

**Camden County Board of Adjustment
Minutes**

September 15, 2009, 7:00 PM

Historic Courtroom

Camden County Courthouse Complex

BOARD MEMBERSHIP PRESENT / ABSENT

Present:	Absent:
Chairman Roger Lambertson	Janice Hassell (Alternate)
Don Keaton	Vice Chairman Position is Vacant
Bradley Smith	
William McPherson	
Frank Eason (Alternate)	

STAFF PRESENT

Name:	Title:
Dan Porter	Director of Planning
Dave Parks	Permit Officer/Flood Administrator
Amy Barnett	Planning Clerk/Clerk to the Board

OTHERS PRESENT

Name and Town of Residence:	Title:	Purpose / Representing:	Meeting Section
Dick Browner	Expert Witness	Variance, William & Phyllis Knowles	Business Item #1 on Amended Agenda
William Knowles, South Mills	Property Owner	Variance, William & Phyllis Knowles	Business Item #1 on Amended Agenda

Call to Order & Welcome

Chairman Roger Lambertson called to order the September 15, 2009 meeting at 7:00 PM. Chairman Lambertson read the rules of procedure, and then indicated whom the voting members for tonight's meeting would be. Since there were only 5 members present, those voting members would be all five present: Chairman Lambertson, Mr. Keaton, Mr. Smith, Mr. McPherson, and Mr. Eason (who is an alternate, but will be voting tonight).

Consideration of Agenda

Chairman Roger Lambertson called for the consideration of the agenda. Mr. Lambertson suggested rearranging the agenda such that Item #1 (election of Vice Chairman) would become Item #2, and Item #2 (Variance, William & Phyllis Knowles) would become Item #1. He then further suggested amending agenda Item #2, as re-arranged, such that the election would include both the Chairman and Vice Chairman. No motion was made to approve the agenda, amended or otherwise, but consensus was general agreement among voting members.

Consideration of the Minutes - July 8, 2008

Chairman Roger Lambertson called for the consideration of the minutes from the July 8, 2008 meeting.

Motion to Approve As Written made by: William McPherson
Motion Seconded by: Bradley Smith

The motion was approved with Chairman Roger Lambertson, Regular Members, Don Keaton, Bradley Smith, William McPherson, and Alternate Member Frank Eason voting aye; none voting no; 1 absent; none not voting.

Comments from the Public

None

Old Business

None

New Business

Item #1, Variance (UDO 2009-06-30), William & Phyllis Knowles

**Variance Application
UDO 2009-06-30**

- 1. **Name of Applicant:** William & Phyllis Knowles
- 2. **Agent for Applicant:**
- 3. **Address of Applicant:** 299 Ponderosa Road, South Mills, NC, 27976
- 4. **File Reference:** UDO 2009-06-30
- 5. **PIN:** 01-7082-00-18-3720-0000
- 6. **Street Address of Property:** 299 Ponderosa Road
- 7. **Location of Property:** South Mills Township
- 8. **Flood Zone:** X
- 9. **Zoning District(s):** Light Industrial (I-1)
- 10. **General Description of the Proposal:** Request variance to Article 151.014 (Every lot must abut a street or road) and Article 151.261 (A) (all lots shall meet or exceed minimum lot width on a state maintained street). Ordinance language attached as Exhibit "A". Variance requested by applicant in order for him to sell a portion (Attached Survey - Exhibit "B") of his property that he feels is unusable due to its location, to a buyer to build an equipment shed and maintenance facility for his farming operation (See attached letter from applicant - Exhibit "C").
- 11. **Date Application Received by County:** June 30, 2009
- 12. **Received by:** Dave Parks, Permit Officer
- 13. **Application Fee Paid:** \$500.00 Check # 108777

- 14. Completeness of Application:** Application is generally complete.
- 15. Documents Received Upon Filing Application or otherwise included:**
 - A. Variance Land Use / Development Application
 - B. Letter from applicant dated May 18, 2009
 - C. Deed
 - D. Survey
 - E. GIS aerial Map of Property
- 16. Adjacent Property Uses:**
 - A. Predominant: Agricultural
 - B. Other: Mining pit / some Residential
- 17. Existing Land Use:** Residential
- 18. Findings Regarding Additional Requirements:**
 - A. Endangering the public health and safety. Staff's opinion is proposed use will not endanger the public health and safety.
 - B. Injure the value of adjoining or abutting property. Staff's opinion is the proposed use will not injure the value of adjoining property.
 - C. Harmony with the area in which it is located. Yes

STAFF FINDINGS

- April 2000; Property subdivided as an exempt subdivision (parent to child) into 3 lots plus residual (Indicated as tract 1 on survey) (See Exhibit "D").
- At the time of the exempt subdivision, property was zoned General Use District (GUD) which permitted residential uses.
- Property rezoned to Light Industrial (I-1) in May 2002 by the County.

Staff Recommendations

Staff recommends approval with the following conditions:

1. The Variance shall only apply to the northern portion of the property as submitted on the plat to be subdivided and sold (Map prepared by Hyman & Robey).
 2. The applicant shall have six months from the date of approval to secure the sale and recordation of the property in the Camden County Registry of Deeds.
 3. To secure the proposed use, the portion of the property to be sold shall be deeded to "Williams Farms of North Carolina, Inc.".
 4. There shall be a deed restriction that states "property shall only be used for those exemptions listed under Bona Fide farming only".
 5. Purchaser shall have twelve (12 months) to secure applicable permits (i.e. building, moving permits...) from the County to move structures on property.
 6. The applicant and purchaser shall sign before a notary public the Variance agreeing to its conditions by October 15, 2009, or the Variance shall become null and void.
 7. Owner shall provide proof of continued Bona Fide Farm use to the County when requested.
 8. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this Variance shall be voided and have no effect.
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At the instruction of Chairman Lambertson, Dave Parks, Dick Browner, 124 and Mr. William Knowles were all sworn in, in order to provide testimony for this proceeding. Clerk to the Board of Adjustment, Amy Barnett, swore them in.

Dan Porter indicated that Mr. Knowles is representing himself, and Mr. Dick Browner was present as an expert witness for him.

Dave Parks passed out an updated "Staff Recommendations" sheet listing additional recommended conditions to the Variance (same as listed above).

Dave Parks Provided the following testimony:

- William & Phyllis Knowles, of Ponderosa Road, applied for a variance in order to subdivide the northernmost portion of their property.
- The current ordinances say that all residential subdivisions must abut a street or road (151.014), also all lots must meet or exceed a minimum lot width on a state maintained street (151.261). This application is for a variance to those ordinances.
- Staff has put together the findings of facts and all documentation and submit this as evidence in this case, also a handout for the board that replaces the staff recommendations in this case.
- Mr. Parks showed on the projector screen a picture of the configuration of the property in question.
- Mr. Knowles subdivided 3 lots out of his property as parent to child exempt subdivisions back in April of 2000.
- This left the Northernmost lot and the Southernmost lot attached to each other by a 30 foot easement still in Mr. Knowles Name.
- The 30 foot easement runs along the left side of the properties belonging to Mr. Knowles and his children.
- At the time of the execution of the parent to child exempt subdivisions, the zoning on the property was General Use. This allowed for residential uses. The property was rezoned to Light Industrial (I-1) in May 2002 by the County.
- The Northernmost lot is the section of his property in question. He wishes to subdivide it in order to sell it to a buyer who will use it for bona fide farm use. The buyer wants to place a single family dwelling, and a storage shed for farm implements on the property.
- Under bona fide farm exemptions, it is permissible to place a dwelling and any other structures necessary for the running of a farm on a property that is used for farming so long as 75% or more of the income for the farmer comes from bona fide farm activities. This can be substantiated by viewing tax returns at years end.

At this time, Mr. Dick Browner spoke and provided the following testimony:

- Black Bear Industries owns property whereupon a barn and house sits, owned by Mr. Frank Williams (the interested party to Mr. Knowles property).
- At one time, Black Bear Industries planned to put a landfill operation on what is commonly known as the Bear Track.

(Dick Browner Testimony Continued)

- Part of the contract with Black Bear at the time of the original sale, was that Mr. Frank Williams reserved the right to maintain the house and barn that were on that property (use or move in the future).
- Mr. Knowles had talked to Mr. Williams about his desire to sell the back portion of his property. The back portion of Mr. Knowles property is too small to farm and doesn't have any value to Mr. Knowles, its too far removed from his house's lot to be of any use to him. Mr. Williams desire is to relocate the barn and the house from the Bear Track to the property located at the back lot of Mr. Knowles property. The buildings will be used by the farming operations, which is a bona fide farming operation. The farm manager will occupy the house.
- A master plan has been completed on the front portion of the Black Bear property for submittal for an office commercial or industrial park, as part of what the county wants to do in the northern part of the county there. As a result of that, the house and the barn need to be relocated.

Dave Parks added:

- The roadways along Ponderosa Road are not state maintained except for the very front portion, entrance off of Hwy 17.
- The rest of Ponderosa Road is a dirt road that is maintained by property owners and majority of maintenance by Camden Yard Materials as part of their special use permit requirements.

Frank Eason asked about the 30 foot easement:

- If Mr. Williams purchased Mr. Knowles subdivided property (if the variance is approved), is Mr. Williams also buying the easement or is he sharing it with the others that use the easement?
 - Dave Parks answered:
 - He would be sharing it, he would not buy the easement.
 - He would be granted the right to use it, but would not own the property upon which the easement lies.

Dave Parks showed an aerial picture on the projection screen of the configuration of the property in question, showing the easement, the front, and back portions of the property, as well as property beyond the back portion that is farm land.

Chairman Lambertson had the following comments and questions of Mr. Knowles:

- On the right hand side of the property shown, is it being farmed right now?
 - Mr. Knowles answered yes it was.
- From reading the board packet, and looking at the pictures, the impression is that Mr. Knowles created this configuration himself when he subdivided these properties.
- What was the intention of the configuration that was created?
 - Mr. Knowles answered that the original intention was to farm it, but Barnhill (a mining company on adjacent property) came in and put trailers and a lot of sand and gravel on the lot and its not farmable now.

(Chairman Lambertson Questions Continued)

- Chairman Lambertson further asked how Barnhill got permission to put sand and gravel on the lot.
 - Mr. Knowles answered that he leased them the lot for them to use for their workers to stay in trailers while they mined materials for the widening project / construction of Hwy 17 up in Virginia.

Dave Parks pointed out on the projection screen the property to the left of Mr. Knowles property that was the Barnhill Mining operation, that took place during the widening project / construction of Hwy 17 up in Virginia. Also, he pointed out who the owners of the property to the right of Mr. Knowles property are: Camden Yard Materials.

Frank Eason asked the following:

- Where is the property that Mr. Williams is farming.
 - Mr. Williams is farming the south side of Ponderosa Road also the retention pond area which adjoins the 30 foot easement belonging to Mr. Knowles.
 - Mr. Williams does not own the property that he farms, he leases it.

Dave Parks provided the following information in addition to what has already been given:

- Mr. Williams has a bona fide farm status as he owns a property with that status on Hwy 158 across from Tark Commercial Park.
 - Should the variance be approved, then it would be stated in the conditions of the permit that the parcel would need to be deeded into Frank Williams Farms of North Carolina.
 - According to state law, for bona fide farms, you can have multiple properties at multiple locations under one farm exemption number.

Frank Eason asked the following regarding Ponderosa Road

- Is the dirt part of Ponderosa Road state maintained at all?
 - Dave Parks answered that maintenance is shared by property owners along Ponderosa Road.
 - The majority of maintenance is done by Camden Yard Materials as part of the requirements of their Special Use Permit for mining operations.
- According to article 151.014 'every lot must abut a street or road', does Mr. Knowles property come under that rule?
 - Dave Parks answered that it does not because Ponderosa Road is not built to state standards (not paved, nor wide enough).
- What would happen if the roadway deteriorated to the point properties could not be reached along Ponderosa Road.
 - Chairman Lambertson said that if a person has been using an easement for so many years to access their property, then they will always have what is called an access easement by permission.
- Mr. Eason clarified his point that if who ever is responsible for upkeep on the road were to stop maintaining the road, it could deteriorate to the point that property owners might have significant difficulties reaching their properties.

Mr. Eason further added that if Mr. Williams were to purchase this property, he could put a bridge across the easement at the back of the property going across and into the farm in Virginia. Dave Parks indicated that there was already an access into Virginia at that point.

There was a brief discussion about a person (who went without being named) who was in a similar situation, who was notified of this proceeding and in fact spoke with staff regarding it. Chairman Lambertson had a concern that this person might seek legal action in opposition of this variance, should the Board of Adjustment approve Mr. Knowles request. Dan Porter, as a point of order, stated that since the person had been properly notified of the meeting, and spoke with members of staff regarding it, and chose to not be present tonight, his recourse, if any is limited.

Chairman Lambertson asked if there were any further questions or comments. Hearing none, he proceeded with the variance questions.

VARIANCE QUESTIONS

1. If the applicant complies strictly with provisions of the Ordinance, he can make no reasonable use of his property.

Applicants Response: As presently configured, I can make no reasonable use of my property. It is too small to farm, a home cannot be built on it, and it is not generating any income to the county. If I am allowed to create the lot, I have a buyer who wants to build an equipment shed and maintenance facility for his farming operation. Because of the peculiar shape of the property and the distance from my house I can't make any practical use of it.

Staffs Response: If applicant strictly complies with provisions of the Ordinance, staff feels due to the configuration and location of the property, applicant can make no reasonable use of the northern portion of the property. The southern portion of the property has a residential dwelling located on it.

Discussion:

Chairman Lambertson asked for clarification regarding the northern and southern portions of the property.

- Dan Porter clarified that as the property is set up now, the northern portion is still connected to the southern portion because it was never subdivided when the parent to child subdivisions were created, therefore it is all one lot.
 - County Ordinances do not allow more than 1 dwelling on any single lot.
- Mr. Knowles only had 3 children and so only created 3 P to C subdivisions, this left the northern most portion of the property still in his name, and connected to the southern portion via the 30 foot easement that runs along the entire length of the property.
- Frank Eason asked for clarification on who owns the subdivided portions above the southernmost portion of Mr. Knowles property.
 - Mr. Knowles indicated that his 3 children each own a lot.

Due to the confusion on this issue, Chairman Lambertson asked Mr. Browner to show the board (point to the property on the projector screen and explain exactly what they want to do).

- Mr. Browner indicated that what they are asking to do is to continue a line straight up the right hand side of the 30 foot easement to subdivide the northern portion of Mr. Knowles property.

Frank Eason asked how a house can be moved to the property after subdividing it, if Mr. Knowles is saying he can't build a house there now.

- Dan Porter clarified this by pointing out that only one principal residence can be placed on any one lot. Until this property is subdivided, it is one lot.
- If the variance is approved and the lot is subdivided, a house can be built only if the land use is for bona fide farm use, since the current zoning is I-1 which does not allow residential subdivisions except for bona fide farm exemptions.
- A deed restriction would be necessary to state that the land would only be used as a bona fide farm.

Bradley Smith asked how the county enforces farm use.

- Once the house is built, what is to stop a land owner from discontinuing farming operations and continuing residence in the house. Will the county make them move or remove the house if and when that occurs?
 - Dave Parks answered this saying that with deed restrictions, this would be prevented.
 - A recommended condition to be placed upon the deed is that upon the request of the county, proof of bona fide farm use be provided to the county, whether it be tax returns or what ever to prove that the use continues.
- Dan Porter indicated that Planning Staff had a similar discussion with the tax department regarding bona fide farms.
 - The tax department can not actually require information from the tenant of a house that's on a bona fide farm, they can access information on the property owner, but not the tenant.
 - The recommendation of Dave Parks gives Planning a little bit more ability to enforce the requirements of bona fide farms by requiring a condition that says we can ask for the information.

Chairman Lambertson stated his feelings with regards to this variance:

- He disagrees with both staff and applicants responses to this question.
- He feels that other reasonable uses can be made - equipment shed, other purposes, etc.
- He stated that he is uncomfortable with the idea of placing a residence in an I-1 zoning district, farm or no farm.
- At one time, the land could have been farmed, but due to circumstances that may have been preventable, now can not be farmed.

Chairman Lambertson asked if there was any further discussion. Hearing no further discussion, he called for a motion on this variance question.

Motion: "To state that the applicant can make reasonable use of the property."
Made By: Chairman Roger Lambertson
Seconded By: Not Seconded
Vote: With no second, no vote took place. This motion is defeated.

New Motion: "To Agree with the response of staff, due to the configuration and location of the property, applicant can make no reasonable use of the northern portion of the property."

Made By: Bradley Smith
Seconded By: Don Keaton
Roll Call Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: No; William McPherson: Aye
Results: By a vote of 4-1, this variance question is confirmed and approved.

2. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.

Applicants Response: The answer is yes. The other lots have direct access on Ponderosa Lane.

Staffs Response: The hardship the applicant complains of is due to the configuration of the property as there are no other lots within the area that are that irregularly shaped as his.

Discussion:
Frank Eason commented that the reason the lot is shaped that way is because he (Mr. Knowles) designed it that way. And the reason he can not use it is because of past decisions he made, good or bad, he can not use this land now to farm.

Chairman Lambertson indicated that the bottom line is that the question is whether the hardship is suffered by the applicant alone, or is suffered by other land owners in the area as well. The 'Why' or 'How' the hardship came to be is not what the board is trying to determine with this question.

Chairman Lambertson asked if there was any further discussion, hearing none he called for a motion on variance question number 2.

Motion: "To Agree with the response of staff and the applicant, that the hardship is suffered by the applicant alone."
Made By: Bradley Smith
Seconded By: Frank Eason
Roll Call Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: Aye; William McPherson: Aye
Results: By a vote of 5-0, this variance question is confirmed and approved.

3. Does the hardship relate to the applicant's land, rather than personal circumstances?

Applicants Response: The hardship is related to the shape and size of the property. The other properties along Ponderosa Lane are large enough to be economically farmed and have direct frontage on Ponderosa Lane.

Staffs Response: The hardship relates to the applicant's land and the inability to subdivide due to its location and current ordinances.

Discussion:

Chairman Lambertson observed that this hardship relates to the applicants land because of personal circumstances. Dan Porter indicated that a later variance question would deal with the question of if the hardship was created by the applicant or not.

Chairman Lambertson asked if there was any further discussion. Hearing no further discussion, Chairman Lambertson called for a motion on this variance question.

Motion: "To accept the staffs response, that the hardship relates to the applicant's land and the inability to subdivide due to its location and current ordinances."

Made By: William McPherson

Seconded By: Don Keaton

Roll Call Vote: Frank Eason: No; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: No; William McPherson: Aye

Results: By a vote of 3-2, this variance question is confirmed and approved.

4. The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

Applicants Response: The hardship is unique to this property unlike the surrounding properties. This tract does not have direct frontage on Ponderosa Lane and is much smaller than other properties in the area.

Staffs Response: This hardship is not unique as this same situation affects those property owners who own land adjacent to Ponderosa Road (the portion that is not under NCDOT maintenance) and other land in the County where the land is land locked or the only access is off an easement.

Discussion:

Frank Eason stated he disagrees with the response of the applicant. Direct frontage is through the 30 foot easement that goes back to the property.

Dave Parks clarified staffs position in that all land owners along Ponderosa Road would face the same hardship if they were to want to subdivide a portion of their land, since Ponderosa Road is not a state maintained road and current ordinances state that all residential subdivisions must abut a state maintained street or road.

Chairman Lambertson asked if there was any further discussion. Hearing no further discussion, Chairman Lambertson called for a motion on this variance question.

Motion: "To agree with the staffs response, that this hardship is not unique as this same situation affects those property owners who own land adjacent to Ponderosa Road (the portion that is not under NCDOT maintenance) and other land in the County where the land is land locked or the only access is off an easement."

Made By: Don Keaton

Seconded By: Frank Eason

Roll Call Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: No; Chairman Roger Lambertson: No; William McPherson: Aye

Results: By a vote of 3-2, this variance question is not confirmed and is not approved.

5. The hardship is not the result of the applicant's own actions.

Applicants Response: The hardship exists because of the location of the tract and the lack of frontage.

Staffs Response: The hardship is not the result of the applicant's actions. The hardship is not the result of the applicant's actions as the hardship relates to the location of the land and the inability to subdivide under current ordinances.

Discussion:

Frank Eason stated his opinion was that the land owners past decisions created the situation wherein the land owner can not use the land [for any of the purposes which have been mentioned in these proceedings].

Bradley Smith observed that the zoning on the land was different when the land was originally subdivided (the original parent to child subdivisions that created this land configuration). Back in 2002, the land was rezoned from General Use to Light Industrial. Before the rezoning, more could be done with the land than can be done now with regard to residential uses.

Chairman Lambertson asked when the requirement of abutting a state maintained road came into being. Dave Parks answered that this came into being around the same time as the last rezoning, which was 8-5-2002 as part of the design standards.

Chairman Lambertson stated his opinion that the lot looks the way it does because that is the way Mr. Knowles laid it out to be. In subdividing the parent parcel to give property to his children, Mr. Knowles created the shape of the property and in doing so created the current situation. So, his opinion is that the hardship is the result of Mr. Knowles actions.

Brad Smith asked if the lot in question could have been subdivided at the time of the parent to child subdivisions.

- Dave Parks answered this saying that Mr. Knowles subdivided the parent parcel to give property to his 3 children.
 - If he had a 4th child, he could have divided the lot in question out.
- Dave Parks indicated that Mr. Knowles may have been able to create a minor subdivision after the parent to child subdivisions were created, but was not sure if the requirements of minor subdivisions at the time would have allowed it.
 - It depends on what the density requirement was in a General Use district prior to 2002 (before the county wide rezoning). If it was less than 2.5 acres, he may have been able to do it. If it was more than 2.5, he may not have been able.
 - Chairman Lambertson seemed particularly interested in this aspect.
 - He would have been required to place a deed restriction such that the property not be sold for a period of 5 years after subdivision.
 - Brad Smith observed that even with the deed restriction, he would have been well after that at this point now if he had done a minor subdivision.

Chairman Lambertson asked if there was any further discussion. Hearing no further discussion, Chairman Lambertson called for a motion on this variance question.

Motion: "The hardship is the result of the applicant's own actions."
Made By: Chairman Roger Lambertson
Seconded By: Frank Eason
Roll Call Vote: Frank Eason: Aye; Don Keaton: No; Bradley Smith: No; Chairman Roger Lambertson: Aye; William McPherson: No
Results: By a vote of 3-2 Against, this motion is defeated.

New Motion: "To agree with the staffs response, the hardship is not the result of the applicant's actions as the hardship relates to the location of the land and the inability to subdivide under current ordinances."
Made By: Bradley Smith
Seconded By: Don Keaton
Roll Call Vote: Frank Eason: No; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: No; William McPherson: Aye
Results: By a vote of 3-2, this variance question is confirmed and approved.

6. The Variance will not result in the initiation of a nonconforming use of land.

Applicants Response: No. The proposed use of the property as a farm maintenance / equipment storage facility is in keeping with the surrounding zoning.

Staffs Response: The Variance will not result in the initiation of a nonconforming use of land. Applicant has a buyer for that portion who wants to use it to place an out building for the maintenance / storage of farm equipment. The use will be exempt from zoning regulations under the bona fide farm exemption as proposed buyer owns land (see tax card attached) in Camden that falls under the exemption.

Discussion:

Frank Eason asked for clarification regarding bona fide farm use and multiple properties. Dan Porter stated that if a land owner owns land which is designated as bona fide farm use (has a farm exemption number) anywhere in the state, then said land owner can attach any other piece of land to that same exemption number regardless of location.

Chairman Lambertson asked if there was any further discussion. Hearing no further discussion, Chairman Lambertson called for a motion on this variance question.

Motion: "To accept the staffs response, that the variance will not result in the initiation of a nonconforming use of land."

Made By: Don Keaton

Seconded By: William McPherson

Roll Call Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: Aye; William McPherson: Aye

Results: By a vote of 5-0, this variance question is confirmed and approved.

At this time, Dave Parks pointed out the additional condition listed in the updated "Staff Recommendations" sheet he passed out near the beginning of the meeting. This referred to condition number 7, regarding the requirement of the owner (after the sale of the property to Mr. Williams) to provide proof of continued Bona Fide Farm operations at any time upon the request of the County.

Chairman Lambertson asked as a matter of procedure if there needed to be a vote to accept into evidence the Staffs Findings of Fact, and all testimony provided. Dan Porter indicated that the evidence can be accepted by the Chairman or be voted on by the board.

Chairman Lambertson called for a motion to accept the evidence presented.

Motion: "To accept what has been presented [testimony and Findings of Fact] as evidence for this Variance Request."

Made By: Chairman Roger Lambertson

Seconded By: Bradley Smith

Discussion:

Frank Eason asked the following regarding the 30 foot right of way:

- Is the 30 foot right of way exempt or not exempt from the variance.
- Concern is that any future inheritors of the property might question whether or not they have a right of way.
 - Dave Parks said that variance condition #1 in staffs recommendations can be reworded to say that it applies to the portion of the property as indicated in the plat as submitted as evidence that the Board of Adjustment viewed.
 - Chairman Lambertson indicated that the deed for the property (after subdivision) should clearly state that the owner has legal right to the use of the 30 foot right of way / easement. Dave Parks confirmed this as normal protocol for deed language.

Frank Eason asked about the time frame for moving the buildings from the Bear Track to the property in question.

- Dave Parks responded that Mr. Williams would have 12 months to secure the appropriate permits which would enable him to perform the work of moving / building the structures on the newly subdivided lot.
- Once Mr. Williams obtains his permits, they are only valid for a certain period of time.

Roll Call Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: Aye; William McPherson: Aye

Results: By a vote of 5-0, this evidence is accepted.

At this time, Chairman Lambertson called for a motion from the Board to either (1) Grant the Variance without conditions, (2) Grant the Variance with Staff Recommended Conditions as amended up through 8, or (3) Deny the Variance.

Motion: "To grant the variance with Staff recommended conditions as amended (1-8)."

Made By: Frank Eason

Seconded By: Bradley Smith

Roll Call Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: Aye; Chairman Roger Lambertson: No; William McPherson: Aye

Results: By a vote of 4-1, this variance is granted.

Item #2, Election of Chairman and Vice Chairman

This agenda item has been postponed until after the Board of Commissioners has appointed a replacement for the vacant permanent voting member position. Thereafter, a full board meeting can be convened for the purpose of voting on new officers.

Information from Board and Staff

There was a discussion regarding appeals of Certificate of Adequate Public School advancement of capacity fees, which at present is \$10,249 for those wishing to build houses in Camden County whose land does not come under any of the current parent to child or grandparent to grandchild exemptions. At present, appeals are heard by the Board of Commissioners; Ordinance language change is being looked into that would shift those appeals to the Board of Adjustment for hearings.

Consider Date of Next Meeting - October 13, 2009

Adjournment

At 8:35 PM, a motion was made to adjourn the meeting.

Motion: "Adjourn the September 15, 2009 meeting."
Made By: Frank Eason
Seconded By: Bradley Smith
Vote: Frank Eason: Aye; Don Keaton: Aye; Bradley Smith: Aye; Chairman
Roger Lambertson: Aye; William McPherson: Aye
Results: By a vote of 5-0, meeting is adjourned.

Date: January 11, 2011

Approved: *Roger Lambertson*
Chairman Roger Lambertson

Attested: *Amy Barnett*
Amy Barnett, Clerk to the Board
Camden County Board of Adjustment