

At a regular meeting of the Southampton County Board of Zoning Appeals (BZA) held in the Board Room of the Southampton County Office Center at 26022 Administration Center Drive, Courtland, Virginia on May 15, 2006 at 7:30 PM.

COMMISSIONERS PRESENT

Douglas A. Chesson, Chairman
James Bradshaw, Vice-Chairman
Elma A. Brown
Peter F. Copeland
Thomas Daisey
David M. Holland
Marie Sykes

COMMISSIONERS ABSENT

None

OTHERS PRESENT

Robert L. Barnett, Director of Community Development (Secretary)
Richard E. Railey, Jr., County Attorney

Chairman Chesson called the meeting to order.

The Commissioners discussed taping all of their meetings. **Vice-Chairman Bradshaw moved, seconded by Commissioner Copeland, to tape all of their meetings and keep the tapes on file. All were in favor.**

Chairman Chesson sought approval of the minutes of the June 21, 2004 regular meeting. There was some discussion as to why these minutes had not been approved before now. Secretary Barnett advised that this was the third time these minutes had been presented for approval. They had put off approving them several times for one reason or another. **Commissioner Copeland moved, seconded by Commissioner Holland, to approve the minutes as presented. All were in favor.**

Chairman Chesson sought approval of the minutes of the January 17, 2006 regular meeting. **Vice-Chairman Bradshaw moved, seconded by Commissioner Sykes, to approve the minutes as presented. All were in favor.**

After some discussion, the Commissioners indicated that it was their preference for the meeting minutes to be forwarded to them shortly after each meeting.

Chairman Chesson announced that the public hearing scheduled tonight was to consider the following:

The application of William Donnie Wright (owner) requesting a variance of Section 18-39, front yard setback (reduction of 20 feet), Section 18-42, side yard setback (reduction of 12 feet), and Section 18-8 (5) (accessory buildings) of the Southampton County Zoning Ordinance. Said variances are requested on property identified as Tax Map 118A, (2) Parcel 16 of the Southampton County Zoning Ordinance and located at 34109 Cypress Lane, Franklin, Virginia, Franklin Magisterial District.

Mr. Robert Barnett, Secretary, advised that the application was primarily for the placing of an accessory building on a parcel of land that did not have a main structure. The Zoning Ordinance clearly stated that an accessory building could not be placed on any parcel of land within the County unless there was a main use structure already in place. However, accessory buildings could be in place six months prior to the beginning of construction for a main building. The variance requests for the setbacks were for the accessory structure itself due to the size of the lot. At present, the applicant had a boathouse with boat lifts that was being constructed on the property. It was his understanding that the proposed accessory building would be for storage and possibly for occupancy at some given time. He understood that the applicant planned to install a bathroom, possibly a half bath. The only other comments that had been made towards the application was the memo he had given them from the Planning Commission, which basically indicated that it was their position that if the applicant could not demonstrate a hardship, the variances should not be granted.

Mr. Donnie Wright, owner/applicant, addressed the BZA. He advised that he was in the process of constructing a boathouse on the property. He wanted to put a building on the property to store things related to his recreational use of the property, such as life jackets, etc. He had presented with his

application a picture of the type of building he was looking to put there (which was a pool cabana). He thought it would be an asset to the community and not an eye sore. As far as the bathroom was concerned, the lot already had an existing septic tank. The person he bought the property from had a mobile home on the property prior to the flood. He stated that he may come back in 5 years to see if he could put a house on the property, but right now he did not want to live there. He just wanted to use the property for recreational purposes. The building would be a place for him to go and relax and use the bathroom when coming in off of the boat.

Commissioner Daisey asked what would the hardship be if they did not grant it? Mr. Wright advised that the hardship would be that he would have to carry everything, such as life jackets, fishing gear, etc., back and forth with him every time.

Commissioner Daisey advised that if he had a house there first it would be ok. Mr. Wright stated that if he had a house there he would not be here tonight.

Vice-Chairman Bradshaw commented that he would not want an accessory building on a lot next to his home. Mr. Wright advised that he had discussed this with the neighbors on both sides of the property and they did not seem to have any problems with it.

Vice-Chairman Bradshaw stated that the problem was if they approved this, they would be setting a precedent and others could come in from anywhere in the County and request the same thing. Mr. Wright advised that it was his understanding that the BZA had chosen in the past to grant variances for things at Dockside because of the size of the lots. Vice-Chairman Bradshaw stated that he believed they were hardship cases due to the flood.

Mr. Wright stated that his hardship was that he had purchased a piece of property at Dockside and would like to be able to use and enjoy it and possibly build a residence on it in the future.

Vice-Chairman Bradshaw advised that he had seen structures across the water with life jackets, etc. stored under the cover. He didn't think that was an accessory building. He was trying to find a way to help this gentleman without setting a precedent.

Commissioner Copeland asked what was the difference between an accessory building on the property and an accessory building coming off of the property into the water?

Secretary Barnett advised that if he incorporated some type of storage unit under the roof of the boat lift house, the boat lift house was a main use that the property could have, but it was not a main use structure. The boat lift had already been permitted and was probably 90% complete. That in itself was a permitted use. It was just that on the land portion of the property, the Zoning Ordinance stated that before you put an accessory structure, you had to have a main use structure. And that was basically the difference.

Mr. Wright commented that he would rather be able to store his items where they would be secure.

Mr. Barnett clarified for Commissioner Brown that the setback variances were being requested because in order for any structure to be placed on the property, setbacks must be met and he could not meet them without a variance.

Attorney Railey clarified that setback variance requests at Dockside were pretty common and this Board had granted them a number of times over the last 20 years due to the size of the lots. Secretary Barnett clarified that the big issue here tonight was the accessory structure.

Attorney Railey advised that every one of the variances at Dockside had been self-inflicted hardships. If you buy a lot that you could not put a house on anyway and come in and ask for a variance, that was not a hardship by the legal definition. That was a self-inflicted hardship.

Vice-Chairman Bradshaw stated that he thought most homes at Dockside would pre-date the Zoning Ordinance.

Secretary Barnett advised that he had been here for 14 years and the only variances they had given at Dockside were for replacement homes for flooding.

Attorney Railey stated that by definition, that was not a hardship either. That was something that was grandfathered, and when something that was grandfathered no longer existed, it was not grandfathered anymore. He understood, however, that that came closer to a hardship.

Commissioner Brown advised that in her opinion, she did not see how they could apply the same rules to the properties at Dockside as everywhere else because Dockside frequently flooded. She did not think it made sense to compare apples to oranges. She understood that this Board could not do anything based on the rules they had to follow. But she thought that the rules needed to be changed. The same rules should not apply at Dockside as everywhere else.

Attorney Railey stated that she made a good point and there had been discussions over the past 15 years about making a special waterfront recreational zoning for Dockside because it demanded different rules but yet the same rules applied.

Chairman Chesson advised that they could ask the Planning Commission to consider a new zone for Dockside. However, we needed to deal with the issue at hand, which was Mr. Wright's application.

Vice-Chairman Bradshaw asked why couldn't Mr. Wright construct the accessory building a little more and make it a house? Secretary Barnett advised that he would have to elevate it out of the floodplain.

Vice-Chairman Bradshaw moved, seconded by Commissioner Holland, to deny the variance requests. All were in favor.

There being no further business, the meeting was adjourned at 8:35 PM.

Douglas A. Chesson, Chairman

Robert L. Barnett, Secretary