

**AMHERST COUNTY BOARD OF ZONING APPEALS
MINUTES**

August 12, 2010

- MEMBERS PRESENT:** George Wise, Chairman
George Banton
Bonnie Limbrick, Vice-chairwoman
Barbara Woody
- MEMBERS ABSENT:** Joyce Coleman
- STAFF PRESENT:** Jeremy Bryant, Director of Planning/Zoning
E. Ellen Bowyer, County Attorney

1. CALL TO ORDER

Chairman Wise called the meeting to order at 7:00.

2. APPROVAL OF AGENDA

Motion: Limbrick To approve the agenda as submitted

Second: Woody

AYES: Unanimous (4-0); Coleman Absent

3. PUBLIC HEARING

BZA Hearing No. 2010A-03/Guy & Kimberley Hartless

Request by Guy & Kimberly Hartless for approval of multiple variances from the required two-hundred (200) foot setback from the National Forest. The proposed dwelling will be seventy-five (75) feet from the front yard property line (centerline of North Fork Road), twenty-four (24) feet from the side property line, and twenty-five (25) feet from the rear property line. Additionally, a primary and one-hundred (100) percent reserve drainfield and septic tank will be located within the two-hundred (200) foot National Forest setback as referenced by a plat submitted by Acres of Virginia, dated 7/19/10. The property is located at 1457 North Fork Road and is further identified as tax map parcel number 25-A-5, 5B.

Chairman Wise opened the public meeting on a request for approval of a variance from Guy and Kimberly Hartless on tax map parcel number 25-A-5,5B and explained the procedure for public comment and the right of an

appeal to the Circuit Court. Chairman Wise asked Mr. Bryant to present his staff report to the Board.

Mr. Bryant explained that the parcel was surrounded by the National Forest, and no locations were present on the property that would allow a structure to be erected without a setback variance. He explained that the Amherst County Zoning Ordinance required a two-hundred (200) foot setback from property owned by the United States Government and managed by the U.S. Forest Service. Mr. Bryant also explained that a dwelling was located on the property and was demolished approximately six (6) months ago according to Tommy Brooks Sr., with Acres of Virginia Incorporated. Mr. Bryant provided an aerial photograph and pictures taken of the property. Additionally, he discussed plats that were on record at the Amherst County Courthouse and provided by Acres of Virginia from 1981 and 1986. He pointed out that the adjacent property was owned by a private citizen according to the plat from 1981 to ownership by the United States Government by the time the plat of 1986 was recorded. Mr. Bryant also mentioned that the two-hundred (200) foot setback was not indicated on either plat.

Mr. Bryant noted that the Planning Commission considered the request at their August 5, 2010 meeting and did not render an opinion to the Board of Zoning Appeals.

Chairman Wise asked whether there was anyone present who wished to speak in favor of the request.

Ms. Limbrick questioned why the two-hundred (200) foot setback was originally established in the ordinance. Mr. Bryant stated that he cannot speculate why the ordinance was adopted and the purpose of the two-hundred (200) foot setback requirement. However, he clarified that an ordinance from 1987 required a two-hundred (200) foot setback from all land that was zoned C-1 Conservation District.

Chairman Wise opened the public hearing.

Mr. Brooks mentioned that he would also like to research the history of the two-hundred (200) foot setback requirement. He stated that the Board of Zoning Appeals (BZA) members were not all present and he requested that the full BZA be present to best represent his client. Therefore, he requested that the BZA postpone the request until September 9, 2010.

There was general discussion about postponing the case. Mr. Bryant referenced section 1006.03 of the County Ordinance to the BZA, which states:

“No variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The board shall fix a reasonable time for the hearing of an application, give public notice thereof as well as due notice to the parties in interest and make its decision within ninety (90) days of the filing of the application. The concurring vote of a majority of the membership of the board shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variance from the ordinance.”

Chairman Wise questioned whether or not the County Attorney had an opinion if the issue could be postponed. Ellen Bowyer, County Attorney stated: “certainly I think that if there is a provision, what you would want to do is to have the board do a motion to continue the matter at the request of the applicant to vote on”.

Motion: Limbrick To continue the meeting to the next Board of Zoning Appeals meeting on September 9, 2010

Second: Woody

AYES: Unanimous (4-0); Coleman Absent

Mr. Banton questioned a difference in bearings on the two (2) plats from 1981 and 1986. Mr. Brooks explained the difference between the two plats.

Mr. Bryant officially introduced the County Attorney, Ellen Bowyer to the BZA members.

4. OLD/NEW BUSINESS

Mr. Wise stated that he had old business to discuss. At the last BZA meeting he questioned the definition of a *frontage road*. Mr. Bryant reviewed the ordinance, and reported to the BZA that *frontage roads* are not defined.

5. APPROVAL OF MINUTES

Motion: Banton To approve the minutes from the July 8, 2010 meeting as presented.

Second: Woody

AYES: Unanimous (4-0); Coleman absent

6. ADJOURNMENT

Chairmain Wise closed the meeting at 7:40 PM.

CHAIRMAN

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