

Nelson County  
Board of Zoning Appeals

# Memo

To: Board of Zoning Appeals

From: Dylan M. Bishop, Director of Planning & Zoning *DMB*

Date: February 3, 2021

Re: Special Called Meeting to Rescind Variance Approval #2020-01 (Luscomb)

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On January 4, 2021, Variance #2020-01 was granted for the property located at TM# 33-7-17R on Mimosa Lane, for a reduction in the minimum required front yard setback of 75 feet from the center of the road, to 50 feet from the center of the road for a single-family dwelling. This decision was based on the following criteria:

“No such variance shall be authorized by the board unless it finds:

- (a) That the strict application of the ordinance would produce undue hardship;
- (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance;
- (d) That no rise will be created in the water level during flood conditions in a floodway, as defined in Article 10, as a result of issuing a variance.”

For all public hearing applications, there are notice requirements in the Code of Virginia that indicate when and how notices must be published and mailed, as well as who is to receive these notices. All adjoining property owners (APOs) of the subject parcel shall be sent notice at least 5 days prior to the hearing. Our office utilizes the County's GIS system to compile a list of all APOs. When multiple lots that adjoin each other are owned by the same entity or individual, typically the Commissioner of Revenue taxes the lots as one acreage. As a result, the additional parcels often populate into the GIS as “Null” – meaning the only information available for view is the tax map number; owner and acreage information is not provided.

(over)

It was brought to our attention that one APO of the subject parcel on Mimosa Lane was not given notice of the hearing. Further investigation revealed that this is indeed the case, that the adjoining property in question was listed as "Null" and was therefore overlooked. Due to this being a clerical error that was presented within 30 days of the approval, the remedy is to rescind the granted variance, and start the process from the beginning. The new hearing will be scheduled for March 2, 2021. A draft motion is below:

*"I move that the Board of Zoning Appeals rescind Variance #2020-01, which was granted on January 4, 2021, due to notice requirements not being met."*