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Camden County Board of Adjustment
Record of Proceedings
December 20, 2004
7:00 PM
Senior Center Dining 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 Tony Royle, Emory Upton, Patrick Duckwall and Douglas Lane

The following members were absent: William McPherson

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

Chairman Lambertson stated the voting members would be Lambertson, Kight, Upton, Royle and Lane.

Chairman Lambertson called for consideration of the agenda. There were no changes and no motion made.

Public Comment

There were no public comments.

New Business

Item #1 Variance Application (UDO 2004-11-16) to install a Class A doublewide mobile home in a General Use District located at 185 Lake Road, South Mills Township

Robert Lee, applicant was sworn in and stated that his mother was currently living in a singlewide. He wanted his mother to be able to live in her home for as long as possible and looked at the prices of modular's and stick built homes but they were too expensive for the handicap modifications that are needed. The handicap modifications can be made to the doublewide in the desired price range.

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

There were no oppositions to the application. Chairman Lambertson called for a motion to close the public hearing. Upton made a motion to close the public hearing. Lane seconded the motion. The motion passed 5-0.

Mr. Lee stated there were nine mobile homes within a mile radius of the property. Mr. Lee handed out a picture of the mobile home to the board.

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: Current restrictions on the property do not allow mobile homes. Building a site built or installing a modular is too expensive. At present the land sits idle and has no use. Farming the land is not cost productive because of the size of the lot. It cost more to move equipment to the lot than the lot will produce.

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.

Lambertson made a motion that if applicant complies with the provisions of the Ordinance, they can make reasonable use of property by installing a Modular or Site Built home. Due to the nature of the area, even though they can make use of the property, it does not seem reasonable to insist on a modular or stick built home. Lane 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 solely connected with the applicant and applicant's mother as with current finances and the increase in costs for housing, she can only afford a doublewide.

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

Kight made a motion that the hardship that the applicant suffers affects neighbors and the general public. Upton 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 property. Stick built homes are becoming more and more expensive to build. The average cost of homes in Camden County is 200,000+. Individuals with fixed incomes or single individuals with average incomes are unable to afford these homes. Modular homes are lower cost, but still most exceed 150,000 which are still out of range. The current ordinance restricts the land use to these types of homes.

Staff response: The hardship relates to personal circumstances and not the land.

Lambertson made a motion that the hardship relates to the zoning of the land. 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: The hardship is unique to this property. To my knowledge, no other properties in the area are being built on or are there plans to have houses built. All properties on connecting lands are mobile homes except for two. One connecting lot has three mobile homes.

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

Lane made a motion that the hardship is not unique as zoning regulations affect all residents of the county. 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 the result of the current ordinance not allowing a home that the applicant can afford, being put on the property.

Staff response: The hardship that the applicant is referring to is the cost of housing, stating the average stick built home costs exceed \$200,000 and Modular Homes are \$150,000 plus. Attached is a quote for a standard four bed room and two bed room Modular home and the cost of a standard four bedroom doublewide.

Lambertson made a motion that the hardship that the applicant is referring to is the cost of housing, stating the average stick built home costs exceed \$200,000 and Modular Homes are \$150,000 plus. 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.

Applicant response: No.

Staff response: If variance is approved, this will create a nonconforming use of land.

Chairman Lambertson made a motion that if variance is approved, this will create a nonconforming use of this lot. Lane seconded the motion. The motion passed 5-0.

Lane made a motion to approve the variance. Kight seconded the motion. The motion passed 5-0.

Item #2 Variance Application (UDO 2004-11-20) to Article 151.230 of the Camden County Code of Ordinances – Subdivision Regulations located at 100 Sandpiper Lane, Courthouse Township

Daniel Moore, applicant was sworn in and stated he wished to move his parents from West Virginia to Camden. Mr. Moore came to the county in June of 2004 and found they need to have the property surveyed, cleared and talk with the Health Department for a septic system. After they had completed these things the county then stated the property was not on a state maintained road. Sandpiper Lane is a private road with an easement. Mr. Moore presented a photograph of the Sandpiper Lane road sign indicating that it was erroneously labeled a State road. Chairman Lambertson called for a motion to open the public hearing. Lane made a motion to open the public hearing. Kight seconded the motion. The motion passed 5-0.

William Goodman, of 502 Whitehall Road was sworn and stated his property was at

the corner of Sandpiper Lane. Mr. Goodman did not have any objections to any one using the easement was in support of the variance request.

Bruce Drahos, of 112 Windy Heights Drive was sworn in and stated he felt it was a good opportunity for the community and was in support of the variance request.

John Morrison, Attorney representing Mr. Hockmeyer, declined to be sworn in and requested that Dave Parks, Permit Officer be sworn in for questioning.

Mr. Morrison asked Mr. Parks about his background and experience in zoning. Mr. Morrison also questioned Mr. Parks about the finding of facts. Mr. Morrison placed the finding of facts into account as Exhibit 1.

Mr. Morrison read a section from the book Introduction to Zoning; Chapter 8 on variances. Mr. Morrison stated to the board the procedures and requirements on hearing and approving a variance. He also cited excerpts from documents not readily available to the members of the Board of Adjustment. He quoted, in the form of evidential testimony, statements from North Carolina Supreme Court Justices.

Staff stated Mr. Hockmeyer's concern is a property line dispute.

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

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: With strict compliance to the provisions of the UDO, we will not be able to use the property that we've subdivided.

Staff response: If applicant complies with the provisions of the ordinance, they can make reasonable use of the property.

Lambertson made a motion that if the applicant complies strictly with the provisions of the Ordinance, he can make reasonable use of his property. Royle 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 would be suffered by the applicant, with little or no bearing on the neighbors.

Staff response: The hardship is suffered by the applicant. In June 2004, applicant contacted staff of the possibility of subdividing an acre for their parents and staff informed them that they could as a "child to parent exempt". Based on that information, applicant proceeded to clear land, survey it out, and had deed drawn up. Staff overlooked the requirement that all newly created lots must abut a state road or one built to state standards.

Royle made a motion that the hardship is suffered by the applicant. In June 2004, applicant contacted staff of the possibility of subdividing an acre for their parents and staff informed them that they could as a "child to parent exempt". Based on that information, applicant proceeded to clear

land, survey it out, and had deed drawn up. Staff overlooked the requirement that all newly created lots must abut a state road or one built to state standards. Kight 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 both the property and personal circumstances. The subdivision of this lot is to provide a location for parents to build their house. They are advancing in age and need to be closer to family. They currently live in West Virginia.

Staff response: The hardship relates to personal circumstances, as applicant based on staff's approval invested money in surveying, health department (septic), clearing of land and attorney fees.

Lane made a motion that the hardship relates to personal circumstances, as applicant based on staff's approval invested money in surveying, health department (septic), clearing of land and attorney fees. 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: Our hardship is unique in that we have almost 6 acres of property that abuts the Whitehall Shores community. The only state maintained road that abuts Sandpiper Lane is Whitehall Road. We can only speak for our immediate surroundings. I could see this being a problem for many residents of Camden County with waterfront and farming properties.

Staff response: The hardship is unique and not shared by surrounding properties.

Lambertson made a motion that the hardship is unique and not shared by surrounding properties. Upton seconded the motion. The motion passed 5-0.

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

Applicant response: We were not informed of this variance process at the onset of this project, which began in 06/04. When we purchased the property in 2001 there was no mention of restrictions on subdivisions.

Staff response: The hardship is not the result of the applicant's actions, as they proceeded with everything based on what was told to them from staff.

Kight made a motion that the hardship is not the result of the applicant's actions, as they proceeded with everything based on what was told to them from staff. Upton 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 property will be used as a lot for a home. Issuance of a variance would provide a means of allowing the subdivision to be allowed with access to a state maintained road via Sandpiper Lane, which is privately maintained.

Staff response: Variance will create a Nonconforming Situation.

Lambertson made a motion that the variance will not create a nonconforming situation. Royle seconded the motion. The motion passed 5-0.

Chairman Lambertson made a motion to approve the variance with the conditions as recommended by staff.

Conditions:

- A. 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.
- B. This Variance if approved is granted based strictly on staff error and is not to be considered as setting a precedence for circumventing current ordinances.
- C. The applicant must sign before a notary public the Variance agreeing to the conditions by January 20, 2005 or the Variance shall become null and void.

Lane seconded the motion. The variance was approved with Chairman Lambertson voting yes, Kight voting yes, Upton voting yes Royle voting yes, and Lane voting yes. The motion passed 5-0.

Items for Board members and staff

There were no items from board or staff.

Consideration for date of next meeting – January 10, 2005

Lane made a motion to schedule the Board of Adjustment meetings for the second Monday of each month. Lambertson seconded the motion. The motion passed 5-0.

Adjournment

Lane 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 8:06 p.m.

Approved: _____

Chairman

ATTEST:

Melissa Joines, Clerk to the Board