't think he has ever been before the BZA before.

Gaye Clingenpeel, with Town and Country Realty, came forward to address the BZA, stating that she was not aware of the regulation. She further stated that she is also a certified appraiser and she has done a lot of appraisals on new construction in the Town of Rocky Mount with less road frontage than one hundred (100) feet, so she had no reason to think it was a requirement.

BZA Member Speidel stated that he understands the concern but he is surprised she wasn't aware of it because the requirement has been in the ordinance for a long time, with Ms. Clingenpeel stating that normally her (realty) associations notify her of any changes. BZA Member Speidel advised Ms. Clingenpeel that this regulation did not come about as a change to the ordinance, but had been a basic part of the ordinance for a long time, with the Planning & Zoning Administrator confirming that it had been a part of the ordinance since 1992.

Ms. Clingenpeel stated that there are newer developments and homes that have been built since the ordinance that have less than one hundred (100) feet of frontage.

The Planning & Zoning Administrator explained that it is possible that the homes are within a different zoning district, such as a Planned Unit Development or R-2, which only requires eighty (80) feet of road frontage.

Ms. Clingenpeel advised that she and Ms. Arrington have examples of newer lots in R-1 with less than eighty (80) feet of frontage, as well as some existing lots. For example, in the Rocky Mount Highlands (zoned R-B with an eighty (80) feet frontage requirement), a newer subdivision, there are lots with road frontages in feet as follows: 87.65, 88.6, 87.65, 87.8, 88.452, 91.671, 40.525, 38.845, 76.359, 95, 152, 40.25, 36.845, 79.785.

The Planning & Zoning Administrator confirmed all of the lots meet the zoning requirement of eighty (80) feet of road frontage, except for the cul-de-sac lots.

He further explained that cul-de-sac lots must meet the eighty (80) feet requirement at the building line.

Ms. Clingenpeel questioned the lot with road frontage of 79.785 feet, which is not a cul-de-sac lot, stating that all she wants to do is get the lot approved, with the Planning & Zoning Administrator confirming that 79.785 would be considered as eighty (80) feet. Again, Ms. Clingenpeel stated that she was unaware of the requirement but she is glad to be aware of it now.

Chairman Hutto advised that any time a lot is less than one hundred (100) feet, it will not be approved by the Planning & Zoning Administrator and it will have to come before the BZA for approval.

The Planning & Zoning Administrator advised that situations like this are why the Town is looking at updating the nonconforming use and nonconforming lot article, so that these particular lots, which are less than one hundred (100) feet but are over eighty (80) percent of the requirement of lot width or lot area, could be approved administratively by the Planning & Zoning Administrator instead of going before the BZA, and anything less would go before the BZA for approval. This would help the applicant in the process.

Ms. Clingenpeel advised that the lot was surveyed in June 2003 and she doesn't understand why the lot was allowed to be recorded if it wasn't a buildable lot. She further stated that the Perdues bought the property as an investment from the Terry L. Perdue Estate, they owned it for two years and did not have an adjoining property, and that if the lot can't be built on then it is of no value to the owner. Vice Chair Hapgood advised that lots can be bought and sold and recorded even if it is not a buildable lot.

BZA Member Speidel and Vice Chair Hapgood questioned if the standard guidelines, specifically the three standards about being a hardship, had to be met. The Planning & Zoning Administrator confirmed to the BZA Members that because this is not an official variance, the BZA can consider Article 13-7 in making the decision and does not have to look at the three standards.

Vice Chair Hapgood confirmed with the Planning & Zoning Administrator and Mr. Taylor that the house, as depicted in the drawing, will meet both the front and side-yard requirements.

For the record, BZA Member Robertson read Article 13-7, as follows:

13.7 Nonconforming lots.

Any lot of record at the time of the adoption of this ordinance or which is less in area or width than the minimum required by this ordinance may be used when the requirements of the board of zoning appeals regarding setbacks, side and rear yards are met.

There being no further discussion, Chairman Hutto entertained a motion.

- Motion was made by BZA Member Speidel to approve Mr. Taylor's request since the setback, side and rear yard requirements are met as set forth in the ordinance, with motion on the floor being seconded by BZA Member Tuning. There being no further discussion, let the record show that the motion on the floor passed unanimously.

Discussion ensued between the BZA Members and the Planning and Zoning Administrator regarding the proposed changes to Article 13-7 *Nonconforming lots* (that are scheduled to go before the Rocky Mount Planning Commission in February 2008):

- The Planning & Zoning Administrator shared the proposed changes to the ordinance with the BZA Members.
- The eighty (80) percent does not only apply to frontage, it could also apply to area requirements as well.
- Is such a change wise?
- What kind of criteria would the Planning & Zoning Administrator take into consideration when approving the request at the administrative level?
- Why not lower the requirement?
- The nonconforming ordinance will only apply to existing lots; all new lots must meet the current standards.
- Will go to a public hearing at Planning Commission in February 2008.
- No public hearing is currently required for this type of request, but with the proposed changes, any request that goes before the BZA will require a public hearing. Should adjoining property owners be notified even if there is no public hearing?
- Would this type of ordinance change diminish the BZA's input?

- Appointment of Officers for Two Year Terms

- Motion was made by BZA Member Speidel to re-appoint the current officers for another two year term, with motion on the floor being seconded by BZA Member Robertson. There being no discussion, let the record show the motion passed unanimously.

ADJOURNMENT

There being no further business to discuss, Chairman Hutto entertained a motion to adjourn at 6:05 p.m., with motion being made by Vice Chair Hapgood, seconded by BZA Member Speidel, and carried unanimously.

Charles L. Hutto, Jr., Chairman

ATTEST:

Stacey B. Sink, Deputy Clerk