

BOARD OF ZONING APPEALS
April 23, 2008

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON WEDNESDAY, APRIL 23, 2008 AT 7:30 P.M.

Those present were: Raymond Daughtry, Chairman
 Joel Snow, Vice-Chairman
 Richard Herring, Member
 Bob Runkle, Member
 Bart Svoboda, Zoning Administrator
 Stephanie Golon, County Planner
 Shawn Leake, Zoning Officer
 Marsha Alley, Secretary

The Chairman called the meeting to order stating that there would be one public hearing tonight. He informed anyone who wanted to speak to sign the appropriate sheet.

PUBLIC HEARING

Carl A. Morris requests a 7 ft. front yard variance from Article 5 of the Greene County Zoning Ordinance which requires a 35 ft. front yard setback. This request is on property that is identified on the County Tax Maps as 37-(A)-59A located between Spotswood Trail and Lawsons Farm Road containing 2.001 acres and is zoned R-1, Residential. (VAR#08-003)

Mr. Daughtry asked Mr. Svoboda for a report.

Mr. Svoboda gave an analysis of the request and reviewed sketches and maps of the property. He stated that the request is to reduce the front setback (along Route 33) from 35 feet to 28 feet (7' variance). He added that the property is located North of Lawson Farm Road and south of Spotswood Trail (Route 33), Stanardsville, and is served by private well and septic. He added that the parcel has double frontage on Spotswood Trail and Lawsons Farm Road; therefore, the request is for a front setback variance. He added that Planning staff analysis of this application includes the following points:

- a. That the strict application of the ordinance would not produce an undue hardship. However the location of primary and reserve fields does confine the building area to a building site at the eastern edge of the parcel. There are no side setbacks on the eastern edge, 70 feet of front setbacks and an additional 25 feet of right-of-way in this area that limit the building area.
- b. That such hardship is not shared generally by other properties in the zoning district and the same vicinity. Due to the unique shape, existing right-of-way located on both the north and south sides of the property, and the drainfield area and swale locations.

He added 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.

Mr. Daughtry swore in speakers.

Carl Morris, applicant, addressed the Board. He explained that he based his measurements on the location of the VDOT fence and that the subsequent survey proved that measurement to be incorrect. He stated that he understood that the fence was the property line.

Mr. Daughtry asked if he had plans to build a stick-built home there.

Mr. Morris stated that he would probably do that.

Amy Roman addressed the Board stating that she understood that the C2 parcel had been offered a sewer connection and asked if a connection was available on the lot in question.

Mr. Svoboda stated that there are no sewer lines to serve the property in question.

Mrs. Roman explained that the zoning ordinance protects the land owners and the property owners have a responsibility to follow the process which is in place. She added that the foundation was placed without a building permit for a manufactured home. She added that the situation was not approached honestly from the beginning. She stated that not all variances should be granted. She noted that it is her understanding that the property is for sale and added that now would be the appropriate time to have the foundation moved or removed.

Dale Graves asked Mr. Svoboda if the right-of-way would be affected.

Mr. Svoboda stated that the right-of-way would not be affected as the encroachment is toward the Route 33 property line.

Mr. Graves asked the Board not to allow the variance and to follow the ordinance as it is written.

Chester Losinski stated that Mrs. Roman had previously covered his concerns.

There being no further public comment, the public hearing was closed.

Mr. Herring stated that he believed that granting the variance on the Route 33 property line would not affect the neighbors.

Mr. Daughtry stated that the lay of the lot has an affect and that the measurement was likely just an honest mistake. He added that the foundation did not appear to be detrimental in this location.

Mr. Snow reminded the Board that one case does not set precedent for another case. He added that they serve as a Board of Appeals, not a Board of Denials. He agreed that the property owner and/or developer is responsible for the location of structures, but noted that he did see how mistakes can be made.

Mr. Daughtry stated that moving the foundation would make it closer to Lawson Farm Road.

There was discussion regarding the setting of precedent.

Mr. Runkle stated that he believed all comments had been stated.

Mr. Snow stated that hardship is not determined by monetary hardship, adding that the lay of the land comes into play. He noted that common sense would be to allow the variance as it would not be encroaching on other property owners, but he added that he did not see a hardship as far as placement of the structure on the property, noting that it could be moved up the hill further as there is no steep bluff.

Mr. Herring made a motion to approve variance VAR#08-003 with the following conditions:

1. The front setback is modified along the northern (Route 33) property line only.
2. That any change to this proposal shall be modified by the BZA only.

Mr. Runkle seconded the motion.

The vote was taken.

AYE

Mr. Herring

Mr. Runkle

Mr. Snow

Mr. Daughtry

NAY

The motion to approve variance VAR#08-003 carried by a 4-0 vote.

There was discussion regarding the decision.

OLD/NEW BUSINESS

There was no Old/New Business to address.

MINUTES

Mr. Herring made a motion to approve the minutes of February 27, 2008 as submitted.

Mr. Runkle seconded the motion.

The minutes of February 27, 2008 were approved by a 4-0 vote.

OTHER MATTERS

Mr. Svoboda informed the Board that there would be no meeting in May.

Mr. Svoboda introduced Shawn Leake as the new Zoning Officer, and stated that inspections would soon begin and hopefully these types of issues can be prevented.

Mr. Daughtry pointed out that an inspection for the previous case would not have helped because the survey is what found the problem.

Mr. Svoboda agreed and added that the dual road frontage was also an issue.

There was discussion regarding dual frontage parcels, inspection process for setbacks, and the benefits of surveys.

Mr. Runkle asked how odd shaped lots are created.

Mr. Svoboda stated that they were previously allowed to be created but regulations are in place to address the odd shaped lots.

There was discussion regarding odd shaped lots and alternative septic systems and new technology.

Mr. Svoboda suggested reviewing the BZA By-laws at some point this year.

There was discussion on area dams after Mr. Runkle asked the status of the lake at Greene Acres. There was also discussion regarding flood plains and construction within the flood plain.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marsha Alley

Marsha Alley, Secretary