

**BOARD OF ZONING APPEALS  
MINUTES  
NOVEMBER 14, 2013**

**VIRGINIA**

A public hearing of the Board of Zoning Appeals for Amherst County, Virginia was held at 7:00 PM, on Thursday, November 14, 2013 in the Board of Supervisors Room located in the Amherst Administrative Building on 153 Washington Street, Amherst, Virginia.

**MEMBERS PRESENT:**

George Banton, Chariman  
George Wise, Vice Chairman  
Joyce Coleman  
Harry Stinnett, Jr.  
Barbara Woody

**STAFF PRESENT:**

Jeremy Bryant, Director of Planning /Zoning Administrator  
Austin Mitchell, Assistant Zoning Administrator/Planner  
Stacey Stinnett, Planning/Zoning Administrative Assistant

**IN RE: CALL TO ORDER**

Chairman Banton called the meeting to order at 7:00 PM with a quorum present to conduct business.

**IN RE: APPROVAL OF AGENDA**

The agenda was amended by switching items 3 (A) and (B) and adding item 4 (B) to include Election of Officers.

**Motion:** Woody I make a motion to approve the amended agenda.

**Second:** Coleman

**The motion was carried by a 5-0 vote.**

**IN RE: PUBLIC HEARING - VARIANCE REQUEST BY KINKLE TOLIVER #2013A-01.**

#2013A-01 A variance request for approval of multiple variances from Sections

710.06 (1) and 804 of the Zoning & Subdivision Ordinance to reduce the setback from the stream setback requirement of seventy-five (75) feet approximately sixty-five (65) feet and to reduce the setback from the frontage road easement (measured from centerline) of seventy-five (75) feet to approximately thirty-five (35) feet, to allow for an expansion of a porch to an existing to an existing single-family dwelling. The request is referenced by a drawing submitted by the applicant. The property is located at 129 My Way off of Route 778, and is further identified as being tax map parcel number 64-A-11.

**STAFF REPORT:** Mr. Bryant presented the staff report and stated that the Planning Commission recommended approval unanimously at the Planning Commission Meeting held on Thursday, October 4, 2012.

**Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:**

1. All construction must be flood proofed in accordance with the Building Code.
2. The variance is granted for Tax Map Parcel No. 64 – A – 11 to reduce the seventy-five (75) foot setback to approximately sixty-five (65) feet and to reduce the setback from the frontage road easement (measured from centerline) of seventy-five (75) feet to approximately thirty-five (35) feet, to allow for an expansion of a porch to an existing single-family dwelling.
3. The proposed porch shall be in general compliance with the submitted plot plan.
4. The granting of this variance shall not be construed to vest in the applicant a right to the variance until all necessary local, State and Federal plan application, review and approval processes have been completed.
5. This approval may be revoked by the County of Amherst or its designated agent for failure by the applicant or its assigns to comply with any of the listed conditions or any provision of Federal, State or local regulations.

Chairman Banton opened the public hearing.

**PROPOSERS' ARGUMENTS:**

Mr. Kinkle Toliver, applicant spoke in favor of the request and stated the three reasons for his hardship:

- 1) The house was built in 1945 and was built in good faith. The expansion of the porch does not extend beyond the width of the existing house. In 1969, the flood, Hurricane Camille changed the dimensions of the setback dimensions of the private driveway.

- 2) The house was built in 1945 and there was no zoning at that time.
- 3) The adjoining property is wooded and vacant; the expansion of this porch is not visual by other existing property owners. The landowners that use this private driveway insist that this would be an improvement for this property and also their property. The one property owner that has access to this driveway has does not have any objections.

**OPPONENTS' AGRUMENTS:**

There were none.

There being no further speakers Chairman Banton closed the public hearing.

**BOARD OF APPEALS DISCUSSION:**

Mrs. Coleman and Mrs. Woody supported the request and stated that due to the topographic layout of this lot this request was considered a hardship.

Mr. Stinnett supported the request and stated that he is familiar with the property and doesn't see this to be an issue as long as the applicant meets all of the Staffs condition.

Mr. Wise was concerned with the electrical work on the porch being that the porch was in the flood plain. Mr. Bryant replied that the Building Official would meet with the applicant and inspect the property.

**BOARD OF ZONING APPEALS ACTION:**

**Motion:** Coleman                      I move to grant approval for variance request 2013A-01 Kinkle Toliver with staff conditions based upon the hardship due to the topography of the lot.

**Second:** Woody  
**The motion was carried 5-0.**

**IN RE: PUBLIC HEARING – VARIANCE REQUEST BY WAYNE & BRENDA CARWILE**  
**#2013A-02**

# 2013A-02 Request by M. Taze Crowder, L.S. (applicant), and Wayne D. & Brenda B. Carwile (property owner) for approval of multiple variances from Section 804 of the Zoning & Subdivision Ordinance to reduce the setback from the front yard (Blue Bird Lane) from sixty-five (65) (measured from centerline) feet to approximately thirty-four (34) feet and to reduce the rear yard setback from twenty-five (25) feet to approximately eleven (11) feet and to reduce the setback measured from a frontage road easement (measured from centerline) from sixty-five (65) feet to forty-six (46) feet, to allow the replacement of a burned single family dwelling. The proposed new structure is a manufactured home that is transferred in two (2) or more sections and is approximately 466 square feet larger than the existing dwelling that was a non-conforming structure. The request is referenced by a drawing submitted by the applicant with an exhibit at enlarged scale with dimensions. The property is located at 438 Thomas Road, and is further identified as tax map parcel number 155-3-1.

**STAFF REPORT:** Mr. Mitchell presented the staff report and stated that at the Thursday, October 4, 2013 Planning Commission Meeting the Planning Commission voted unanimously to not make a recommendation to the Board of Zoning Appeals.

**Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:**

1. The Variance is granted for Tax Map Parcel No. 155-3-1 to reduce the setback from the front yard (Blue Bird Lane) from sixty-five (65) (measured from centerline) feet to approximately thirty-four (34) feet and to reduce the rear yard setback from twenty-five (25) FEET TO APPROXIMATELY ELEVEN (11) feet and to reduce the setback measured from a frontage road easement (measured from centerline) from sixty-five (65) feet to forty-six (46) feet, to allow the replacement of a burned single family dwelling.
2. The owners shall submit a new zoning permit and building permit with the correct dimensions and updated owner information.
3. The granting of this variance shall not be considered to vest in the applicant a right to the variance until all necessary local, State and Federal plan application, review and approval processes have been completed.
4. This approval may be revoked by the County of Amherst or its designated agent for failure by the applicant or its assigns to comply with any of the listed conditions or any provision of Federal, State or local regions.

Chairman Banton opened the public hearing.

**PROPONENTS' ARGUMENTS:**

Mr. Taze Crowder, surveyor of Actual Surveyors in Amherst, Virginia for the applicant spoke in favor of the request. Mr. Crowder presented the applicants case and explained that the property was bought in good faith. Mr. Crowder also stated that the location of the lot as a corner lot and the setbacks die to the front yard being adjacent to Blue Bird Lane created a buildable area of only twelve (12) feet in width which would not allow for the placement of a doublewide in any configuration. Facing the manufactured home towards Blue Bird Lane would require extensive modifications to the existing landscaping on the site and the structure would still not fit within the buildable area.

**OPPONENTS' ARGUMENTS:**

There were none.

There being no further speakers Chairman Banton closed the public hearing.

**BOARD OF APPEALS DISCUSSION:**

Mrs. Coleman stated that she felt the applicants did purchase the property in good faith.

Mrs. Woody and Mr. Stinnett supported the request and stated that this is a very unfortunate situation but under the circumstances this is considered a hardship.

Mr. Banton and Mr. Wise discussed the lot size with staff.

**BOARD OF ZONING APPEALS ACTION:**

**Motion:** Wise

I move to grant approval for variance request 2013A-02 Brenda & Wayne Carwile with staff conditions die to the size of the lot and limited setbacks.

**Second:** Coleman

**The motion was carried 5-0.**

**IN RE: OLD/NEW BUSINESS:**

**A. Administrative Variance Discussion**

Mr. Bryant briefly discussed with the Board of Zoning Appeals their intake on giving staff the ability to consider variance cases at an administrative level. The Board of Zoning Appeals agreed that this was not the best interest of Staff; therefore, no action was taken.

Mr. Wise asked about the status on the O'Reilly, Childrey and the Pacyga cases. Mr. Bryant replied that the O'Reilly case never went to court, due to the changes in the new sign ordinance and the judge ruled in favor of the Childrey case. Mr. Bryant stated that the Pacyga case had not yet gone to court; however, he would keep the Board of Zoning Members updated on the court date and status of the case.

**IN RE: ELECTION OF OFFICERS**

**Chairperson Nominations-**

**Motion:** Wise      Motion to nominate George Banton to serve as Chairman of the Board of Zoning Appeals.

**Second:** Woody  
**The motion carried by a 4-0 vote. Mr. Banton abstained.**

**Vice Chairperson Nominations-**

**Motion:** Coleman      Motion to nominate George Wise to serve as Vice Chairman of the Board of Zoning Appeals.

**Second:** Banton  
**The motion carried by a 4-0 vote. Mr. Wise abstained.**

**Secretary Nominations-**

**Motion:** Woody      Motion to nominate Jeremy Bryant, Planning Director, to serve as Secretary of the Board of Zoning Appeals.

**Second:** Banton  
**The motion carried by a 5-0 vote.**

Mr. Bryant introduced Austin Mitchell as the new Assistant Zoning

Administrator/Planner. The Board of Zoning Appeals welcomed Mr. Mitchell.

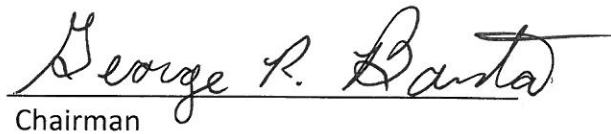
**IN RE: ADJOURNMENT**

**Motion:** Wise Motion to adjourn the meeting.

**Second:** Woody

**The motion was carried by a 5-0 vote.**

There being no further business to discuss, the meeting was adjourned at 8:18 pm.

  
Chairman

/ss/4.4.14