

BOARD OF ZONING APPEALS
March 28, 2007

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON WEDNESDAY, MARCH 28, 2007 AT 7:30 P.M.

Those present were: Raymond Daughtry, Chairman
 Joel Snow, Vice-Chairman
 Bob Runkle, Member
 Richard Herring, Member
 Bart Svoboda, Zoning Administrator
 Marsha Alley, Secretary

The Chairman called the meeting to order stating that there would be one variance request carried forward from January and one new variance request. He added that the January request would be decided first.

Ernest & Marjorie Galt request a variance from Article 5 of the Greene County Zoning Ordinance regarding Setback Regulations. This request is on property that is identified on the County Tax Maps as 37C-(9)-36 located on Logtrac Road containing 0.562 acre and is zoned R-1, Residential. (VAR#06-003)

Mr. Daughtry asked Mr. Svoboda for a report.

Mr. Svoboda read the request and reviewed the original information. He presented the new information including a new plat and Health Department findings. He explained that there is one area of the drain field that is shown in the VDOT right-of-way which will be relocated. He added that staff recommends approval of this application in:

- a. That the strict application of the ordinance would produce undue hardship including specifically that the topography located between the house site and the lake is sloped such that building in this area would be detrimental to that water resource and possibly a proposed structure.
- b. That such hardship is not shared generally by other properties in the zoning district and the same vicinity due to the unique shape, existing right-of-way and topography.
- c. That the authorization of such 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.

Ernest Galt addressed the Board stating that he had done everything possible to be able to build a house on this site.

Mr. Runkle asked how much of the property is underwater.

Mr. Galt stated that he understood that the bottom edge of the lot is underwater. He explained how they had reached the site of the proposed house.

Mr. Daughtry stated that this request was carried over from January and asked if any one who had spoken in January would like to speak again.

John Pace stated that the new drawing was much more pleasing.

Larry Lamb reminded the Board that the lot in question was created under a different ordinance and added that Mr. Galt has tried to compromise his own needs to accommodate the BZA and his neighbors.

There was discussion regarding the drain field and the adjoining drain field sites.

Mr. Runkle made a motion to approve VAR#06-003 as per the presented plat dated February 20, 2007.

Mr. Herring seconded the motion.

Mr. Daughtry asked Mr. Svoboda to call for the vote.

Mr. Svoboda called for the vote.

AYE

Mr. Runkle

Mr. Herring

Mr. Daughtry

NAY

Mr. Snow

The motion to approve carried by a 3-1 vote.

Mr. Galt thanked the Board for their vote, time, and courtesy.

PUBLIC HEARINGS:

Mark Edmund Sherrill/Virginia Bowen request a variance from Article 15 of the Greene County Zoning Ordinance which requires a 35 ft. rear yard setback and a 15 ft. side yard setback. This request is on property that is identified on the County Tax Maps as 17-(A)-7 located on Spotswood Trail containing 0.36 acre and is zoned R-1, Residential. (VAR#07-002)

Mr. Daughtry asked Mr. Svoboda to give a report.

Mr. Svoboda read the request and gave a staff report and a presentation. He explained that the applicant is seeking a variance to reduce the side setback from 15 feet to 12 feet (3' variance), and the rear setback from 35 feet to 15 feet (20' variance) in order to construct a single family dwelling on this parcel. He added that the parcel is a nonconforming lot formerly known as the Temple Hill Mennonite Church. He noted that the property is served by well and private septic. He added that staff recommends approval of this application in:

- a. That the strict application of the ordinance would produce undue hardship including specifically that the existing and reserve drainfield is located between Route 33 and the existing foundation.
- b. That such hardship is not shared generally by other properties in the zoning district and the same vicinity due to the unique shape, existing right-of-way, existing drainfield areas and the stream.
- c. That the authorization of such 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.

Ed Sherrill addressed the Board noting that Mr. Svoboda had covered everything and that he could answer any other questions.

Mr. Daughtry swore in the speakers and opened the public hearing.

Mr. Daughtry stated that he noticed that the well is not located on the property.

Mr. Sherrill explained that he was correct. He stated that the survey shows the well about 5 feet across the property line and added that he would like to try to purchase that area from his neighbor. He added that the Health Department will allow him to place a well in the corner near Route 33 uphill from the drain field if the land purchase fails.

Mr. Daughtry asked what the size would be on the proposed dwelling.

Mr. Sherrill stated that the proposed home would be slightly smaller than the existing foundation, approximately 20' x 41' with an 8' wrap-around porch.

Mr. Daughtry asked what the square footage would be and how many bedrooms there would be.

Mr. Sherrill stated that it would be 1225 sq. ft. and that there would be two bedrooms.

Mr. Daughtry asked if construction would be beyond the existing footprint.

Mr. Sherrill stated that the proposed home is actually slightly smaller than the existing footprint.

Mr. Runkle asked if Mr. Sherrill had any information as to the projected erosion of the banks of the Swift Run behind the property.

Mr. Svoboda stated that there is likely no way to know that. He added that the property is currently not in the FEMA flood plain. He noted that the Army Corps of Engineers and the Department of Conservation and Recreation (DCR) would be the appropriate agencies to consult for that type of information.

Mr. Herring asked if access to the cemetery would continue and mentioned that moving the easement may make the travelway steeper.

Mr. Sherrill stated that cemetery access would continue adding that he had no desire to stop that access. He noted that in moving the easement he planned to improve it and believed that everyone would benefit.

Mr. Herring asked who would approve the movement of the easement.

Mr. Svoboda stated that the issue is still being researched as it may be an old prescriptive easement. He added that there is currently no road maintenance agreement and that a bond would have to be posted prior to construction of the new travelway. He added that the bond would not be released until the road was inspected and approved. He noted that the movement of the easement was offered by the applicant so that the road would be farther from the house.

Mr. Herring stated that he was not sure if he should actually vote on the request as he was involved with the original sale of the property and the recent auction of the parcel.

Mr. Runkle suggested that Mr. Sherrill try to purchase enough property for the well and a new right-of-way.

There was discussion regarding Mr. Sherrill's options for locating the house and the easement and the issues dealing with the Swift Run.

Mr. Sherrill explained that he is limited on funds and that land is expensive but noted that he would like to be able to purchase the land for the well, etc. but only if it is reasonable.

Janice Morris, adjoining property owner, stated that her main concern is the road, noting that Mr. Sherrill's main concern is likely the proximity of the Swift Run to his proposed home. She added that the road would likely be steeper if moved and noted that there is a lot of water that runs through there from underground springs.

Mr. Sherrill described the likely improvements to the road and stated that he would not want it steeper and would not want to impair his neighbors. He noted that the road is steepest where it meets Route 33.

There was discussion regarding the percentage of the grade, the foundation and how it affects the setbacks, and the movement of the easement/road.

Mr. Daughtry asked Mr. Sherrill if he would be willing to wait for a decision from the Board if it would allow him more time to answer some of their questions.

Mr. Sherrill was agreeable to that suggestion.

There was discussion regarding how much time would be needed and what additional information the Board would like to see.

Mr. Snow stated that he would like to see the following:

- If property could be purchased to include the well
- Topographic design information for the proposed driveway
- Response from other agencies such as the Army Corps of Engineers and/or Department of Environmental Quality as to the effect the Swift Run will have on the property.

Ms. Morris added that she would not want the improvements to have a worsening effect on her property as it has flooded before.

Mr. Sherrill stated that he did not want to create problems.

Ms. Morris stated that she would love to have Mr. Sherrill as a neighbor instead of a burned church.

There being no further public comment, the public hearing was closed.

There was discussion as to the needed timeframe.

Mr. Snow made a motion to defer this application VAR#07-002 to the May 23, 2007 Board of Zoning Appeals meeting.

Mr. Runkle seconded the motion.

Mr. Daughtry called for a consensus vote.

The motion to defer this application to the May 23, 2007 Board of Zoning Appeals meeting

carried unanimously.

MINUTES

Mr. Runkle made a motion to approve the minutes of January 24, 2007 as submitted.

Mr. Snow seconded the motion.

The minutes of January 24, 2007 were unanimously approved.

OLD/NEW BUSINESS

Mr. Svoboda informed the Board that the EDA is working on some of the sign ordinance revisions. He stated that the BOS will be reviewing several housekeeping revisions to the ordinances and that the Accessory Apartment revision had passed with a few changes. He added that several other revisions are pending. He added that Chip Dicks, of Lamar Signs has been in touch and wanted to know "what is a moving sign?" He noted that Mr. Dicks wanted to know details such as what interval of time would be considered "moving", etc. He added that Mr. Dicks would like to reach an agreement rather than going to litigation.

There was discussion on the Lamar matter and other proposed ordinance revisions.

Mr. Svoboda pointed out that "clustering" was still pending. He added that there were no items on the agenda for April.

Mr. Svoboda encouraged the members to let him know if they were interested in attending the upcoming training seminar.

There was further discussion on issues associated with VDOT and waterways in the county as to who is responsible for improvements, etc.

OTHER MATTERS

There were no other matters for discussion.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marsha Alley

Marsha Alley, Secretary