

A regular meeting of the Westmoreland County Board of Zoning Appeals was held on Monday, July 23, 2018 in the George D. English, Sr. Memorial Building, 111 Polk Street, Montross, Virginia. Those members present were Margaret Campbell, John Muenzen, John O'Neil, Lonnie Thurston, Dexter Monroe and James McConkie. Darrin Lee, Planner and Beth Mc Dowell, Zoning Administrator was also present.

CALL TO ORDER

Chairman McConkie called the meeting to order at 9:05 a.m. The roll was called and a quorum was declared.

PRIOR MINUTES

Chairman McConkie asked if everyone had received copies of the May 2018 minutes. He then asked if there were any additions or corrections. Mrs. Campbell moved that the minutes be approved as submitted. Mr. Thurston seconded, the motion carried with a unanimous vote.

CASE# 1807-V-08 ~ ARTHUR & ANNE MUNDEN, 7124 COVEBROOK LANE, MECHANICSVILLE, VA 23116- FOR A VARIANCE OF THE ZONING CODE REQUIREMENT FOUND IN ARTICLE 2, SECTION 17, SUBSECTION 4, BEING FURTHER DESCRIBED AS HOUSE ADDITION WITHIN THE SIDE YARD SETBACK. THE PROPERTY IS LOCATED IN THE KING COPSICO SUBDIVISION, SECTION 1, LOT 37 AS SHOW ON ZONING MAP 25A, ALSO KNOWN AS 262 KING COPSICO LANE, COPLE MAGISTERIAL DISTRICT.

Ms. McDowell referred to section 15.2-2309 of the Code of Virginia which includes specific findings that the Board of Zoning Appeals needs to make before granting any variance. They are as follows:

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and

- (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

- (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

Chairman McConkie reinforced the fact that the characteristics of the land was a factor for a variance, as well as the location of the drain field. Mr. Muenzen then moved to approve the variance to allow the addition within the side yard setback with the caveat that a favorable letter of authorization is received from the current owners of 26A-1-36. Mrs. Campbell seconded, the motion carried with the additional conditions:

1. The minimum setback for the proposed addition shall be 5.9 feet from the western side lot line. The addition shall be in general accordance with the plans submitted with this application.
2. The applicant shall record the notice of the Board of Zoning Appeals' decision as furnished by the Land Use Administration. A copy of the recorded instrument shall be submitted to the Land Use Administration prior to issuing any permits for this construction.
3. This variance shall become effective immediately after the decision of the Board of Zoning Appeals. However, no permits shall be granted until the Westmoreland County Land Use Administration receives a copy of the recordation described in item 2 above and provided all provisions of the decision have been complied with.
4. The applicant is aware that any person aggrieved by the decision of the Board of Zoning Appeals may file an appeal within 30 days of this decision in accordance with Section 15.2-2314 of the Code of Virginia. Any construction performed prior to this appeal date is at the owners' risk of potential litigation on this project.
5. No additional development will be permitted on the property except in compliance with the Zoning Ordinance.
6. All necessary local, state, and federal plan application(s), review, and approval processes shall be complied with and adhered to.
7. Failure to abide by these requirements or conditions will result in the immediate revocation of the variance.
- 8.

Chairman McConkie reminded the applicant that in accordance with the provisions of §15.2-2285 of the Code of Virginia 1950, as amended there was a 30 day period in which they could appeal this decision to the Circuit Court of Westmoreland County. He added that failure to file an appeal within the stated time shall validate this decision and make it unappealable.

ADJOURNMENT

There being no other business to come before the Board, Mrs. Campbell moved that they adjourn, Mr. Muenzen seconded, the motion carried by unanimous vote with the meeting adjourning at 9:30 a.m.

Chairman