

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

March 2, 2000

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, March 2, 2000, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mr. William Barr, Vice Chairman; Dr. James Branscome, Mrs. Peg Mailler, Mr. Eugene Lofdahl, Mr. John Meadows, and Mr. James VanLuven. Also present were Mrs. Carolyn G. Bowen, Zoning Administrator; Mr. Paul McCulla, County Attorney; Mr. Fred Hodge, Planner, and Ms. Holly Meade, Office Manager.

**MINUTES**

The minutes of the February 10, 2000 meeting were approved as distributed.

**LETTERS OF NOTIFICATIONS**

**PUBLIC NOTICE** Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

**VARIANCE #45251**

**CHARLES E. BUSER (OWNER)**

Mr. Buser applied for a variance to the side yard requirements of the Zoning Ordinance to allow the construction of a garage 8 feet from the property line wherein the Zoning Ordinance requires 25 feet. The subject property is identified in County land records as PIN#6982-22-9341, contains .75 acres, located at 9227 James Madison Highway (State Routes 15-29), Marshall District. The property is zoned Rural Agriculture.

Mr. Hodge reviewed the staff report. He stated that a site visit was conducted earlier today.

Mr. Buser was present on behalf of his request. He stated that the reason he needs the variance is due to the location of his drainfield. He explained that he plans to demolish the two existing buildings and build one garage.

Mr. Meadows questioned the location of the septic tank and he was asked if he could identify the location of the drainfield and septic tank.

Mr. Rider asked Mr. Buser the age of the existing metal building and if both buildings were there when he purchased the property.

Mr. Buser stated that the old existing metal building is approximately 15 years old and that both of the buildings were there when he purchased the property.

Mr. Lofdahl suggested tabling the request for thirty days to determine the exact location of the drainfield and septic tank and Mr. Rider agreed that more information is needed.

Mrs. Bowen stated that she would meet with Mr. Buser at the property and assist him.

On the motion made by Mr. Barr and seconded by Mr. Meadows, it was moved to table this request for thirty days.

The motion carried unanimously.

**VARIANCE #45258**

**MICHAEL E. AND KRISTINE A. WOODFIN (OWNERS)**

Mr. and Mrs. Woodfin applied for a variance of 10.7' feet to the side yard to allow the construction of an attached garage. The subject property is identified as PIN #6994-69-4641-000 containing 1.45 acres, and is located at 7373 Crown Lane (State Route 1434) and is zoned R-1 (Residential), in Center District.

Mr. Fred Hodge reviewed the staff report and stated that a site visit was conducted earlier today.

Mr. Woodfin was present to explain his request and the need for an attached wheelchair accessible garage. He explained that they have explored other possibilities and there are no other options available. He further explained that due to the location of a storm drainage area, the septic tank and drainfield area they cannot locate the garage elsewhere on the lot.

Mr. Lofdahl asked if the door to the garage would be on the same grade.

Mr. Woodfin stated that it would be and it would comply with county building regulations.

Mr. Barr asked Mr. Woodfin why the size of the proposed garage is necessary.

He explained that the vehicle is a full-size van with a wheelchair lift and the size of the garage is necessary for accessibility.

On the motion made by Mr. Lofdahl, and seconded by Mrs. Mailler, it was moved to grant variance #45258, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the location of the house on the lot, and the location of the septic field and drainage ditch.

3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
  - (b) exceptional topographic conditions or other extraordinary situation or condition of the property, and location of house on the property.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are due to the location of the house on the property, and the location of the septic field and drainage ditch.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is 10.7 feet.

The motion carried unanimously.

**VARIANCE #45267**

**THERESA J. DOUGLAS (PREVIOUS OWNER) AND JOHN E. AND NORMA A. BROCK(OWNERS)**

The applicant has requested a variance of .7 feet to the side yard (setback) requirement for an existing deck, wherein the Zoning Ordinance requires twenty-five (25') feet. The Zoning Ordinance does permit an extension of six (6') feet into yard areas if the deck is unroofed and completely unenclosed with the exception of an open work railing and the floor or the deck is no higher than the entrance to the dwelling. The subject property is identified as PIN #6971-63-7088-000 containing 1.046 acres, and is located at 7708 Castlebury Court (State Route 1613) and is zoned Rural Agriculture, in Lee District.

Mr. Hodge reviewed the staff report. Mrs. Bowen stated that unfortunately the variance needed is more than the ten (10%) allowed by the Zoning Administrator for a deck constructed with permits, but within the setback.

Mrs. Theresa Douglas was present of behalf of her request. Mrs. Douglas stated that the property was recently sold to the Brock's and three days prior to settlement, the settlement attorney discovered that the deck was located .7' of a foot too close to the side property line. She further stated that the deck was existing when her father purchased the house.

Mr. Hodge indicated that the permit issued in 1989 to the builder stated that the deck would be located forty-five (45) feet off the property line.

On the motion made by Mrs. Mailler, and seconded by Dr. Branscome, it was moved to grant variance #45267, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

**13-406 Variance of Minimum Yard Requirements Based on Error in Location of Buildings**

1. Notwithstanding the other provisions of this Part, the Zoning Administrator and the BZA shall have the authority, as qualified below, to grant a variance to the minimum yard requirements in the case of any building existing or partially constructed which did not comply with such requirements applicable at the time such building was erected. Such a variance may be granted if and only if:
  - A. It is established that such noncompliance was through no fault of the applicant or was the result of an error in the location of the building subsequent to the issuance of the Building Permit, and
  - B. Such variance will not impair the purpose and intent of this Ordinance, and
  - C. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - D. It will not create an unsafe condition with respect to other property and/or public streets, and
2. Such a variance may be granted:
  - B. By the BZA if the error is greater than ten (10) percent of the measurement that is involved.

The minimum variance that is necessary to afford relief is .7' to the side yard.

The motion carried unanimously.

**APPEAL #45132**

**SALAHY FAMILY LIMITED PARTNERSHIP, THE OASIS WINERY, DIRGHAM AND CORINE SALAHY (OWNERS)**

The owners have filed an appeal to certain determinations made by the Zoning Administrator in a letter dated December 8, 1999. The owners are appealing decisions regarding qualifying a wine tasting dinner held on December 17, 1999 as a Class C Event, and specifically, subject to the

thirty day (30) notice provision and the limit on the hours of operation. The subject property is identified as PIN #5998-87-0439 & PIN #5998-88-4344, located at 14141 Hume Road (State Route 635) near Hume, Virginia, containing approximately 99.72 acres and is zoned RA (Rural Agriculture) in Marshall District.

Mr. John H. Foote, attorney representing the Salahi Family, sent a letter withdrawing the appeal.

**OTHER MATTERS**

Mr. McCulla stated that the suit filed against the BZA by Curtis Hansen had been “non-suited”.

Mr. McCulla also informed the BZA that the Salahi-Oasis suit was scheduled in Circuit Court for August.

ADJOURNMENT     There being no further business before the Board, the meeting adjourned  
at  
2:40 P.M.

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William Rider, Chairman

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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