

**BOARD OF ZONING APPEALS
MINUTES
APRIL 14, 2011**

VIRGINIA

A public hearing of the Board of Zoning Appeals for Amherst County Virginia was held at 7:00 PM, on Thursday, April 14, 2011 in the Board of Supervisors Room located in the Amherst Administrative Building on 153 Washington Street, Amherst, Virginia.

MEMBERS PRESENT: George Wise, Chariman
Bonnie Limbrick, Vice-Chairman
Barbara Woody
George Banton
Joyce Coleman

MEMBERS ABSENT: None

STAFF PRESENT: Jeremy Bryant, Director of Planning /Zoning Administrator
Matthew Rowe, Planner/Assistant Zoning Administrator
Stacey Stinnett, Planning/Zoning Administrative Assistant

IN RE: CALL TO ORDER

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

IN RE: APPROVAL OF AGENDA

Motion: Limbrick I make a motion to amend the agenda so that Zoning Case #2011A-02 will be heard first and Zoning Case # 2011A-01 will be heard second.

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

Chairman Wise proceeded to explain the rules of procedure for the public hearing. Chairman Wise stated that each person wishing to speak, except for the applicant, would be allowed a total of three (3) minutes, and must state their name and physical address for the record.

**IN RE: PUBLIC HEARING - ZONING CASE #2011A-02 - VARIANCE REQUEST BY
O'REILLY'S AUTOMOTIVE STORES, INC.**

#2011A-02 Request by O'Reilly's Automotive Stores, Inc. for approval of a variance to both increase the maximum allowable height of a freestanding sign at the setback line (approximate) from six (6) feet to twenty-five (25) feet, and enlarge the permitted sign from fifty-eight (58) square feet to seventy-eight (78) square feet in order to permit an on-site freestanding sign. The property is located in the B-2 General Commercial District in Madison Heights, Virginia and further identified as tax map parcel number 155D-A-16B.

STAFF REPORT: Mr. Rowe gave the staff report and stated that the Planning Commission recommended approval unanimously at the Planning Commission Meeting held on Thursday, April 7, 2011.

Chairman Wise opened the public hearing.

PROPOSERS' ARGUMENTS:

Mr. David Adams, District Manager for O'Reilly's Automotive Stores representing stores from the New River Valley to Central Virginia addressed the Board. His concerns were for motorist visibility and safety at the intersection stoplight immediately adjacent to the site. He felt that twenty-five (25) feet would be an adequate height for both visibility and safety. He stated that he felt this was a good location for the store and that other stores would be coming to surrounding areas within the region.

Mr. Henry Ebert, representative of Ebert Sign Company in Winston Salem, North Carolina, addressed the Board and stated that he was the individual who applied for the sign permits to allow a freestanding sign located in the front of the building and a wall-mounted sign to be placed on the side of the building. He proceeded to explain that O'Reilly's Automotive Store Headquarters would be willing to eliminate the wall-mounted signage if the Board was willing to permit the freestanding sign in the front of the building along Route 29 Business.

Chairman Wise closed the public hearing.

OPPONENTS' ARGUMENTS: None present.

BOARD OF ZONING APPEAL DISCUSSION

Ms. Coleman asked Mr. Adams to provide the height differential between road level and grade level of the lot?

Mr. Adams stated that he could not provide an exact height at this time, however, a motorist would not be able to see a conforming sign if you are coming north on U.S. 29 Business. However, you can see the hotel signage located next to the property due to the flatter grade of the property. The concern is that if the sign was ten (10) or fifteen (15) feet tall then the sign would not be seen at all, which is why we applied for a variance. The reason O'Reilly's is willing to eliminate the wall-mounted sign on the side of the building was due to the possibility that if another business comes next door and decides to build, then the sign may not be as visible.

Ms. Limbrick stated that she was in favor of the County's Sign Ordinance and the reason being is because it improves and maintains the appearance of Amherst County. She stated that, "this is a circumstance of buyer beware." She stated to the applicant that they purchased the property aware that the County had a sign ordinance that would restrict sign height and mentioned they started building before a sign permit was obtained. I believe in being fair with everyone and that creates the question of when does action need to be taken.

Mr. Adams stated that typically when they go into a property they request a twenty-five (25) foot sign.

Ms. Limbrick said she understands, but you began building knowing that Amherst County had a sign ordinance. Being that this was the case perhaps you should've looked for another location.

Mr. Adams stated that they feel good about this location.

Ms. Limbrick mentioned that this is a great location. However, since Amherst County has the by-pass now, U.S 29 Business is no longer a major transient route. In general, people will know where you are, therefore eliminating the need for a large sign.

Mr. Adams states our store wants to be as visible as we can and within the laws and codes of the area. The twenty-five (25) foot sign is typically what we would ask of any town or locality that in which we are locating.

Chairman Wise stated the Board of Zoning Appeals has to follow the Ordinance and variances are to be viewed by hardships. I don't think this request can be granted because in the past the Circuit Court has overruled similar variances.

Ms. Coleman said it seems like one of the considerations regarding this would be due to the steep grade along the front of the lot which presents a topography issue.

Chairman Wise said the steep sloped bank is State property and, in addition, this Board doesn't view signage as a hardship.

BOARD OF ZONING APPEALS ACTION:

Motion: Limbrick Due to public necessity, convenience,
general welfare and good zoning practice I
move to deny the request.

Second: Banton
The motion was carried by a 4-1 vote (Coleman)

IN RE: PUBLIC HEARING - ZONING CASE #2011A-01 ROY AND HAZEL CHILDREY

#2011A-01 Request by Roy and Hazel Childrey - Multiple variances to allow
for four (4) accessory structures located in the R-2 General Residential
District. The property address is 109 Sixth Street, Madison Heights, VA.
The tax map parcel number is 160A3-A-101.

Mr. Bryant explained that Mr. and Mrs. Childrey had four (4) accessory structures that were currently in violation of the Amherst County Zoning Ordinance. For clarity, Mr. Bryant stated that the four (4) accessory structures will be referenced as:

Structure #1 (Garden Shed): The request is for approval of two (2) variances from Sections 804 and 901.02 (2) of the Zoning and Subdivision Ordinance in order to allow an accessory structure to remain nine (9) feet from a side yard property line. The accessory structure is required to be ten (10) feet from a side property line; the request is for a variance of one (1) foot. The request is also for approval of a variance from the main dwelling, whereas the Ordinance requires an accessory structure to be at least fifteen (15) feet from the main dwelling in residential districts. The garden shed is four (4) feet from the dwelling; therefore the variance request is for eleven (11) feet.

Structure #2 (Metal Carport): The request is for approval of three (3) variances from Sections 804 and 901.02 (2) of the Zoning and Subdivision Ordinance in order to allow an accessory structure to remain three (3) feet, eleven (11) inches from a side yard property line. The accessory structure is required to be ten (10) feet from a side property line; the request is for a variance of six (6) feet one (1) inch. The request is also for approval of a variance from the main dwelling whereas the Ordinance requires accessory structures to be at least fifteen (15) feet from the main dwelling in residential districts. The metal carport is six (6) feet, ten (10) inches from the main dwelling; therefore the request for variance is for eight (8) feet, two (2) inches.

Structure #3 (Shed with extended roof): The request is for approval of a variance from Sections 804 and 901.02 (2) of the Zoning and Subdivision Ordinance in order to allow an accessory structure to remain 0.83 feet from a side yard property line. The accessory structure is required to be ten (10) feet from a side property line; the request is for a variance of 9.17 feet.

Structure #4 (White Shed): The request is for approval of a variance from Sections 804 and 901.02 (2) of the Zoning and Subdivision Ordinance in order to allow an accessory structure to remain 4.75 feet from a side yard property line. The accessory structure is required to be ten (10) feet from the side property line; the request is for a variance of 5.25 feet.

STAFF REPORT:

Mr. Bryant stated that Mr. Leon Parrish was present to represent the applicant. Mr. Bryant passed out the following to the Board of Zoning Appeals Members: two (2) emails and a letter that were sent to the Planning/Zoning Office, a petition, a formal memorandum from Staff, and one hundred ninety (190) letters which were received in the office by mail from April 4th-14th, 2011. The letters consisted of a standard form that was signed, dated and mailed into the office with a return address of Hazel and Roy Childrey. Mr. Bryant was unaware if all individuals that signed the letters and petition were property owners in Amherst County. Mr. Bryant proceeded with the staff report and stated that the Planning Commission did not wish to make a recommendation at its meeting held on Thursday, April 7, 2011.

Chairman Wise questioned when the Zoning Code went into effect?

Mr. Bryant stated the effective date was 1982.

Chairman Wise questioned who was the Zoning Administrator during the time in which the structures were placed on the property?

Mr. Bryant stated that Grant Massie was the Zoning Administrator when the structures were erected.

Chairman Wise stated Code Section 1003.01 states that a zoning permit must be obtained prior to building permit. Is there a reason why Mr. and Mrs. Childrey were approved a building permit but did not get a zoning permit?

Mr. Bryant stated that he could not answer that question.

Chairman Wise opened the public hearing.

PROPOSERS' ARGUMENTS:

Mr. Leon Parrish, representing Mr. and Mrs. Childrey, stated that this is a unique case due to the fact that he has previously been on the Board of Supervisors and now is on the other side of the table as a public citizen. He proceeded to state that they are not contending whether or not this is a violation but rather how it became a violation. Mr. Childrey is here tonight, however, Mrs. Childrey is not able to attend. Mr. Parrish stated that if Mrs. Childrey would've been trying to escape from the County, she would have never applied for a building permit. Mr. Parrish stated, "The Planning and Building Departments should have been guiding citizens through the necessary steps." At no time has Mrs. Childrey been advised to what was needed until this case came up. The County is failing the citizens when this is allowed to happen. I have four (4) building permits (which were in the Boards packets) shown here that were issued by the building inspector. According to Mr. Parrish, "there is no place on these building permits that states a final inspection is needed." They are signed off by the building inspector and the building official. He stated that no one told Mrs. Childrey that a zoning permit was necessary. Mr. Parrish agreed with Mr. Bryant that the Childrey's land is six (6) times larger than most in this area, but it is not usable due to a slope in the rear. Mr. Parrish proceeded to explain that Mrs. Childrey has improved this parcel and neighborhood to the point where she has stopped drug dealers, well lit the area so it can be seen at night from Fifth Street to Seventh Street, and cleaned up the property. Due to the topography of this parcel and the health issues of the Childrey's, Mr. Parrish feels that relocating the buildings would create a hardship. Mr. Parrish stated, "please do not penalize the Childrey's for the County's negligence."

Chairman Wise asked how many permits do we have on file?

Mr. Bryant discussed all of the permits that were issued by the County and referenced the packet of information sent to the Board included all permits.

Chairman Wise explained to Mr. Parrish that on the Zoning Permits there is an insertion where the applicant must sign and that it clearly states, "I hereby certify that I have authority to make the forgoing application and the information given is correct and that the construction will conform with the regulations of the Building Code, Zoning Ordinances and private building restrictions, if any, which may be imposed upon the above property by deed." Chairman Wise proceeded to tell Mr. Parrish that this should've been understood by Mr. and Mrs. Childrey and if they did not understand then they should've asked questions before signing the document.

Mr. Parrish stated that she did ask questions and the County officials in the Planning/Zoning office told her that if she did connect the pool shed building with fence that she would be in compliance with the Code.

Chairman Wise questioned what year the Accessory Structure #3, the Shed with the Extended Roof, originally built?

Mr. Parrish said all of the buildings were prefabricated buildings and are moveable. When the Childrey's bought the property an older shed was falling down, so they tore down the building and kept the foundation and put the new prefabricated building on top.

Chairman Wise said if there is any exception here then it would be found in Section 601.02.1 which states that in certain instances, structures destroyed by any means may be restored to safe conditions. I believe that building number three (3) may be grandfathered.

Elizabeth Briggs, of 233 Rocky Hill Rd. in Madison Heights, spoke in favor of the request. She stated that The Childrey's moved here and bought the property in 1995 and since then have only improved the property. Every time a structure has been built on the property they have always asked the County what needed to be done. In several situations the Childrey's were told that they didn't need a building permit and never once were they instructed to get a zoning permit. Grant Massie, Zoning Administrator, told her exactly where to place the shed by the pool. Further, Mr. Massie stated that if an existing shed was on an existing foundation then a zoning permit was not required. Both of the Childrey's are in their sixties and ill. These buildings were put up fifteen (15) years ago and having to move them would be a hardship. There are other structures within the area that are not in compliance. In reference to the appearance of the property, Mrs. Childrey has completely changed the lot and keeps the property maintained and does the same for the cemetery across the street. For the past fourteen (14) years she has done everything to make the area nicer to be in. There should be no detriment at all in granting these variances.

Janice Camden, of 419 Main Street Madison Heights, spoke in favor of the request. I am here tonight to show support for the Childrey's and ask for the approval of the variances that they have requested. The Childrey's have well maintained the property which shows pride and ownership. The gazebo (building #1) was built on an existing foundation. Donald Tyree, Building Inspector, stopped by several times while the gazebo was being built and never once were setbacks or property lines discussed. Frank Campbell, the complainant in this case, did the electrical work on this building and never did he mention property lines or setbacks. It is not the Childrey's fault that the County Inspector did not sign off on this permit. He was here more than ten (10) times while the building was being built and completed. As for building number two (2), a permit was not needed for the carport and the Childrey's contacted Mr. Massie who stated that a permit was not needed. There were no discussions of County setback or property lines. I also had the same conversation with Mr. Massie in 2004 and he told me that I wouldn't need a permit either for a carport.

A permit was also not needed for the tool shed (building #3). This tool shed was moved from the Childrey's previous home and was set on an existing foundation. A permit was issued for the mobile home and at no time did the Building Inspector question the tool shed. So it is a safe assumption that the County Inspector saw the tool shed and did not discuss any setbacks or property lines with the Childrey's. A permit was issued for a pool with a shed (building #4). This building stores the pool chemicals and childrens' toys for the pool. Mr. Massie met with Mrs. Childrey and told her to not have the pool fence attached to the building. He did not ask her where the property lines were or discuss setbacks, permits or zoning. The inspection of the pool was signed off by a County building inspector and the pool shed was in plain view for the inspector to see and state any violation that had been made. The Childrey's received a permit last August to construct a deck, there was no mention of a sketch, setback, or zoning to be done and the deck is now complete and signed off by the Donald Tyree, County Building Inspector. Please don't penalize the Childrey's, they have done only what the County employees have told them to do.

Lisa Uthup, of 233 Rocky Hill Road in Madison Heights, spoke in favor of the request. Hazel Childrey has been a friend since I moved to Madison Heights. She has maintained the cemetery and has never asked anything from the County. She needs to keep her sheds in order to keep mowers and lawn supplies for the maintenance of the cemetery. This is the least the County can do. I would like for the County to approve this variance for Roy and Hazel Childrey.

Larry Camden, of 419 Main Street in Madison Heights, spoke in favor of the request. I would like for the County to work with Hazel Childrey because she has been an asset to the community. I would like to also mention that no one has ever complained about Hazel Childrey that resides on Main Street. Please grant Roy and Hazel Childrey the variances they need.

Christine Coley, of 139 Coley Lane in Amherst, spoke in favor of the request. I was born and raised in Madison Heights. Hazel Childrey will do anything for anyone. She has cleaned up Main Street many times. Roy and Hazel Childrey have gotten truck loads of trash from Main Street to help in maintaining a good appearance in "Old Town" Madison Heights. Mrs. Childrey wouldn't have done anything with the County knowing she was in violation. I think that it's a shame that with their poor health the County is asking this of them.

William Hudson, of 155 Fourth Street in Madison Heights, spoke in favor of the request. Madison Heights is a very low income area with small lot sizes. Many of these properties have added sheds after the Childrey's and are also in violation. If the County isn't going to uniformly enforce these violations to everyone then they shouldn't be singling out Roy and Hazel Childrey. The Childrey's contacted Jeremy Bryant, the current Zoning/Planning Administrator, and never did he explain the variance procedure to the Childreys.

They had to learn this information from a former Board of Supervisors member. If you can't count on County employees to give correct information than what is the average citizen to do?

Ryan Martin, of 6302 Wards Road in Rustburg, Virginia, spoke in favor of the request. These buildinigs have been on the property for years and I don't understand why the County is now having a problem with it.

Pastor Jacob Uthup, Pastor of Northside Baptist Church, spoke in favor of the request. I know Grant Massie very well and have spoken with him on many occasions. He explained that when citizens are paying taxes they don't need a permit for a dog shed, garden shed, or any other shed under one hundred (100) square feet. Now, Jeremy Bryant is stating that it's two hundred (200) square feet (building permit). My neighbors have a shed that does not meet the setbacks. Grant Massie told me that this was grandfathered and nothing could be done. However, what I don't understand is how Frank Campbell can have a large recreational vehicle, park it on the side of his property, and it is legal because it has wheels.

Jonathan White, of 512 Kavannagh Road, spoke in favor of the request. The carport has been on the property for approximately eight (8) years and never caused a problem. I feel the Childrey's should be granted the variances. I also would like to add that I know the amount of work and junk that the Childrey's have taken off their hillside. I know this, because I have worked with them for many years helping them. People have stopped throwing trash out along the side of the road because Mrs. Chilrey has roped off the back part of her property. Mr. Childrey is sixty-nine (69) years old and still pushes his yard with a push mower. The Childrey's work hard on the property and the pictures that you have before you will show the amount of time and effort the Childrey's have put into their property.

OPPONENTS' ARGUMENTS:

Frank Campbell, District 5 Board of Supervisors Member, of 4891 South Amherst Highway in Madison Heights, spoke in opposition to the request. I have passed out to all of you information from the Commissioner of Revenue as to both when the property was purchased, and when the buildings were placed on the property. I am a lifelong resident and a taxpayer of Amherst County and I believe that the laws and the ordinance should apply to everyone. I am here to speak both on behalf of my parents Vernon and Shirley Campbell and for myself. In 1974 we bought the property at 111 Fifth Street in Madison Heights. Bill Robertson was the previous owner of the Childrey's property. It has been said tonight that there were existing sheds on the Childrey's property, which is true, but that was before Mrs. Childrey bought the property in 1996. There was only an old house on the property when she bought the property which she immediately tore down.

Our property and Mr. Robertson's property (presently owned by the Childrey's) had a joint use driveway for over twenty (20) years; we both used the driveway without any problems. After Mrs. Childrey bought the property from Mr. Robertson she then hired an attorney and on March 7, 1997, a letter was sent informing us that she was terminating our usage of her driveway and to not block the driveway anymore. Once the older house was torn down she had a dozer come and destroy the driveway as well. My sister lived at home and when family would go over to meet we would have to park on the shoulder of the road beside the cemetery. Then, someone came out and put large stones beside the road blocking anyone from parking there. I then moved the stones so that my sister would have a place to park. The Childrey's then planted flowers, mulch and put a picnic table up allowing no vehicles to park there. When my sister tried parking there again Mrs. Childrey called the Sherriff's Department. The Sherriff's Department informed Mrs. Childrey that if she could put flowers and picnic tables there then others could park there as well. My parents paid a lot of money for a dog fence in our yard when the Dog Ordinance was adopted; this was to contain our dog in our yard. There were gates installed to allow parking in our yard. This was not working so we took down part of the fence to have more space for parking vehicles and had to install another driveway on the other side of our property. Several years later I noticed our old side of the driveway was shrinking. Mrs. Childrey was moving over closer to our property. Chairman Wise informed Mr. Campbell that he ran out of time to speak.

Ashley Campbell, of 111 Sixth Street in Madison Heights, spoke in opposition to the request. I live with my grandparents, Frank and Shirley Campbell. I'm going to start off by finishing my father's, Frank Campbell, Jr., speech. Mrs. Childrey has about 1.62 acres from Fifth Street to 7th Street and has placed buildings on the most confined areas. Ever since I have known Mrs. Childrey she has lived her life bullying people to get her way. My parents and grandparents have worked hard all of their lives to have the things that they have now, and then they have to come here to defend them. The only hardship here tonight has been what my family has endured since the Childrey's moved in. Should people that break the law by speeding be exempt from the law because they are not hurting anyone? Where does the County draw the line? It's also been said that most of the property is a steep hill and by the photos that you have you can see that is not true. The Childrey's have land that runs along our property and a 50x80 building could easily be structured in the yard and easily meet the setbacks. I would like to point out that the aerial photo that you have before you does not show all of her buildings. Since that photo was taken Mrs. Childrey has put up another building which totals about eight (8) or nine (9) buildings. I'm asking the Board to not grant a variance for the Childrey's because of the thousands of other citizens that obey Amherst County Zoning Ordinances and rules. After observing tonight an earlier case regarding a sign, a Board Member made a point: "People should know before they buy land what the County's Ordinances are and that they have to comply." If anyone buys land there are laws and regulations that must be followed.

For example, as a college student, there are guidelines that I must follow in order to earn a degree; this is my responsibility as an adult. Thank you.

Chairman Wise closed the public hearing.

BOARD OF ZONING APPEAL DISCUSSION

Chairman Wise said the Childrey's have done an excellent job maintaining the property; however, we as the Board of Zoning Appeals Members have all made an oath to follow the Ordinance.

Mr. Banton stated it seems that the County doesn't have an adequate paper trail to fully document the past actions of this case. I could easily see where someone would call the County asking questions about setbacks and buildings and possibly be given the answers that the applicant stated they were given. I can't help but to think that the County may have been somewhat negligent in this matter.

Chairman Wise stated that Grant Massie was strict on the type of carport allowed and the setback qualifications. My advice is when you get someone's word than you should get it in writing.

Ms. Coleman said that when the public contacts the County and a County official has given them their word then the public feels that they have their answer. I did view the property and take pictures. I spent two (2) hours riding around in the area. I don't think there should be any reason for the shed to be at the bottom of the hill. You would need a tractor to get tools back up the hill.

Chairman Wise said they do have a building at the bottom of the hill.

Ms. Coleman said there is something "way, way," down at the bottom of the hill. "Old Town" Madison Heights is unique because it is built on a series of hills. Some lots are more level than others. Some homes are beautifully placed off of the road and then there are some placed almost in the road. There is a huge variety of properties in that community. I realize we have to work within the codes that we have now, but Mr. Bryant, please consider presenting a potential Zoning District amendment to the Planning Commission and Board of Supervisors. The fact is we are requiring "Old Town" Madison Heights to comply with code sections that were designed for larger lots. We are making this impossible for the citizens to comply. We need a code section designed to embrace and comply with what the people of "Old Town" Madison Heights are trying to do. You are going to find yourself with more situations like this if changes aren't made in the future.

Ms. Coleman stated that she would like to grant the variance based upon the topography of the lot. I'm open to discussion with the Board Members, but I would like for the variances to be granted.

Chairman Wise mentioned that unfortunately the Code of Virginia states that they have to amend the Ordinance to comply with a new Zoning District's setbacks. However, we do have to follow the Ordinance as it stands now. The County is not telling the Chilrey's that they can't have the buildings, they just have to move them to conforming locations, and I realize that they are moveable buildings.

Ms. Coleman stated that her response is if the property is on a hill, where are you going to move them?

Chairman Wise wanted to review the aerial map for a moment.

Mr. Banton said while you are reviewing that, let me address the issue of hardship. It depends on the resources given. What may be a hardship for me may not be a hardship for you.

Ms. Coleman said there are so many nonconforming buildings in such a small area. I must state that Mr. Bryant and Staff support the restoration of "Old Town" Madison Heights. Now we have a situation that is fracturing a whole community because we are being asked to single out only one family out of many.

Chairman Wise said we aren't singling out one family. We have to handle each case as it comes to us and abide by the law.

Ms. Coleman said it comes to us as a complaint. We can't deny that this family's property has been targeted. I'm sorry but I can't ignore that.

Chairman Wise said that building number three (3) is on a foundation which was already there. I believe that moving and being torn down or two different things. I think that building number three (3) should be allowed since I believe that it is grandfathered.

Mr. Banton said as for building number one (1). The building permit certainly shows an attempt to do the right thing. I see no neglect on the homeowner's part in doing what they were suppose to do.

BOARD OF ZONING APPEAL ACTION:

ALL ACCESSORY STRUCTURES

Motion: Coleman

I make a motion to approve the request for Mr. and Mrs. Childrey for variances on all four (4) sheds under consideration based upon the fact that the property was acquired in good faith, and that a strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property for these sheds, due to the unusual topography of their lot. The granting of the variance would alleviate a clearly demonstrable hardship, as distinguished from a special privilege for a convenience. The variances will be in harmony of the ordinance and that the hardship is shared by some of the properties in the area, but not all of the properties. Therefore, due to the specific incline of a substantial amount of their property, I move that the variances be granted.

No one seconded the vote.

Motion died for lack of a second.

ACCESSORY STRUCTURE NUMBER THREE (3)
SHED WITH EXTENDED ROOF

Motion: Coleman

I would like to make the same motion but this time substitute shed number three (3) only, based upon the fact that the foundation that was there and that the structure was placed on the existing foundation, and it be allowed to remain there as grandfathered, according to Section 601.02.1 of the Zoning and Subdivision Ordinance.

Second: Woody

The motion was approved by a 4-1 vote (Limbrick)

ACCESSORY STRUCTURE NUMBER ONE (1)
GARDEN SHED

Motion: Coleman I would like to make a motion to approve a the variance for accessory structure number one (1) based upon the topography, which makes it difficult to conceive of having a garden shed down an incline. And, based upon the fact that the property was purchased in good faith and that a good faith effort was sought by the owner through the County Administration which they relied upon, causing this to be an unnecessary hardship. Strict application would create an unnecessary hardship for the owners, and leaving the accessory building would still rest upon the harmony and spirit of the Ordinance, being that it's been there for several years.

Second: Banton
The motion was approved by a 3-2 vote (Limbrick, Wise)

ACCESSORY STRUCTURE NUMBER FOUR (4)
WHITE SHED

Motion: Coleman I would like to make a motion to approve accessory structure number four (4) due to the topography of the property. It is unthinkable to have a pool house that is located down a steep hill from the pool. I make a motion to grant the variance for the pool house.

No one seconded the vote.
Motion died for lack of a second.

ACCESSORY STRUCTURE NUMBER TWO (2)
METAL CARPORT

Motion: Limbrick I make a motion that accessory structure number two (2) the metal carport, be denied a variance due to good zoning practice.

Second: Wise
The motion was carried by a 3-2 vote (Coleman, Woody)

ACCESSORY STRUCTURE NUMBER FOUR (4)
WHITE SHED

Motion: Limbrick I make a motion that accessory structure number four (4), the white shed, be denied a variance due to good zoning practice.

Second: Wise
The motion was carried by a 3-2 vote. (Coleman and Woody)

Chairman Wise stated that any aggrieved person or persons may appeal any decision of the Board of Zoning Appeals within thirty (30) days to the Circuit Court, in accordance with the Code of Virginia.

IN RE: OLD/NEW BUSINESS

Ms. Coleman requested that Mr. Bryant discuss with the Planning Commission and Board of Supervisors to make changes to the Ordinance to address the unique characteristics of "Old Town" Madison Heights.

Motion: Limbrick I make a motion to recommend that the Planning Commission make it a priority to draft and review textual amendment language that creates a specific zoning district for the geographic area known as "Old Town" Madison Heights.

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

Staff will present the recommendation to the Planning Commission.

Mr. Bryant introduced Ms. Stacey Stinnett, new administrative assistant in the Planning/Zoning Department. The Board welcomed Ms. Stinnett.

Ms. Woody wanted to inform staff to continue to send notices of meetings to members of the Board of Zoning Appeals.

IN RE: APROVAL OF MINUTES

The Board discussed the previous meeting's minutes. It was the consensus of the Board, that they would like additional time to review the minutes prior to possible action from the Board.

Motion: Banton

I make a motion to table possible action on the minutes to the next meeting of the Board of Zoning Appeals.

Second: Coleman

The motion was carried by a 5-0 vote.

Members requested that the approval if the previous meeting's minutes be tabled to the next meeting and that staff mail or email the unapproved minutes to Board Members individually.

Mr. Bryant acknowledged the request.

IN RE: ADJOURNMENT

Motion: Limbrick

I make a 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 9:08 pm.

/ss/04.26.11


Chairman