

BOARD OF ZONING APPEALS
July 6, 2010
MEETING MINUTES

Present: Chair John Bradshaw, Members Gifford Childs, Linda Russell, Kim Cash, Goffrey Miles, and Alternate Ron Moyer

Staff: Fred Boger, Planning Director, and Betty Fortune, Secretary

Call to Order: Mr. Bradshaw called the meeting to order at 7:30 P. M. with a welcome to the applicants. Mrs. Fortune introduced Samantha Carter who is working as an intern in the Planning & Zoning/Building Inspections office until August 6.

Minutes of November 2, 2009 – Ms. Cash made a motion to approve the minutes as presented, Mr. Childs provided the second, and motion passed 5-0.

Variance #2010-003 – Barbara Koschara
Ms. Koschara was sworn in by Mr. Bradshaw.

Mr. Boger reported that Ms. Koschara is appealing the Zoning Administrator's denial of a Zoning Permit to construct a 24' x 24' addition to the rear of her home located at 691 Old Roseland Road, Roseland, Tax Map #55-6-1. Ms. Koschara is requesting a variance to reduce the required 75 ft. front yard setback from Old Roseland Road to 52 feet. The addition will be used for a sewing room and TV area. The property has two front yards, one on Old Roseland Road and the other on Patrick Henry Highway. The front of the dwelling faces Patrick Henry Highway and the rear faces Old Roseland Road. If an addition were to be added, the logical choice would be the rear of the building. The BZA must decide whether there is a clearly defined hardship in this case sufficient to grant a reduction in setback requirements.

Ms. Russell asked why this location was considered to have two front yards. Mr. Boger said that it is not a corner lot, so each road becomes a front yard. Mr. Bradshaw asked to see the ordinance reference, and Mr. Boger said the ordinance addresses corner lots only; therefore, since there is frontage on two roads, two front yard setbacks are required. Mrs. Cash asked Mr. Boger if there have been similar requests for variance involving his interpretation of 2 front yards. Mr. Boger said there may have been one in the Massies Mill area. Mr. Bradshaw asked if the Board agreed with Mr. Boger's interpretation, and comment was held until after the applicant spoke.

Ms. Koschara said that in addition to the main dwelling, there are now two buildings on the carport side of the house. An existing building has been enlarged to 12' x 14' and another building is 14' is 24'. The septic drainfield is in the front yard facing Patrick Henry Highway and the basement entrance is on the northwest side of the house. Both accessory buildings are on permanent foundations. Ms. Russell asked Ms. Koschara if she had considered enclosing the carport and then adding a carport on the other side. Ms. Koschara said the well is very close to the existing carport. She added that the sewing room for her alteration business is in the basement which is damp and she needs to move it to the first floor.

Mr. Childs suggested that the addition be placed somewhere other than the rear of the house. Ms. Koschara said she doesn't want to change the appearance of the front, and the contractor has said the rear of the house is the only logical place to put an addition. Telephone and electrical lines come in at the basement entrance of the house.

The public hearing opened, there were no comments, and public hearing closed.

Mr. Boger stated that there were several obstacles which were not caused by the applicant who bought the house fairly recently which appear to prevent the addition to be placed at another location. Ms.

Russell said she was sympathetic to the situation; however, if a variance is granted on the basis of having two front yards, this would set a precedence for other such requests.

Mr. Boger said one option would be to defer a decision and refer the matter to County Attorney Payne for a determination. In any case, language needs to be added to the ordinance which defines two front yards.

Ms. Russell made a motion to defer a decision on Variance #2010 for Barbara Koschara until the meeting in August to allow Staff to confer with the County Attorney for a determination of setbacks when there are two front yards. Mrs. Cash provided the second, and motion passed 5-0.

Mrs. Cash said this is a much larger issue than one property and the ordinance needs to be clear on how this is handled in the future. Mr. Childs requested that Staff provide a memo from the County Attorney after discussion regarding the two front yard setbacks.

Special Use Permit #2010-005 – William Percy

Mr. Boger reported that the applicant was not present at the meeting. Ms. Russell made a motion to defer consideration of Special Use Permit #2010-005 for William Percy due to the fact that he is not present to answer questions or agree to any conditions that may be placed on the SUP. Mrs. Cash provided the second and motion passed 5-0.

Other Business

Mr. Boger reported that Mr. and Mrs. Wilbert D. Hatter appealed the BZA's decision of November 2, 2009 regarding Variance #2009-007 and the case went to court on July 1. The Judge dismissed the appeal and upheld the Board's denial of a variance determining that a hardship cannot be for personal reasons. Mr. Boger said that Mr. Hatter could appeal to the BZA again after one year.

Adjournment

Mr. Bradshaw declared the meeting adjourned at 8:30.

Respectfully submitted,

Betty M. Fortune
Planning Secretary