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Camden County Board of Adjustment
Record of Proceedings
February 14, 2005
7:00 PM
Senior Center Conference Room
Courthouse Complex

Chairman Roger Lambertson called to order a meeting of the Camden County Board of Adjustment with the following members present:

Chairman Roger Lambertson
Vice Chairman Morris Kight
Members William McPherson, Tony Royle, Emory Upton, Patrick Duckwall and
Douglas Lane

The following members were absent: none

Also present were Dave Parks, Permit Officer, and Melissa Joines, Clerk to the Board.

Chairman Lambertson called for consideration of the agenda. Chairman Lambertson added an item as 5a: Review of Procedures.

Chairman Lambertson called for consideration of the December 6, 2004 minutes. Chairman Lambertson made one change to the minutes. Kight made a motion to approve the minutes as amended. Upton seconded the motion. The motion passed 5-0.

Chairman Lambertson called for consideration of the December 20, 2004 minutes. Chairman Lambertson made three changes to the minutes. Chairman Lambertson made a motion to approve the minutes as amended. Royle seconded the motion. The motion passed 5-0.

Chairman Lambertson called for comments from the public. Hearing none he continued with the agenda.

Chairman Lambertson read from Chapter 6 of the Institute of Government on procedures of the board.

New Business

Item #1 Variance Application (UDO 2005-01-04) from Jean Scott to Article 151.060 of the Camden County Code (Minimum Lot Sizes) in an R-3 zoned district located at 109 River Road, Courthouse Township

Jean Scott, applicant was sworn in and stated she was currently building a home at 109 River Road. The property has some existing bulkhead but there is a small stripe of land approximately 250 feet that does not have bulkhead. The area that is not bulkheaded causes severe flooding when there are heavy winds and hurricanes and makes the road impassable for buses and residents that live on the road. Ms. Scott does not have the money at the current time to bulkhead the area but she does have a CAMA permit that will allow the bulkheading to be done. Ms. Scott is requesting the variance to allow her to deed the portion of land that is not bulkheaded to Mr. Sanders and allow him to bulkhead the property.

Chairman Lambertson called for a motion to open the public hearing. Royle made a motion to open the public hearing. McPherson seconded the motion. The motion passed 5-0.

James Williams, fiancé of the applicant, was sworn in and stated there has been so much erosion on the lot were they want the bulkhead to go. The Corp of Engineers has been out to the property. The land has eroded into their 25 foot area and the Corp of Engineers is almost ready to put in rift wrap on the street, approximately 20-30 feet. Mr. Sanders' house is directly across the road from the property. Mr. Williams would like to give Mr. Sanders the non-bulkheaded property so that he may bulkhead the part which has been eroded.

Mr. Sanders was sworn in.

Chairman Lambertson stated that the applicant has requested to transfer the property to him and asked Mr. Sanders if he would bulkhead the property.

Mr. Sanders stated yes and stated this was the only section of land not bulkheaded by the developer. Mr. Sanders stated he was going to bulkhead the property to protect his property because he did not want to bulkhead the property and not own it.

Chairman Lambertson asked if the land was bulkheaded would that stop the state from putting in the rift wrap.

Ms. Scott stated that she was under the impression if the property was bulkheaded it would be better than to rift wrap the property.

Chairman Lambertson stated since he owns water front property, it is his understanding that you cannot fill in within 30 feet of the water as far as CAMA is concerned.

Mr. Williams stated that he and Ms. Scott had just filled in 52 feet along the bulkhead of their property.

Dave Parks, staff was sworn in and stated the residents of Whitehall shores had just bulkheaded and filled in along the beach area.

Mr. Sanders stated that CAMA has shown on the permit a line where the bulkhead can go on the property.

Chairman Lambertson asked whose name the CAMA permit is in.

Mr. Sanders stated the CAMA permit is in Ms. Scott's name.

Chairman Lambertson stated the information does not state the amount of property to be given to Mr. Sanders.

Dave Parks stated the survey and deed will state the amount of property given on the recombination survey.

Chairman Lambertson stated the date on the CAMA permit says that the permit has expired. The permit was issued on 11/9/04 and the permit states it expires 2/9/04. The date needs to be corrected and an extension can probably be granted.

Hearing no more questions, Chairman Lambertson called for a motion to close the public hearing. McPherson made a motion to close the public hearing. Kight seconded the motion. The motion passed 5-0.

Chairman Lambertson called upon staff for any more comments. Staff stated it feels the applicant has provided sufficient evidence for approval of the variance.

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

Applicant response: No. I cannot use this property to build on or do anything else with. I am unable to afford the bulkhead and fill needed to prevent further erosion.

Staff response: If applicant complies with the provisions of the Ordinance, they cannot make reasonable use of the portion requiring a bulkhead as it is too narrow for any structure. The strip of land has eroded approximately 10 feet since January 2001 as evident by the aerial photo and current condition.

McPherson made a motion that if applicant complies with the provisions of the Ordinance, they cannot make reasonable use of the portion requiring a bulkhead as it is too narrow for any structure. The strip of land has eroded approximately 10 feet since January 2001 as evident by the aerial photo and current condition. Kight seconded the motion. The motion passed 5-0.

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

Applicant response: All of the neighbors suffer from flooding and the school buses are unable to pass on the road. If the erosion is not checked, the road will become damaged from the flooding.

Staff response: The hardship is suffered by the applicant, neighbors and general public as if the erosion continues this will eventually cause the road to collapse.

Upton made a motion that the hardship is suffered by the applicant, neighbors and general public as if the erosion continues this will eventually cause the road to collapse. Royle seconded the motion. The motion passed 5-0.

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

Applicant response: The hardship relates to the land rather than personal circumstances.

Staff response: The hardship relates to the land and the continuing erosion of the shore and it threatening the possible collapsing of the road.

McPherson made a motion that the hardship relates to the land and the continuing erosion of the shore and it threatening the possible collapsing of the road. Chairman Lambertson seconded the motion. The motion passed 5-0.

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

Applicant response: Yes, hardship is unique.

Staff response: What is unique about this is that you have the applicant that just purchased the property to build a house, can not afford to bulk head this narrow area and is willing to deed that portion to Mr. Clarence Sanders so he can bulk head the area to prevent further erosion, thus preventing the possible collapsing of the road.

Royle made a motion that what is unique about this is that you have the applicant that just purchased the property to build a house, can not afford to bulk head this narrow area and is willing to deed that portion to Mr. Clarence Sanders so he can bulk head the area to prevent further erosion, thus preventing the possible collapsing of the road. Kight seconded the motion. The motion passed 5-0.

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

Applicant response: The hardship is not the result of my actions.

Staff response: The hardship is not the result of the applicant's actions.

Chairman Lambertson made a motion that the hardship is not the result of the applicant's actions. McPherson seconded the motion. The motion passed 5-0.

6. **The Variance will neither result in the extension of a nonconforming situation in violation of Articles 151.360-368 nor authorize the initiation of a nonconforming use of land.**

Staff response: If variance is approved, this will improve the square footage to a non conforming lot and decrease the square footage to another.

McPherson made a motion that if the variance is approved, this will improve the square footage to a non-conforming lot and decrease the square footage to another. Upton seconded the motion. The motion passed 5-0.

Chairman Lambertson requested that staff read the conditions:

1. The applicant must strictly abide by all requirements of the Unified Development Ordinance of Camden County, North Carolina, and must also strictly comply with all other local, state, and federal ordinances, laws, rules and regulations as one or more ordinances, laws, rules and regulations may apply to this development.
2. Applicant to reflect on recombination survey "Variance granted by Camden County Board of Adjustment February 14, 2005.
3. The Bulk Head to be installed within twelve (12) months of approval or this Variance will become null and void and property will revert back to previous owner.
4. The applicant must sign before a notary public the Variance agreeing to the conditions by March 14, 2005 or the Variance shall become null and void.

Chairman Lambertson stated he would like to add a condition as Condition C: The

permit from CAMA for bulkhead must be renewed. Change condition "c" to "d" and condition "d" to "e". Is twelve months long enough to bulkhead?

Staff feels that twelve months is long enough. The county is currently having a bulkheading done at Shiloh Landing and were told it would be done in 2-3 months. If and extension is needed, Mr. Sanders can come back to the board and request and extension.

After some discussion among the board and staff, Chairman Lambertson called for a motion. Royle made a motion to approve the variance with conditions as recommended by staff. Kight seconded the motion. The motion passed 5-0.

Chairman Lambertson stated that it seems that this action to bulkhead the shore line to prevent erosion of the roadway is a direct benefit to a state maintained road. This preventative action could save the state a significant amount of money. It does not seem fair that a citizen of the county should have to pay the \$250.00 application fee for an action that would benefit the state.

Staff stated the board could recommend the fees be waived minus the advertising cost.

Chairman Lambertson made a motion to waive the application fee less the cost associated with the advertising. McPherson seconded the motion.

Randell Woodruff, County Manager, was sworn in and stated he did not have a problem with the recommendation to the Board of Commissioners.

Chairman Lambertson amended his motion to recommend to the Board of Commissioners that the fees be waived less the cost associated with the advertising.

Mr. Woodruff stated that maybe staff would need to confirm with the County Attorney the correct procedure for the board to recommend the waiver.

Chairman Lambertson made a motion that this board, if it has the authority, would waive the application fee less advertising cost and if it does not have the authority, to recommend to the Commissioners. McPherson seconded the motion. The motion passed 5-0.

Item #2 Variance Application (UDO 2005-01-21) from Ricky and Shelia Edwards to install a doublewide mobile home in a General Use District located at 416B Wickham Road – Shiloh Township

Ricky Edwards, applicant, was sworn in and stated he had bought the property about four years ago on Wickham Road. At the time there was an old singlewide mobile home on the property which was replaced and the property was split into two pieces. When the property was split a doublewide was allowed on the second piece but was done at that time. A water tap was put in and the driveway was put in but when he came to the county, they would not let him install a doublewide because the property had been rezoned, unknowingly to him. Mr. Edwards stated he had not received any information from the county on the rezoning. The request for a variance is to be able to put a doublewide on the property. The property owners on either side had signed a paper stating they did not have a problem with Mr. Edwards installed a doublewide.

There was a county map showing the zoning of the property and surrounding properties. The home is currently being stored because Mr. Edwards has no place to put it. The surrounding properties are singlewides, doublewides, and site built homes. Mr. Edwards stated the house is of age but looks nice and it would be for rental property. Mr. Edwards then showed the board a copy of his survey.

Chairman Lambertson question the date of the rezoning.

Staff stated the rezoning was part of the County's Growth Management and was approved in August of 2002. The county adopted major amendments to the ordinance and zoning maps. There were public hearings advertised in the paper and a notice was sent to every land owner at that time. When Mr. Edwards spilt the property the zoning did not allow for doublewides.

Chairman Lambertson stated the survey shows the date signed is January 3, 2002 which was one month prior to the rezoning. Who stated a doublewide was permissible?

Mr. Edwards stated that Dave Parks had told him a doublewide was permissible.

Staff stated at that time a doublewide was permissible. Staff stated the yellow color on the map was General Use and the brown color was R-2, which R-2 permits doublewides.

Chairman Lambertson questioned when the singlewide was placed on the property as a replacement to the existing singlewide.

Mr. Edwards stated the existing singlewide was in poor condition and he had some much time to replace it.

Staff stated that if the lot was empty a singlewide was not allowed but because there was an existing singlewide it was grandfathered and could be replaced.

Hearing no more comments or questions, Chairman Lambertson continued with the variance questions:

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

Applicant response: No.

Staff response: If applicant complies with the provisions of the Ordinance, they can make reasonable use of property by installing a Modular or Site Built home.

Chairman Lambertson made a motion that if the applicant complies with the provisions of the Ordinance, they can make reasonable use of the property by installing a Modular or site built home. Kight seconded the motion. The motion passed 5-0.

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

Applicant response: Yes. Applicant relied upon prior representations of County officials.

Staff response: The hardship that the applicant suffers affects neighbors and the general public.

Kight made a motion that the hardship is that the applicant suffers affects neighbors and the general public. McPherson seconded the motion. The motion passed 5-0.

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

Applicant response: Yes

Staff response: The hardship relates to a conflict between the applicant's proposed use and zoning requirements for General Use Districts.

Upton made a motion that the hardship relates to a conflict between the applicant's proposed use and zoning requirements for General Use Districts. Royle seconded the motion. The motion passed 5-0.

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

Applicant response: Yes.

Staff response: The hardship is not unique as zoning regulations affect all residents of the county.

McPherson made a motion that the hardship is not unique as zoning regulations affect all residents of the county. Chairman Lambertson seconded the motion. The motion passed 5-0.

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

Applicant response: Hardship is not the result of the applicants own actions.

Staff response: Staff feels there is not hardship that would justify issuing a variance.

Chairman Lambertson made a motion that there is not hardship that would justify issuing a variance. McPherson seconded the motion. The motion passed 5-0.

6. **The Variance will neither result in the extension of a nonconforming situation in violation of Article 14 nor authorize the initiation of a nonconforming use of land.**

Applicant response: The issuance of a variance will neither result in the extension of a nonconforming situation in violation of Articles 151.360-368 nor in the initiation of a nonconforming use of the property.

Staff response: The issuance of a variance will create a nonconforming use of land.

McPherson made a motion that the issuance of a variance will create a nonconforming use of land. Kight seconded the motion. The motion passed 5-0.

Kight made a motion to approve the variance. Royle seconded the motion. Chairman Lambertson voted nay, McPherson voted nay, Kight voted yes, Upton voted yes, and Royle voted yes. The variance was denied with at 3-2 vote as the ordinance requires a 4/5 majority vote for an application to be approved.

Items for Board members and staff

Staff stated the Planner from Pasquotank County was trying to get together a meeting for a training session with the Institute of Government. Staff did not have a time or date but would inform the board when the meeting was to be scheduled.

Board and staff discussed the idea of a training meeting in April. Staff will get together information on variances to bring before the board at the scheduled meeting in April.

Consideration for date of next meeting – March 14, 2005

The board set a tentative meeting date as March 15, 2005.

Adjournment

Chairman Lambertson made motion that the meeting of the Camden County Board of Adjustment be adjourned. Upton seconded the motion. The motion passed 5-0. The meeting adjourned at 8:32 p.m.

Approved:

Date

Chairman

ATTEST:

Melissa Joines
Clerk to the Board