

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

December 6, 2001

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, December 6, 2001, beginning at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Barr, Vice Chairman, Mrs. Margaret Mailler, Secretary, Mr. John Meadows, and Mr. James Van Luven. Mr. William Rider, Chairman, Mr. Eugene Lofdahl and Mr. Maximilian A. Tufts, Jr. were absent. Also present were Mr. Paul McCulla, County Attorney, Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; and Carole L. Hensley, Office Associate III.

MINUTES: On motion made by Mr. Meadows and seconded by Mr. Van Luven a motion it was moved that the November minutes be approved as submitted. Motion carried unanimously.

LETTERS OF NOTIFICATIONS & PUBLIC NOTICE: The Zoning Administrator, 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 #48249 WILLIAM J. & MARIE G. COMSTOCK

Applicants are requesting a variance to construct a studio/storage building on an existing foundation of an agricultural building that burned in June 2000. The structure would be 19.5 feet off of the side property line wherein the Zoning Ordinance requires a minimum of 25 feet. This location will require a variance of 5.5 feet. The property is located at 7279 Moss Lane, Warrenton, VA, Scott District.

Mr. Hodge reviewed the staff report and reminded the Board a site visit was made at last month's meeting on November 1, 2001.

Mr. Hodge stated that Mr. Comstock has amended his previous variance request. He stated that the property is located in an R-1 (Residential) Zoning District and that the required setbacks are a minimum of 25 feet from the side property lines.

Mr. Hodge stated that Mr. Comstock has contacted a surveyor since the last meeting and had the property line re-surveyed. Mr. Comstock stated he had re-measured the distance to the remaining foundation and it is 20.5 feet from the property line. He then submitted a letter asking for a variance of 7.5 feet, which included his original plans to have a three-foot overhang for the second story. He stated he has now altered his plans for the structure, decreased the overhang and is asking the Board to grant a variance of 5.5 feet. Mr. Comstock told the Board the final surveying report showed the foundation to be 20.1 feet from the property line. Mr. Meadows emphasized that the structure could not be built closer than 19.5 from the property line.

Mr. Comstock said he would make the necessary adjustments to the building plans and would comply with the Boards decision.

On the motion made by Mrs. Mailler and seconded by Mr. Meadows it was moved to grant the variance #48249 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 existing foundation
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 is by reason of the location of the existing foundation of a former agricultural building.
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, is the location of the existing foundation of a former agricultural building.
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 5.5 feet.

This motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at approximately 2:10 P.M.

William Barr, Vice 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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