

BOARD OF COMMISSIONERS

JEFFREY B. JENNINGS
Chairman
SAMUEL K. SHAW
Vice-Chairman
J.C. ROUNDTREE
MELVIN JERALDS
CLAYTON D. RIGGS



RANDELL K. WOODRUFF
County Manager

AVA MURGIA
Clerk of the Board/
Assistant to the Manager

Camden County Board of Adjustment
Record of Proceedings
March 8, 2004
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 and Patrick Duckwall

The following members were absent: Calvin Forbes

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

Chairman Lambertson called for consideration of the agenda. Staff requested to add: New Business Item #3 Request from Blackwater to amend their Conditional Use Permit, Items from Members and Staff #1 CDBG Housing Grant; #2 Codification of UDO. Chairman Lambertson accepted the agenda as amended.

Chairman Lambertson called for consideration of the January 5, 2004 minutes. Chairman Lambertson requested a change the minutes to state if there was a 4-1 vote that the minutes state how each board member voted. Hearing no more comments Chairman Lambertson accepted the minutes as amended.

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

New Business

Item #1 Variance Application (UDO 2004-02-09) from Mike Bell on UDO Article 9 Section 918.3 to subdivide property a second time within a five year time period located on Whitehurst Lane, Courthouse Township

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

Mike Bell, of 1013 W. Church Street, Elizabeth City, stated the property was owned by his father and mother and was left to him and his sister. The property Mr. Bell wishes

to subdivide is between his mother's old home place and his two son's property. Mr. Bell stated the property has four building on it which is leased to the NC Wildlife Commission. The Wildlife uses the property for storage and a small office in one building. Mr. Bell stated one building was destroyed by the hurricane and he was in the process of trying the repair the building and his sister wanted nothing to do with the property. Mr. Bell would like to subdivide the property to have it solely in his name before he spent anymore money on the property.

The board questioned did Mr. Bell have any intention of subdividing more property. Mr. Bell stated he did not have any intention of subdividing more property. Staff stated the property was zoned for commercial and a residence could not be installed on the property.

Chairman Lambertson stated he felt the five year wait to subdivide adjacent property was focused more on residential that commercial.

Chairman Lambertson hearing no objections 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 then 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. This property was formerly the site of farm buildings and has been leased by the NC Wild Life Commission fro several years. To continue their occupancy, major repairs to structures are now urgently needed. Sally Aydlett, co-owner of the property, will not commit to any expenditures to repair buildings. However, she indicates her willingness to give me her one half undivided interest in the site (approx 2 acres). A variance is requested so that the lot can be subdivided, recorded with deed, and necessary improvements can be made to enhance the property.

Staff response: The use of the property as an office for the Wild Life Commission has been in place for several years indicating that member can make reasonable use of the property.

Chairman Lambertson made a motion that the use of the property as an office for the Wild Life Commission has been in place for several years indicating that member can make reasonable use of the property. McPherson 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: The hardship is suffered by the applicant.

Staff response: The hardship is suffered by all property owners in Camden County. Staff's interpretation of the Ordinance is that the 5 year wait on further subdividing same parcel was intended for residential zoning and not commercial zoning.

Kight made a motion that the hardship is suffered by all property owners in Camden County. Staff's interpretation of the Ordinance is that the 5 year wait on further subdividing same parcel was intended for residential zoning and not commercial zoning. Royle seconded the motion. The motion passed 5-0.

3. The hardship relates to the applicant's land, rather than personal circumstances.

Applicant response: The hardship relates to both the land and personal circumstances. My sister does not want to fund any of the reconstruction costs, but is willing to deed over her have interest to me, so the only other matter relates to the land and the inability subdivide the lot out of the farm.

Staff response: The hardship relates to the land and the members inability to subdivide a lot utilized by the Wild Life Commission.

Kight made a motion that the hardship relates to the land and the members inability to subdivide a lot utilized by the Wild Life Commission. McPherson 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: The hardship is unique.

Staff response: The hardship is unique as again staff feels the intent of the 5 year wait was geared towards residential subdivision rather than commercial.

McPherson made a motion that the hardship is unique as again staff feels the intent of the 5 year wait was geared towards residential subdivision rather than commercial. Royle 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 own actions as member subdivided the house from the parcel he did not know he would have to wait five years to subdivide again.

Upton made a motion that the hardship is not the result of the applicant's own actions as member subdivided the house from the parcel he did not know he would have to wait five years to subdivide again. Lambertson 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: No.

Staff response: The subdivision will not result in a nonconforming situation nor would it be in violation of a nonconforming use of land as it is zoned commercial.

Royle made a motion that the subdivision will not result in a nonconforming situation nor would it be in violation of a nonconforming use of land as it is zoned commercial. McPherson seconded the motion. The motion passed 5-0.

Staff requested to add a condition to the variance as item (d) that Mike Bell provide a letter from Sally Aydlett stating her intent to give Mr. Bell her half interest of the property.

Chairman Lambertson made a motion to approve the variance with the conditions as amended by staff. Kight seconded the motion. The motion passed 5-0.

Item #2 Variance Application (UDO 2004-02-17) from Andrea Stone on UDO Article

12 Section 1210 (1.2) to construct an accessory apartment for the provision of providing health care located at 176 Seymour Lane, Courthouse Township

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

The applicant Andrea Stone was sworn in. Staff stated the application was for an accessory apartment for the provisions of health care for the applicant's mother. Staff stated the board had a letter from the doctor in the packet.

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

Chairman Lambertson then 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: Because of the zone (R3-2) that my home is located in, we need the variance. If we were to follow the code for the zone I am in, we would not be able to make a place here for my mother.

Staff response: If applicant complies with the provisions of the Ordinance, he can make reasonable use of property as a single family dwelling.

Chairman Lambertson made a motion that if applicant complies with the provisions of the Ordinance, he can make reasonable use of property as a single family dwelling. Upton 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, the hardship is suffered by my family. My mother's case is special because she is suffering from lung cancer. She has had major surgery and spent well over a month in the hospital. My little brother is still in High School and I need to have them both here with me, so I can help more. She cannot work anymore and per her doctor requires close medical attention.

Staff response: The hardship is suffered by the applicant and not by the neighbors or general public.

Royle made a motion that the hardship is suffered by the applicant and not by the neighbors or general public. McPherson seconded the motion. The motion passed 5-0.

- 3. The hardship relates to the applicant's land, rather than personal circumstances.**

Applicant response: The hardship relates to personal circumstances and the use of the land. Because she can never work again, we must sell her house and use the money to redo the garage into an apartment. As you can see from the attached picture, about 3 years ago we started to convert the garage into an apartment (not for this reason) and never got around to finish it. Then the zoning changed and having an accessory apartment attached to the primary residence was not permissible. My house is too small (1520 square feet) for my mom and brother to live in.

Staff response: The hardship relates to the land and personal circumstances as member desires to provide the necessary health care but current zoning laws prohibit a primary residence with an accessory apartment in a R3-2 zoning district. The possibility of a rezoning is very slim as there is no R1 zoned districts in the vicinity.

Upton made a motion that the hardship relates to the land and personal circumstances as member desires to provide the necessary health care but current zoning laws prohibit a primary residence with an accessory apartment in a R3-2 zoning district. The possibility of a rezoning is very slim as there is no R1 zoned districts in the vicinity. Kight 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: I feel that it is, as there are no provisions in the ordinance for this situation. My mom is not married so she is struggling through this as a single parent. She was diagnosed this past year with both lung and breast cancer and gone through major surgery.

Staff response: The hardship is unique. As you can tell by the picture of the structure to be converted, the property owner at one time (prior to the change in zoning) was converting the garage. Health Department has authorized the use of the existing septic tank for the additional bathroom.

Royle made a motion that the hardship is unique. McPherson seconded the motion. The motion passed 5-0.

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

Applicant response: I feel that the hardship is not the result of her actions. We are only trying to make the best of an awful situation. My mother has lived in Camden County all her life as did her parents and grandparents and feel she has earned the right to look back on the county for support in her time of great need.

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

McPherson made a motion that the hardship is not the result of the applicant's own actions. Kight 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.

Staff response: If variance is approved, this will create a nonconforming project.

Chairman Lambertson made a motion that if variance is approved, this will create a nonconforming project. Upton seconded the motion. The motion passed 5-0.

Chairman Lambertson called for a motion. McPherson made a motion to approve the variance with the condition as recommended by staff. Royle seconded the motion. The motion passed 5-0.

Items for Board members and staff

Staff discussed the CDBG Housing Grant with the board. Staff stated the grant was intended to improve the appearance of properties with old dilapidated homes on them

and replace the home with a new doublewide. Staff stated 4 of the 5 applicants were in a General Use zoned district where doublewides are not allowed. The board directed staff to bring a variance application to the board that included each application as one variance.

Staff then handed out the codified version of the UDO and stated that it will replace the UDO.

Staff then indicated that alternate Calvin Forbes has missed his limit of three meetings. Board directed staff to handle as he sees fit.

Information

Board of Commissioners Minutes – Jan. 20, 2004 & Feb. 2, 2004

Consideration for date of next meeting – April 5, 2004

The next Board of Adjustment meeting will be held on April 6, 2004.

Adjournment

Upton made motion that the meeting of the Camden County Board of Adjustment be adjourned. Lambertson seconded the motion. The motion passed 5-0. The meeting adjourned at 8:15 p.m.

Approved: _____

Chairman

ATTEST:

Melissa Joines, Clerk to the Board