



Nelson County Board of Zoning Appeals Meeting Minutes January 4th, 2021

Present: Chair Mary Kathryn Allen and Board Members: Gifford Childs, Carole Saunders, Angela Jones, and Shelby Bruguere

Staff Present: Dylan Bishop, Director and Emily Hjulstrom, Planner/Secretary

Call to Order: Chair Allen called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovingston.

Review of the minutes May 6th, 2019

Mr. Childs made a motion to approve the May 6th, 2019 minutes. Ms. Saunders seconded the motion.

Yes:

Mary Kathryn Allen

Gifford Childs

Carole Saunders

Angela Jones

Shelby Bruguere

Officer Elections

Ms. Saunders made a motion to continue to have Ms. Allen serve as Chair. Ms. Jones seconded the motion.

Yes:

Mary Kathryn Allen

Gifford Childs

Carole Saunders

Angela Jones

Shelby Bruguere

Ms. Saunders made a motion to continue to have Mr. Childs serve as vice chair. Ms. Jones seconded the motion.

Yes:

Mary Kathryn Allen

Gifford Childs

Carole Saunders

Angela Jones

Shelby Bruguere

Public Hearings

Variance #2020-01 Luscomb

Ms. Bishop reviewed the following information:

**Nelson County
Board of Zoning Appeals**

To: Board of Zoning Appeals
From: Dylan M. Bishop, Director of Planning & Zoning *DMB*
Date: January 4, 2021
Re: Variance Application #2020-01 – Request for Reduction of Front Setback

APPLICANT/OWNER: Harris and Susan Luscomb

CONTACT INFORMATION: 131 Mimosa Lane, Faber – (757) 254-7700

SUBJECT PROPERTY: Tax Map # 33-7-17R – Mimosa Lane

ACREAGE: 2.4 acres

ZONING: A-1 Agricultural

VARIANCE REQUESTED: Reduction in minimum required front setback of 75 feet from the center of the road, to 50 feet from the center of the road.

PURPOSE OF REQUEST: Construction of a single-family dwelling

LEGISLATION: Article 14, Board of Zoning Appeals, Nelson County Zoning Ordinance

“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.”

Harris and Susan Luscomb are the owners and live at 131 Mimosa Ln in Faber. Mr. Luscomb explained that he and his wife looked at the Virginia statute as it was in 2015 and that they believe that the granting of this variance would alleviate a hardship caused by the topographic conditions of their property. He noted that alleviating this hardship would be in consonance with the spirit of the Nelson County Zoning Ordinances to maintain residential development and to keep things safe and efficient. He showed a picture of their current home built in 1983. He explained that in 2020 his wife had a bout of pneumonia that left her weak for a while. He noted that this prompted them to look for a situation where they wouldn't need to go up and down stairs. He explained that when they bought the four (4) lots they thought one of their daughters would live there, but now know that she is not going to. Now they hope to build a one level house on the lot in question for themselves.

He then showed a picture of Mimosa Ln and explained that it is a two track dirt road and is about seven (7) feet wide. He showed the common area of the subdivision that was set up by Robert Monroe that prohibits any improvements other than fencing. He then showed a picture to the west of the lot and pointed out the edges of the property. He showed that the Monroe institute had partial ownership of the creek behind their current home.

He showed a plat of the parcel and where Mimosa Ln used to be. He explained that when you get to the tree line on the parcel the slope increases greatly. He also showed a video of the parcel from above and another video from down the slope to show the steepness of the drop-off. He then showed a video from Mimosa Ln under heavy downpour to show the drainage and that the water comes across the lane and through a culvert from the common side and on to their lot.

He explained that their builder, Mike Sadler, noted that they would have to build the house a little above ground level and work to disperse the water around the house. He further explained that moving the house further down the slope would increase the amount of water that would come to the house. He explained that they would need to build a 10 ft basement foundation wall and possibly a sub-basement. He added that it could cause more septic issues if it were further down the slope.

Ms. Saunders asked where they would put their septic field if the proposed one failed. Mr. Luscomb explained that the soil engineer designated a reserve field that is a little further down from the proposed one. He added that they have plenty of water available to them.

Mr. Childs asked if there were other houses nearby that were nonconforming on the setback. Ms. Allen explained that a letter from Mr. Lawrence stated that other houses on the lane were nonconforming. The Board looked at the GIS and saw that there were several nonconforming houses nearby. Ms. Bishop added that when these lots were subdivided the setback was 35'. Ms. Hjulstrom added that the setback was 35' from at least 1987 to 1997 and that she believes it was changed some time in the 2000s. Ms. Hjulstrom explained that currently the front setback is 75' from the center of the road or 50' from the edge of the ROW (whichever is greater) and that at the time these lots were divided, the setback was 35' from the edge of the ROW if the ROW was 50' or greater in width or 55' from the center if the ROW was 50' or less.

Ms. Allen asked about the lots next to the lot in question. She noted that they should look into if those lots would require the same variance if someone were to build a home there.

Ms. Bruguiera noted that the Subdivision HOA had dissolved and was now a road maintenance agreement. Mr. Luscomb explained that it is now under new ownership and that they have been maintaining the road maintenance agreement. Ms. Luscomb explained that their lot was the lowest spot and that she doesn't believe they would have the same drainage issue. She noted that they wanted to build something that fit Nelson County but that if they had to push it back it then the design of the house would not fit into the community as well.

Chair Allen opened the public hearing at 7:39 PM.

Chair Allen closed the public hearing at 7:39 PM.

Ms. Saunders noted that she believes it is a necessary variance. Ms. Allen noted that this variance is geared toward the property and not the owner which is what a variance is for. Mr. Childs noted that it meets the hardship requirements easier than other ones that they have granted in the past. Mr. Childs explained that the only issue could be setting a precedent but he doesn't see that as being a problem.

Ms. Saunders made a motion to approve Variance #2020-01 to reduce the front setback from 75' from the center of the road to 50' from the center of the road. Mr. Childs seconded the motion.

Yes:

Mary Kathryn Allen

Gifford Childs

Carole Saunders

Angela Jones

Shelby Bruguiera

Other Business

Ms. Bishop noted that she is happy to meet everyone on the Board and told them that Ms. Hjulstrom had recently been promoted to Planner.

2021 Schedule

Ms. Bishop proposed changing the BZA meeting from the first Monday of the month to the first Tuesday of the month to allow for easier advertising of the legal notice.

Mr. Childs made a motion to move the regular meetings to the first Tuesdays of each month. Ms. Jones seconded the motion.

Yes:

Mary Kathryn Allen

Gifford Childs
Carole Saunders
Angela Jones
Shelby Bruguiere

Ms. Bishop noted that Mr. Moyer chose not to continue on the Board after his term expired. She explained that the Board will be voting to appoint Ms. Bruguiere to the position at their next meeting.

Ms. Allen made a motion to adjourn the meeting at 7:46 PM. Ms. Jones seconded the motion.

Yes:

Mary Kathryn Allen
Gifford Childs
Carole Saunders
Angela Jones
Shelby Bruguiere

Respectfully submitted,



Emily Hjulstrom
Planner/Secretary, Planning & Zoning