

Minutes
Northampton County
Board of Zoning Appeals

December 1, 2009

This was a regular meeting of the Northampton County Board of Zoning Appeals (BZA) held on Tuesday, December 1, 2009, at 10:00 a.m. in the former Circuit Courtroom located at 16404 Courthouse Road in Eastville, Virginia.

Members present were Bonnie Nottingham, Eugene Bannister and Douglas Coburn. Those absent were Susan Henderson, Chair; and Mark Freeze, Vice-Chair.

Also in attendance were Katrina Hickman, Zoning Inspector; and Kay Downing, Administrative Assistant.

Mr. Coburn, acting as Chairman Pro-tem, called the meeting to order and established a quorum. Members and staff were then introduced.

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

Public Hearing

Exception 09-08 NHCO, James Zabita has petitioned for an exception to allow a maximum encroachment of 4,000 square feet into the required 100-foot wide Chesapeake Bay / Atlantic Ocean Resource Protection Area Buffer to construct a new single-family dwelling and utilize an existing driveway and on-site septic drainfield. The maximum distance of the encroachments into the buffer is 100-feet. The property, located on Broadwater Circle in Oyster, Va., is zoned WV-2 Waterfront Village-Two, and is further described as County tax map 85A, double circle 3, parcel 50.

It is noted for the record that those Board members present and Ms. Hickman had conducted a field visit to the Zabita property this day prior to the public hearing.

Ms. Hickman presented the staff report as follows.

Staff Report

Exception 09-08 NHCO: James Zabita has petitioned for an exception to allow a maximum encroachment of 4,000 square feet into the required 100-foot wide Chesapeake Bay / Atlantic Ocean Resource Protection Area Buffer to construct a new single-family dwelling and utilize an existing driveway and on-site septic drainfield. The maximum distance of the encroachments into the buffer is 100-feet. The property, located on Broadwater Circle in Oyster, Va., is zoned WV-2 Waterfront Village-Two, and is further described as County tax map 85A, double circle 3, parcel 50.

Recommendation: *When all setbacks and buffers are placed on this property, no buildable area exists. The applicant proposes to demolish an existing shed on the property and is requesting to construct a single family dwelling which will utilize an existing driveway and drainfield. Staff finds that the proposed project meets the exception criteria and recommends approval with the following conditions: (1) a mitigation plan is submitted and approved prior to issuing a building permit; and (2) the mitigation plan is implemented prior to issuing a certificate of occupancy.*

The Chair asked if the existing home was to be demolished. Mrs. Downing stated no, that the existing home is actually on adjacent property.

Referring to the Planning Commission's recommendation, Ms. Hickman noted that health department information was not available during the commission's discussion of the matter.

The Chair called for comments from the applicant.

Ms. Cela Burge, agent for the applicant, referred to Section 154.164 of the new zoning ordinance whereby the BZA may grant an exception in the minimum amount required in order to provide relief and encroachment for a single-family dwelling and necessary utilities. She explained that the parcel is not buildable without the exception. Ms. Burge stressed that the applicant has planned the new structure to be as minimally invasive as possible noting that the adjacent home is 215 square feet larger than the proposed. A mitigation plan will be accomplished on a one-to-one basis and the applicant will vegetate additional space in accordance with staff recommendations and take all appropriate erosion and sediment control measures. Ms. Burge stressed that allowing the exception would not convey any special privilege to the applicant and that the request is not based on self-created circumstances. Ms. Burge also noted that the proposed project is consistent with the current zoning district and neighborhood. She added that no accessory structures are planned – only the primary structure which is the single-family home. She added that the property cannot be used as zoned for without the exception.

Discussion followed on the existing septic system. Mr. Zabita explained that the first installation of the pura-flow septic system would be to serve the existing home and once connected the old septic system would be removed. The new system would be out-fitted so that it can be easily connected to the new home once it is completed. He noted that the existing home would continue to be used until the certificate of occupancy is issued for the new house.

The Chairman Pro-Tem asked if the new home could be considered a replacement for the existing home that is to be demolished. Mrs. Downing stated no since the two homes are actually located on two different lots even though owned by the same person and, if presented that way, a new application would be required in her opinion.

There being no other public comments the hearing was closed.

Action:

Motion was made by Mr. Bannister to grant the exception as it has been determined that the property is not buildable without it. It was noted that the deck area is to be included in the exception as it is part of the proposed house footprint. Second was made by Ms. Nottingham and carried unanimously.

Ms. Downing informed Mr. Zabita that his building permit cannot be released until the end of the 31-day appeal period.

Statements from the Public: None.

Old Business: None.

New Business

Mrs. Downing reported that Mrs. Henderson has been re-appointed by Judge Tyler to serve another term.

Zoning Administrator's Report: not available.

Zoning Inspector's Report

Ms. Hickman reported that the KKK Burn-Out (Larry Jones) violation case was heard before the court and Mr. Jones was found guilty of two violations and fined. She added that he is now seeking a zoning clearance for his KKK Trucking Company.

Consideration of minutes

The minutes of the October 6, 2009 were approved as submitted upon proper motion by Mr. Bannister and second by Ms. Nottingham.

Adjournment

Motion to adjourn was made at 10:30 a.m.

Chairman

Secretary