

BOARD OF ZONING APPEALS
August 2, 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 Dana Lawhorne who has been hired as Planning and Zoning Secretary.

Minutes of July 6, 2010 – Ms. Cash made a motion to approve the minutes as presented, Ms. Russell provided the second, and motion passed 5-0.

Variance #2010-003 – Barbara Koschara (Deferred by BZA on 7/6/10)
(Note: See minutes of July 6, 2010 for background regarding this request.)

Mr. Boger reported that this request regarding front setbacks is continued from July. He consulted with County Attorney Payne who made the following interpretation of a lot's yards when public roads are on opposite sides of the property: A front yard is defined in Article 2 as "space...between the front line of the building and the front lot or street line..." In Section 4-3-1a the setback for a front yard is established by the "center of the road" or the "edge of the right-of-way." Both the Article 2 definition and the §4-3-3 setback for rear yard refer to a rear lot or property line. A consistent element of the ordinance provisions addressing a front yard is the reference to a roadway. In other words, frontage on a road defines a front yard. Accordingly, a lot facing a road on either side has, for the purposes of the setback regulations, two front yards.

Mr. Boger added that the Board has several options: to grant or deny the variance and to initiate a request to the Planning Commission for clarification or amendment of the definition of a front yard. An amendment would be needed in order to change the interpretation made by the County Attorney.

Mr. Bradshaw reminded the Board that the public hearing had been held in July.

Ms. Koschara was sworn in by Mr. Bradshaw.

Ms. Koschara said that when she bought the house, she was not aware that it was considered to have two front yards, and didn't have any idea this would be a problem. There is no entrance on the back side of the house, but only through the carport and front. There are two accessory buildings on the property. One was a replacement and the other houses her yard and garden tractor. Ms. Koschara added that she has a sewing and alteration business and the moisture in the basement is ruining her sewing machines. The proposed addition would be used to house this equipment.

Ms. Cash said that the ordinance is clear that in this situation there are two front yards. She concurred with the options available as stated by Mr. Boger and supported the idea of asking the PC to look at this issue of two front yards. Mr. Childs agreed and asked if others felt there was a hardship demonstrated in this case.

Ms. Russell made a motion to deny Variance application #2010-003 for Barbara Koschara to construct a 24' x 24' addition to her home at 691 Old Roseland Road for the following reasons:

- 1) The County Attorney has determined that two front yards are permitted under the Nelson County Zoning Ordinance which would require an unacceptably large variance of 23 feet.

2) An addition could be placed at an alternative location which would not require a variance; therefore, there is no hardship.
Mr. Childs provided the second, and the motion passed 3-2 with Mr. Miles and Mr. Bradshaw voting "no."

Ms. Koschara was very upset with the decision and asked if there was anything else she could have done to ensure a different outcome. Ms. Russell said that a layout of the house and grounds would have been helpful and she had suggested that to Ms. Koschara in a memo. Ms. Koschara described the layout, but the information had not previously been supplied to the Board. Ms. Koschara said it was the County's loss because she would have to discontinue her business.

Special Use Permit #2010-005 – William Percy (Deferred by BZA on 7/6/10)

Mr. Boger reported that Mr. Percy is requesting a Special Use Permit to build a 12' x 16' tool storage shed on his property located on Fortunes Cove Lane, Tax Map 57-A-3E. This will be the first structure on the property and Mr. Percy states that he wishes to use it to store tools and materials while the primary dwelling is being built. The building will be approximately 50' from the property line near the northeast corner of the site and a building permit will be required. Conditions could be placed on the permit stating that construction on the main dwelling will begin within one year from the date of approval of the SUP.

Mr. Percy was sworn in by Mr. Bradshaw.

Mr. Percy said that he plans to apply for a building permit for the main dwelling within a year. There is no electricity at this time; however, he has started the process of procuring it from Central Virginia Electric Cooperative.

Mr. Childs suggested placing a condition on the permit that the storage shed could not be used for residential purposes.

The public hearing was opened, there was no comment, and public hearing was closed.

Ms. Russell made a motion to grant Special Use Permit #2010-005 for William Percy to allow construction of a storage shed, 12' x 16' in size, on property located on Fortunes Cove Lane, with the following conditions:

- 1) A building permit be granted for the main house within one year of the date of this meeting.
- 2) The storage shed will not be used for residential purposes.

Mr. Childs provided the second, and motion passed 5-0. Mr. Boger told Mr. Percy that if he needs an extension of the permit, he should apply prior to the expiration date.

Adjournment

At 8:15 P. M. Mr. Bradshaw declared the meeting adjourned.

Next meeting – September 7, 2010

Respectfully submitted,

Betty M. Fortune
BZA Secretary