

**May 9, 2013 BOARD OF ZONING APPEALS (BZA)
MEETING MINUTES**

At a called meeting of the Powhatan County Board of Zoning Appeals, Thursday, May 9, 2013 in the Conference Room of the Powhatan County Library, Powhatan, Virginia at 9:00 AM:

Board Members Present: Carolyn White
Abel Harris
David Bradley
Donald Rissmeyer
Monte Lewis

Board Members Absent: None

Staff Members Present: David Dameron, Zoning Administrator
Tiffany Stokes, Office Administrator

1. Call to Order

Mr. Dameron called the meeting to order at 9:10 AM.

2. Organizational Meeting

Mr. Dameron opened the floor for Chairman nominations.

a. Election of Chairman

Mrs. White nominated Mr. Bradley for Chairman. Mr. Harris seconded. There was no discussion.

The motion to elect David Bradley as Chairman of the Board of Zoning Appeals carried (5-0) as follows:

Mr. Harris – aye	Mr. Rissmeyer – aye	Mr. Bradley – aye
Mr. Lewis – aye	Mrs. White - aye	

b. Election of Vice Chairman

Mr. Bradley stated the next order of business was to review the minutes. Mr. Harris stated we need to elect a Vice Chairman. Mr. Bradley opened the floor for Vice Chairman nominations. Mr. Harris nominated Mr. Lewis. Mr. Rissmeyer seconded. There was no discussion.

The motion to elect Monte Lewis as Vice Chairman of the Board of Zoning Appeals carried (5-0) as follows:

Mr. Harris – aye	Mr. Rissmeyer – aye	Mr. Bradley – aye
Mr. Lewis – aye	Mrs. White - aye	

c. Appointment of Secretary

Mr. Bradley stated the next order of business was to review the minutes. Mr. Dameron noted it was to appoint the Secretary. Mr. Rissmeyer nominated Mr. Harris for secretary. Mrs. White proposed that the Board appoint Ms. Stokes to serve as Secretary. Mr. Rissmeyer rescinded his nomination. Ms. Stokes accepted the appointment. There was no discussion.

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The motion to appoint Tiffany Stokes as Secretary to the Board of Zoning Appeals carried (5-0) as follows:

Mr. Harris – aye Mr. Rissmeyer – aye Mr. Bradley – aye
Mr. Lewis – aye Mrs. White - aye

3. Minutes from the October 11, 2012 Meeting

There were no comments, questions or changes to the minutes. Mr. Harris moved to approve the minutes as presented. Mrs. White seconded.

The motion to approve the October 11, 2012 meeting minutes carried (5-0) as follows:

Mr. Harris – aye Mr. Lewis – aye Mr. Rissmeyer – aye
Mr. Bradley – aye Mrs. White - aye

Mr. Bradley turned the meeting over to Mr. Dameron for presentation of variance case 13-01-VZ.

**VARIANCE #13-01-VZ
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STAFF REPORT – Department of Planning and Community Development**

The purpose of this staff report is to provide information to the Board of Zoning Appeals to assist them in reviewing this application. It may be useful to members of the general public interested in this application.

CASE SUMMARY

Applicant: Clyde L. Turner

Location: On the west side of Lakeview Drive west of its intersection with Pocahontas Road. Reference Tax Map Parcel # 29A-(3)-K-1

District: Subletts/Manakin/Flatrock Electoral District (A. Harris)

Size of Parcel(s): 0.35 acres

Current Zoning: R-U Residential Utility District

Variance Request: Fifteen (15) feet from the required rear yard setback of forty (40) feet in the R-U Residential Utility District.

Purpose of Request:
To permit construction of a dwelling that will encroach into the required rear yard setback area.

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Staff Recommendation:

Recommend approval of the variance request.

Public Hearing:

This case has been advertised for Public Hearing at the BZA's May 9, 2013 meeting (Powhatan Today, 4/24/2013 and 5/1/2013 editions).

Issue:

The Applicant requests a variance of fifteen (15) feet to the minimum rear yard setback of forty (40) feet in the R-U Residential Utility District that is required per §12.4 (3) of the Zoning Ordinance. The purpose of the variance request is to permit construction of a new dwelling that will encroach into the required rear yard setback area.

Facts:

The Applicant plans to construct a new dwelling on the lot, which is 0.35 acres in size and therefore nonconforming as it was recorded prior to adoption of the current lot size requirements. The Applicant has not filed a building permit application, but noted in preparing the site sketch that the proposed dwelling would encroach into the rear yard setback area by fifteen (15) feet. As a result, the Applicant has applied for a variance of fifteen (15) feet to the forty (40) foot minimum rear yard setback requirement.

The Applicants claim the following as evidence of hardship that would warrant the granting of a variance:

- Nonconforming lot size.
- Shallow lot dimension

Upon inspection, Staff observed that the lot is shallow, narrow and has an irregular shape.

Summary of Comments from State Agencies and Public Utilities:

Health:

Richard Michniak (Powhatan County Health Department) had no adverse comment on this request.

Drainage and Erosion:

Shaun Reynolds (Powhatan County Environmental Manager) commented that the floor elevation will be four to five feet above the existing ground level.

Transportation:

J. T. Phillippe (Virginia Department of Transportation) had no comment on this request.

Public Safety:

Pat Schoeffel (Powhatan County Fire Department) had no comment on this request.

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Utilities:

Johnny Melis (Powhatan County Department of Utilities/General Services) had no comment on this request.

Comments from Citizens:

No formal comments in support or opposition have been provided to Staff.

Staff Comments:

The BZA has reviewed several variance requests in Lake Shawnee Estates as many of the lots are nonconforming. The most recent case is 11-01-VZ (Clyde L. Turner) in which the BZA approved a request for a variance of five (5) feet from the required sixty (60) foot front yard setback and a variance of five (5) feet from the required forty (40) foot rear yard setback to permit construction of a proposed new dwelling with the Applicant's hardship factors a nonconforming lot size and irregular lot shape. In 09-02-VZ (Clyde L. Turner) the BZA approved a request for a variance of thirteen (13) feet from the required minimum rear yard setback of forty (40) feet to permit construction of a proposed new dwelling with the Applicant's hardship factor a nonconforming lot size. Another case is 07-09-VZ (Kim P. Newton), where the BZA approved a request for a variance of five (5) feet to the minimum side yard setback of fifteen (15) feet to permit construction of an addition for an existing structure also based on a hardship of a nonconforming lot size. In 06-02-VZ (J. Keith Murphy), the BZA approved a request for a variance of twelve (12) feet to the minimum front yard setback of sixty (60) feet and a variance request of five (5) feet to the minimum side yard setback of fifteen (15) feet to allow for the construction of a proposed new dwelling. In this case the hardship factors were placement of the well and septic system as well as the lot size. In the current case, the Applicant has a hardship due to lot size and shape as the lot is narrow and shallow. This variance request is consistent with past requests that have been approved by the BZA.

The subject property is nonconforming, as this parcel was recorded prior to the adoption of our current lot size requirements. The Applicant has a constrained building envelope due to the nonconforming lot size, the lot shape and the required setbacks in the R-U District. These facts provide sufficient evidence of hardship to support the granting of this variance request. There is also no evidence that this variance would have an adverse impact on nearby properties.

Staff Recommendation:

Staff recommends approval of the variance request for the following reasons:

- The strict application of the Zoning Ordinance would produce undue hardship.¹
- Such hardship is not shared generally by other properties in the same zoning district in the same vicinity.
- Authorization of such variance will not be of substantial detriment to adjacent property and the granting of this variance will not change the character of the district.

¹ An undue hardship would occur when the application of the Zoning Ordinance would prohibit or restrict a property's use because of reasons related to its size or shape, its exceptional topographical features, or the use of immediate adjacent property: provided that such hardship has not been brought on by the applicant.

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- The condition or situation of the property concerned is not so general or recurring a nature as to make responsibly practicable the formation of a general regulation to be adopted as an amendment to the ordinance.

DISCUSSION:

Mr. Dameron presented the details of the case. Mr. Bradley opened the public hearing. There were no speakers. Mr. Bradley closed the public hearing. Mr. Lewis asked if the other surrounding houses have a similar setback of 25 feet. Mr. Cofer stated the house next to it Mr. Turner also built but the drainfield was located in the rear and on this project it will be located in the front which takes up the 60 foot setback in the front resulting in the requested rear variance. Mr. Lewis asked if the other homes were approximately 25 feet from the water's edge. Mr. Cofer stated most of them sit toward the front of the lots. Mr. Lewis asked if any good soil was found in the back. Mr. Cofer stated no. Mr. Rissmeyer asked about the elevation of the water versus the finished floor. Mr. Cofer stated it would be uphill. Mrs. White stated to Mr. Rissmeyer to refer to the Board packet that was provided it states the floor elevation is estimated to be 4 to 5 feet above ground level. Mr. Rissmeyer asked if the drainfield will be a gravity fed drainfield. Mr. Turner stated yes. Mr. Rissmeyer asked if it will be a single story home. Mr. Cofer stated yes. Mrs. White noted that the front to back proposed building envelope on the plat is 32 feet. Mr. Cofer stated yes, it is 26 feet with a 6 foot porch. Mrs. White stated she is concerned that the proposed variance is not the minimum possible. She further explained that if the 6 foot porch is removed the variance is reduced from 15 feet to 9 feet. Mr. Cofer stated a stoop or some type of entrance needs to be on the house. Mrs. White asked if that could be placed on the north side of the structure. Mr. Cofer stated if could but that would not be compatible with the surrounding houses in that area. Mr. Bradley asked if the proposed house is a 2 or 3 bedroom. Mr. Turner stated it was a 3 bedroom. Mr. Bradley asked how many baths. Mr. Turner stated two. Mr. Bradley asked if they are full baths. Mr. Turner stated yes. Mr. Harris asked if the Board had any other questions or concerns. The Board had none. Mr. Harris motioned to approve variance request 13-01-VZ. Mrs. White seconded.

The motion to approve variance case 13-01-VZ carried (5-0) as follows:

Mr. Lewis – aye
Mr. Bradley – aye

Mr. Harris – aye
Mrs. White - aye

Mr. Rissmeyer– aye

OTHER BUSINESS:

None.

There being no further business Mrs. White motioned the meeting be closed. Mr. Lewis seconded. Mr. Bradley adjourned the meeting at 9:22 AM



David Bradley, Chairman



David Dameron, Zoning Administrator