BOARD OF ZONING APPEALS
MINUTES
JANUARY 10, 2019

VIRGINIA

A public hearing of the Board of Zoning Appeals for Amherst County, Virginia was held at 7:00 PM, on Thursday, January 10, 2019 in the County Administration Meeting Room located in the Amherst Administrative Building on 153 Washington Street, Amherst, Virginia.

MEMBERS PRESENT: George Banton, Chairman
George Wise, Vice Chairman
Peter Bryan
Barbara Woody
Clarence Monday

STAFF PRESENT: Jeremy Bryant, Director of Planning /Zoning Administrator
Dylan Bishop, Assistant Zoning Administrator/Planner
Stacey Stinnett, 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: ELECTION OF OFFICERS

Motion: Woody Motion to reelect existing officers. Mr. George Banton as the Chairman. Mr. George Wise as Vice-Chairman and Jeremy Bryant as Secretary.

Second: Wise
The motion was carried by a 5-0 vote.

IN RE: APPROVAL OF AGENDA

The amended agenda was approved as submitted.

Motion: Bryan I make a motion to approve the amended agenda.
Second: Woody
The motion was carried by a 5-0 vote.

IN RE: PUBLIC HEARING - VARIANCE REQUEST BY 2018-484 FLORENCE & EDWARD GAINES

Request by Florence Gaines for approval of three variances from Section 901.2.4 and Section 804. The purpose of the request is to allow a carport (accessory structure) to be places in the front yard of a residential lot.

The first requested variance is for a carport which will reduce the setback from the front yard requirement of 50 feet to 25 feet and the second requested variance will reduce the side yard setback of 15 feet to 2 feet.

The purpose of the third variance is to allow the applicant to place the carport in the front yard of a residential lot. The property is located at 187 Lamont Drive and is further identified as tax map number 148D-3-2.

STAFF REPORT: Mr. Bryant presented the staff report and stated that the Planning Commission made a recommendation to deny this case with a 6-0 vote on December 20, 2018. Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:

Mr. Bryant presented the Staff report and concluded his comments by stating that should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:

1. The variance is granted for Tax Map Parcel 148D-3-2 for a carport that will reduce the setback from the front yard requirements of 50 feet to 25 feet and will reduce the side yard setback of 15 feet to 2 feet and will allow the applicant to place the carport (accessory structure) in the front yard on a residential lot.

2. 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.

3. 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 provisions of Federal, State or local regulations.

PROPONENTS' ARGUMENTS:

Chairman Banton opened the public hearing.

Florence Gaines, applicant, spoke in favor of the request. Mrs. Gaines stated that she had purchased the carport from John Rolf at Deck & Yard in Madison Heights. She stated that when she purchased the carport Mr. Rolf did not tell her that she needed any permits to put up the carport. A company out of North Carolina came to her property and installed the carport on site. Mrs. Gaines stated that after finding that she did not meet setbacks and was on her neighbor's property that she had family help move the structure as far as they could off of Mr. Pomper's property, which was eight feet (still not meeting her setbacks). Mrs. Gaines stated that she approached Mr. Rolf with this situation his response was that it was not his responsibility to get permits and that he would not return the carport.

Richard Pomper, resides at 200 Abbitts Drive in Madison Heights, spoke in favor of the request. Mr. Pomper stated that it was his property that the carport was originally on and currently there is only a two-foot dispute over meeting the legal setbacks. Mr. Pomper stated that he felt Deck & Yard should be responsible and they should not have sold Mrs. Gaines something that she could not put on her property legally. Mr. Pomper stated, "I do not hold Mrs. Gaines responsible. I hold the company that sold her this carport responsible."

Shelly Dabney, resides at 150 Lamont Drive in Madison Heights, spoke in favor of the request. Ms. Dabney stated that the Gaines have always parked their vehicles in the same spot where the carport was to go and that the County should be more concerned about businesses coming into the County treating the citizens this way leaving them responsible. Ms. Dabney stated that she could understand if this was an addition to the home but this is for an accessory structure. Ms. Dabney stated that Mrs. Gaines relied on good faith and on the oral information given by Deck & Yard Company.

Kelvin Johnson, resides at 179 Lamont Drive in Madison Heights, spoke in favor of the request. Mr. Johnson stated that Deck and Yard Company came out to do a sight visit and they should've made sure then of where property lines where.

OPPONENTS' AGRUMENTS:

There were none.

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

BOARD OF APPEALS DISCUSSION:

There was a brief discussion amongst the Board of Zoning Appeals members and they all agreed that legally they didn't have the authority to move forward with this case because there was no undue hardship present in this case.

BOARD OF ZONING APPEALS ACTION:

Motion: Banton Motion to deny variances requested for tax map parcel number 148D-3-2 to reduce the front yard setback requirement of 50 feet to 25 feet, to reduce the side yard setback requirement of 15 feet to 2 feet, and to allow the applicant to place an accessory structure in the front yard on a residential lot.

I have not been convinced that the necessary requirement of undue hardship exists that would allow the approval of these requests. The strict application of the zoning regulations in this situation does not restrict the utilization of this property to an extent that it precludes any reasonable use of the property but only interferes with the applicant's proposed use.

Second: Bryan
The motion was carried 5-0.

Mr. Bryant explained to the applicant that this decision by the BZA may be appealed in accordance with Section 1402.06 of the Amherst County Zoning Ordinance. If they choose to appeal this decision, such actin shall occur within 30 days of the date of the board action.

IN RE: NEW/OLD BUSINESS

There was a brief discussion regarding having the Town Hall, Planning Commission, and the Board of Zoning Appeals holding a training session with Mike Chandler.

Mr. Bryant explained that as part of the Business Friendliness initiative that the County is trying to implement in each department he had considered staff being given the authority to review administrative variances.

The Board of Zoning Appeals Committee requested Staff to do some research on other localities pertaining to administrative variances and bring back to the next BZA meeting on February 14, 2019.

IN RE: APPROVAL OF MINUTES FOR APRIL 12, 2018

April 12, 2018 Meeting Minutes

Motion:	Bryan	Motion approve the July 13, 2017 meeting minutes.
Second:	Woody	

The motion was carried by a 4-0 vote. (Monday abstained)

IN RE: ADJOURNMENT

Motion:	Banton	Motion to adjourn the meeting.
Second:	Monday	

The motion was carried by a 5-0 vote.

There being no further business to discuss, the meeting was adjourned at 8:00 pm.

George R. Banton
Chairman

/ss/1.29.19