

Minutes
Northampton County
Board of Zoning Appeals

February 2, 2010

This was a regular meeting of the Northampton County Board of Zoning Appeals (BZA) held on Tuesday, February 2, 2010 at 10:30 a.m. in the former Circuit Courtroom located at 16404 Courthouse Road in Eastville, Virginia.

Members present were Susan Henderson, Chair; Mark Freeze, Vice-Chair; Bonnie Nottingham, and Douglas Coburn. Absent from the meeting was Eugene Bannister.

Also in attendance were Melissa Kellam, Zoning Administrator; and Kay Downing, Administrative Assistant.

The Chair called the meeting to order, established a quorum, and introduced Board members and staff.

The first scheduled hearing was called to order. All those wishing to speak were sworn in.

Public Hearing

A. Variance 09-09: Granville Hogg has petitioned for variances of 20-feet from the required 60-foot front yard building setback from Wilkins Drive, of 25-feet from the required 60-foot front yard building setback from Townfield Drive and of 15-feet from the required 25-foot rear yard building setback for the purpose of constructing a shelter. The property is located on the north side of Townfield Drive at the intersection of Wilkins Drive in the Cherrystone area and is zoned A Agriculture. The property is described as Tax Map 83, double circle A, parcel 28D.

Ms. Kellam reviewed the staff report as follows.

VARIANCE 09-09 Hogg

Board of Zoning Appeals Criteria

The Board of Zoning Appeals may grant upon appeal or original application in specific cases such variance from the terms of the Northampton County Ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this Ordinance shall be observed and substantial justice done. In authorizing a variance, the Board of Zoning Appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that conditions imposed are being and will continue to be complied with. No variance shall be granted until the Board of Zoning Appeals has held a public hearing and given public notice in accordance with Section 15.2-2204 of the Code of Virginia. Pursuant to Section 15.2-

2309 of the Code of Virginia, no variance shall be granted until the Board of Zoning Appeals finds and is satisfied that:

1. *The property owner acquired his property in good faith but by reason of the exceptional narrowness, shallowness, size or shape of the specific piece of property at the effective date of this Ordinance; by reason of exceptional topographic conditions; or by reason of other extraordinary situations or conditions of such piece of the property or of the use or development of property immediately adjacent thereto, the strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the use of the property, or there exists a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.;*
2. *That the strict application of this Ordinance would produce undue hardship;*
3. *That such hardship is not shared generally by other properties in the same zoning district and same vicinity;*
4. *That the authorization of the 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; and*
5. *That the condition of the situation of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.*

Staff Report

Request: *Granville Hogg has petitioned for variances of 20-feet from the required 60-foot front yard building setback from Wilkins Drive, of 25-feet from the required 60-foot front yard building setback from Townfield Drive and of 15-feet from the required 25-foot rear yard building setback for the purpose of constructing a shelter. The property is located on the north side of Townfield Drive at the intersection of Wilkins Drive in the Cherrystone area and is zoned A Agriculture. The property is described as Tax Map 83, double circle A, parcel 28D.*

Recommendation: *When the setbacks are applied to this small triangular shaped corner lot which has two front setbacks, no building envelope exists. The applicant has made a request to place a 16-foot by 24-foot animal shelter on the property that is currently undeveloped. Because of the size and unusual shape of the property, a hardship does exist and staff recommends approval of the variance request.*

Mr. Hogg stated that the lot was created when a new road was installed years ago by the State separating this property from the larger parent tract. He added that the location of the overhead electrical power line creates a problem with full utilization of this parcel as well. Currently, the property is used to store supplies and feed for his sheep and goat herds.

The Chair called for public comments. There being none the hearing was closed.

Mr. Freeze stated his opinion that without a variance approval the parcel cannot be utilized as there is no buildable area. Therefore, a hardship is established.

Action:

Motion was made by Mr. Freeze to approve the application as submitted. Second was made by Mr. Coburn and carried unanimously.

The second public hearing was called to order.

B. Variance 09-10: WPKD LLC has petitioned for variances of a maximum of 54 feet from the required 100-foot front yard building setback from US Route 13, of 72 feet from the required 100-foot front yard building setback from an access road and of a maximum of 50 feet from the required 75-foot rear yard building setback for the purpose of commercial building. The property is located on the west side of US Route 13 south of its intersection with Stone Road (S. R. 184) and is zoned TE-CG Town Edge-Commercial General. The property is described as Tax Map 91A, double circle 2, parcel 5.

All those wishing to speak were sworn in by the Chair.

Mr. David Griffith, partner in WPKD LLC and acting agent, stated that the proposed commercial business will employ four partners and one employee. He added that commercially zoned property is difficult to locate on Lankford Highway and that is one reason why this site was chosen. He also noted that the partners would own the ice facility investing \$150,000. He explained that the ice maker is on top of the unit and the box is refrigerated at 29 degrees and equipped with a conveyor system. He stated that the existing well that serves the neighboring restaurant is proposed to serve the ice station as well. He added that there will be no discharge and that the operation is a self-serve type facility. Mr. Griffith explained that the government has been known to utilize these facilities during emergency situations as well and that approximately 1,600 units are in operation in throughout the southeast United States.

Mr. Freeze asked Mr. Griffith if the existing entrance to Shore Bank would be used to access the property. Mr. Griffith replied yes.

Ms. Kellam stated that approval from VDOT will be required as well as the Health Department. However, since land disturbance will be less than 2,500 square feet no engineered site plan is required for the proposed project.

Mr. Griffith stated that the existing entrance to Shore Bank was constructed to serve this property as well.

The Chair called for public comments.

Mr. Sheppard Davis, agent for the owner, stated that a portion of the existing right-of-way is still owned by the property owners and when it was approved it was with the understanding that it would serve this parcel as well. He stated that the owners are currently paying \$4,000 a year in real estate taxes and noted that the proposed business is non-obtrusive and small enough to be well suited for this particular location.

Mr. Granville Hogg stated that this particular highway intersection has safety and traffic problems and suggested that traffic only exit to the south from this property and that exiting northbound traffic be prohibited due to safety concerns at this crossover.

There being no other comments the public hearing was closed.

It was noted that during the field visit the Board had discussed issues of ingress and egress through the existing intersection. When asked by the Board Ms. Kellam explained that VDOT will have to approve the proposed business project as well as the Health Department. However, in order to proceed with obtaining the necessary approvals and building permit the applicant must have approval from the BZA first.

Action:

Motion was made by Mr. Coburn to approve the variance as submitted since required setbacks cannot be made on the commercial property. Second was made by Ms. Nottingham and carried unanimously.

Statements from the Public: none.

Old Business: none.

New Business: none.

Zoning Administrator's Report.

Ms. Kellam reported that no new applications have been received to date.

Consideration of minutes

The minutes of the December 1, 2009 were approved as submitted upon proper motion by Ms. Nottingham and second by Mr. Freeze.

Adjournment

Motion to adjourn was made at 10:55 a.m.

Chairman

Secretary