

**BOARD OF ZONING APPEALS  
MINUTES  
DECEMBER 2, 2010  
6:00 P.M.**

The Board of Zoning Appeals (BZA) of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Thursday, December 2, 2010, at 6:00 p.m., with Chairman Charles Hutto, Jr. presiding.

The following were present for the meeting:

Chairman Charles L. Hutto, Jr., Vice Chair Susan Hapgood; Board of Zoning Appeals Members John Speidel and Maceo Toney; Staff Members present included Assistant Town Manager Matthew C. Hankins, Town Attorney John Boitnott, and Deputy Clerk, Stacey B. Sink.

Let the record show that BZA Member Lucas Tuning was not present when the meeting was called to order, but arrived at the meeting at approximately 6:22 p.m.

**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 Toney. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

**APPROVAL OF MINUTES**

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

- December 3, 2009
- Motion was made by Vice Chair Hapgood to approve the draft minutes as presented with motion on the floor being seconded by BZA Member Speidel. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

## **PUBLIC HEARING**

Let the record show that Chairman Hutto recessed the meeting to hold the following public hearing:

### **(A) Michael and Betty Mills variance request**

After being duly advertised, and pursuant to the Town of Rocky Mount Zoning & Development Ordinance, and the Code of Virginia, Michael and Betty Mills requested a variance from Article 3-7-1 of the Zoning and Development Ordinance, which requires each side yard of a main structure to be fifteen percent or more of the lot width at the building line, for Franklin County Tax Map and Parcel Number 2070052900, located at 55 Taliaferro Street. The applicant wishes to build a 20-foot by 20-foot attached carport which will encroach on the required 16.6-foot side yard. The property is zoned R1 Residential.

Chairman Hutto called upon the Assistant Town Manager for a staff report.

The Assistant Town Manager delivered his staff report and in summary made the following points:

- In early 2010, Mike and Betty Mills purchased 55 Taliaferro Street for use as their residence. The property is directly adjacent to Carilion Roanoke Memorial Hospital. It is separated by the brick wall which is shown in the Google Map photo. There are four buildings on the property, including the main house and two rental houses along with a storage building.
- Earlier this month, Mr. Mills approached the Town about his family's desire to install a carport or garage on the property. He advised Mr. Mills that given the limited 85-foot width as shown on the map Mr. Mills would not be able to build a garage without a variance from the required 16.6-foot side yard required by the Town ordinance.
- He did have some questions regarding the request, but in his mind those questions have been satisfactorily answered by Mr. Mills. The staff recommendation is that there is no reason to object to the variance being granted, unless the Board, in its wisdom, is aware of something that he missed.

Following the Assistant Town Manager's report, Mr. Clyde Perdue came forward to speak, representing Mike and Betty Mills. Mr. Perdue made the following points:

- The Mills' lot is the narrowest lot on Taliaferro Street.
- According to Town Code, this gives the BZA authority to grant the variance because the property was purchased in good faith, and the exceptional narrowness of the lot effectively prohibits the reasonable utilization of it, including the fact of having a carport.
- All of the neighbors were contacted and there were no objections in the neighborhood.
- He then offered to answer any questions on behalf of the Mills'.

Chairman Hutto opened the floor to question from the Board.

BZA Member Speidel questioned how close the posts would be to the wall or to the roofline, with Mr. Mills confirming 38 or 39 inches.

Vice Chair Hapgood noted that it appears as if fire and rescue access could be a problem now and questioned how the addition of this building would affect it, with Mr. Perdue, advising that in case of fire, the hose would most likely be coming from the fire hydrant in front, and if rear access was needed the wooden fence could be knocked down. For rescue, he does not know if a rescue vehicle could get under the carport, so there may be an additional 15 feet that someone would have to travel, also noting that the hospital is right there and they should get there quick.

BZA Member Toney noted that he feels like this area is a rare area and is similar to big cities. Nothing can really make the difficulties of the property any better. This carport will be a nice addition to the property and will be in-line with the improvements that are being made uptown.

Mr. Perdue advised that he does not view the carport as a safety concern. If the proposed carport is visualized, how is it less safe than they way the property is now?

Vice Chair Hapgood questioned if the Mills' intend to continue renting the two smaller houses, with Mr. Mills advising they do for the time being. He may eventually discontinue the back house, but the first one is a nice place.

Chairman Hutto opened the floor to anyone else who wished to come forward and speak in regards to the request. Let the record show that no additional persons came forward to speak.

There being no further discussion, Chairman Hutto called the meeting back into regular session and entertained a motion.

- Motion was made by BZA Member Speidel to grant the variance for the property at 55 Taliaferro Street for the carport, based on the fact that the strict application of the ordinance would produce undue hardship relating to the property, the hardship is not shared generally by other properties in the same zoning district and vicinity, that the authorization of the variance will not be a substantial detriment to the adjacent property, and that the character of the district will not be changed by the granting of the variance, with the motion on the floor being seconded by Vice Chair Hapgood. There being no discussion, let the record show that motion on the floor passed unanimously by those present.

## **OLD BUSINESS**

### ***(1) Bylaws Update***

The Assistant Town Manager noted that the Board had previously discussed the need to update its bylaws. Staff has not had time to work on the update further, and really it has not been a priority since the Board has not met this year. He will try to work with BZA Member Speidel to bring the bylaws up to date with State Code. He noted that the Deputy Clerk has drafted an update but he has not yet reviewed it. He also noted that one of the key components is a state mandate on the way a quorum is counted.

### ***(2) Follow-up on Azarch Variance granted December 3, 2009***

The Assistant Town Manager noted that the last variance granted by the BZA was for Frank Azarch and his family for a property on Orchard Street. That purchase did not go through. Mr. Azarch was unable to purchase the home himself. However, Tim Young has renovated the home and has done an outstanding job of making it completely different. It is going to be a great property and a contributor the quality of Orchard Avenue. The previous variance request had been to tear down the home and rebuild.

BZA Member Speidel questioned the status of the Boyd variance request heard by the BZA in October, with the Assistant Town Manager confirming that the Boyds had finished their building, and there have been no recent complaints about the property.

Chairman Hutton questioned the status of the property owner across the street with the development, with the Assistant Town Manager advising that all of the court

action has been resolved and he is still waiting to hear back from the developer. It has been seven months since everything was resolved. The developer may be biding his time since this is not a great time to be building and developing. From a legal standpoint, the developer does not have to put in curb and gutter because they are not building a new street. The Town is waiting on the revised subdivision plan to allow the developer to go forward.

### **NEW BUSINESS**

Let the record show that there were no new business items to discuss at this time.

### **BOARD AND STAFF CONCERNS**

The Assistant Town Manager noted that Vice Chair Hapgood was appointed for another term today.

The Assistant Town Manager gave a brief overview of the new development and new businesses in Town.

### **ADJOURNMENT**

There being no further business to discuss, motion was made by BZA Member Toney to adjourn the meeting at 6:37 p.m., with motion being seconded by BZA Member Speidel, and carried unanimously by those present.

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Charles L. Hutto, Jr., Chairman

ATTEST:

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Stacey B. Sink, Deputy Clerk

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