



MINUTES

RANDOLPH COUNTY ZONING BOARD OF ADJUSTMENT

November 2, 2010

The Randolph County Zoning Board of Adjustment met at 6:30 p.m., on Tuesday, November 2, 2010, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Chairman Chris McLeod** called to order the Randolph County Zoning Board of Adjustment meeting at 6:30 p.m.
2. **Hal Johnson**, Planning Director, called roll of the members: Chris McLeod, Chairman, present; Reid Pell, Vice Chairman, present; Larry Brown, present; Phil Ridge, present; Jim Rains, present; Wayne Joyce, present; and Danny Shaw, present. County Attorney **Darren Allen** was also present.

3. **Request for a Variance:**

Swearing in of the Witnesses - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."

One person took this Oath.

PAUL DALTON, Asheboro, North Carolina, is requesting a Variance from County Subdivision Regulations to allow a 3.80 acres lot fronting on a private road to be divided into 2 lots in lieu of the required 5 acre minimum lot size. Location: 1614 Nighthawk Road, 3.80 acres, Secondary Growth Area, Back Creek Township, Zoning District RA, Tax ID# 7723373136.

Johnson gave a brief summary of the case and explained that the subdivision regulations requiring a minimum lot size of 5 acres has been in place since 1973. Johnson went on to say that the reason for this lot size requirement for lots fronting on privately maintained road is to control the density and number of people using privately maintained roads.

Dalton was present and said that he wants to divide the property in half at his death, to give the home to his youngest son and the remainder to his oldest son. Dalton said that he has owned the property since 1973. Dalton said that there are no plans for an additional residence on the property. Dalton said that when he dies he wants to see that it is divided this way. Dalton said he decided to make this request because of the request for a Small Area Plan brought up on Jerico Road a few months ago. Dalton said there would not be a residence on the new vacant lot. Dalton said that his sons may sell it. **Allen** advised Dalton that he could leave the property by will to his sons as tenants in common. **Dalton** said he wanted his surveyor, David Ward, to cut up the property for his will. Dalton said there is an old building and saw service on one lot and the home on the

other lot. Dalton said that he wants the Board to approve his request to cut the property in half with one lot of his home and the other lot would not be allowed to place a residence. (The lot would not be a building lot.)

There was no one present in opposition to this request.

Pell made the motion to **approve** this request with the condition that the lot not be built upon. **Brown** seconded the motion. The motion passed unanimously.

4. **Appeal from Issuance of Citation:**

Swearing in of the Witnesses - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."

One person took this Oath.

Bernice & Hazel Staley Case - Citation issued September 30, 2010 for Illegal Junk Storage - 5779 US Hwy 64W, Asheboro, NC - Fine \$500.00

Johnson explained that in March 2010, the Board of County Commissioners made ordinance changes to allow Code Enforcement Officers to issue Citations and Violation Notices. Johnson said that the County is not concerned about getting the money, we are concerned with the property being brought into zoning compliance. Johnson said the Commissioners insisted that a Code Enforcement Officer, when they begin a process, do everything within their power to work with the violator. Johnson explained that 95%+ of the violations cited, is not our officers driving around looking for violators. Johnson said normally they are citizens' complaint investigations. Johnson said once a citation is issued, the violator can appeal the case to the director and in some cases an extension is given. Johnson said once that time has passed, the violator can then appeal to this Board.

Johnson introduced Jay Dale, Code Enforcement Officer, as the lead investigator over the case Johnson asked Dale to give the Board an overview of the case.

Chairman McLeod administered the Oath to Dale.

Swearing in of the Witnesses - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."

Jay Dale took Oath.

Dale said that he started receiving complaints in early Spring 2009 from neighbors of the residence at 5779 US Hwy 64 West. Dale said the neighbors were complaining about junk storage and the mosquitoes being caused by the junk. Dale and Martin investigated the property and found the property to be in violation of the Unified Development Ordinance. Dale said he spoke with Staley and explained the violations. Dale said that Staley's responded by saying that he was having health problems and he had a special needs child and needed time to fix the problem. Dale said that due to Staley's situation,

he didn't issue a Notice of Violation and they basically had a gentleman's agreement that he would work to clean the property. Dale said Staley began to clean up the property at first, but then stalled.

Dale said after a year of seeing no progress and continued complaints from the neighbors, he issued notice of violation. Dale said that Staley called the office and he explained the situation and what needed to be done.

Dale said on June 9, 2010 he and Martin visited the site and spoke with Staley again, and couldn't tell any thing had been done. Dale said there was an added problem of garbage piled in the front yard. Dale said Martin explained that the garbage would have to be cleaned up immediately. Dale said that he asked Staley to come up with a plan of how he planned to clean up the property. Dale said that Staley did clean up a small amount of the junk, but he never provided a plan. Dale said he continued to drag out the situation and finally after roughly 1 ½ years he issued a Citation.

Dale introduced pictures of the violation into record.

Brown said it seems that the Code Enforcement Officer has bent over backwards to work with the Staleys.

Allen asked Dale how he determined the amount of the property that was in violation. Dale said that 600 sq. ft. is an area 20' x 30'. **Dale** said that most of the lot is covered in junk, well in excess of 600 sq. ft.

McLeod asked Dale how many times he had been to the site. **Dale** answered probably a couple of dozen times.

Brown asked Dale how he is made aware of most complaints. **Dale** answered that most complaints are phoned in.

Rains asked if the Staleys had copies of the pictures of their property presented to the Board. **Johnson** answered that they had seen the pictures.

Chairman McLeod administered the Oath to Hazel Staley.

Swearing in of the Witnesses - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."

Hazel Staley 5779 US Hwy 64W, Asheboro, was sworn in as a witness.

Johnson asked Staley why they were unable to bring their property into compliance during the last year and a half. **Staley** said it is mainly health problems. Staley said that

she has COPD and degenerative bone disease and her husband is on disability. Staley said that she couldn't work and her husband brought stuff in to build and then things just got behind. Staley said their neighbor came into their home and threatened them. Staley said her husband worked 2 days last week and was in the bed for the next 3 days. Staley said that her mother passed away in August and her dad has Alzheimer's disease.

Johnson asked Staley how all this junk got here; and **Staley** said just over time, several years.

Brown asked Staley how long her husband had been sick and she said he was diagnosed in 2003. **Brown** asked how much of the junk was brought in after 2003. **Staley** said she didn't know.

Johnson asked Mr. Staley if he had looked at how this junk could be disposed of, and **Staley** said that he has given some of it away.

Brown said that he had someone clean his father's property up and he gave all the junk away.

Allen told the Staleys that this is not a crime that is charged and the Code Enforcement Officer has been extremely lenient. Allen said the Staleys could have been charging \$500 per day as far back as March. **Staley** said she understands but their health has been bad.

McLeod said that the problem could be fixed. **Staley** said that they need more time to take care of the problem.

Rains asked what the Board is being asked to consider. **Johnson** answered that the Board is reviewing the issuance of the citations and penalty of \$500 that was imposed.

Rains asked if the Board was authorized to set a date as to when the fine should be imposed. **Allen** answered that the Board can give instruction to the staff.

Allen said that ultimately if the property is not cleaned up, the County can place a lean on the property. Allen said but the lean could be more than the value of the property, and at some point you have to say no more. **Brown** said that he didn't think more time was the answer. Brown said that the violation continuing after 1 ½ years doesn't set well with him.

McLeod asked the Staleys if someone was willing to help him with this problem. McLeod said he could get them names of people that live near them that could help them with their problem.

Johnson said the Board could the Order that the citation was issued proper, require the property to be in compliance in 10 days, and then delay the fine.

Allen said that there should be a deadline of when the clean up should be complete and not a date to begin.

McLeod said that he felt like it would be fair to the property owner if they were given 10 days to begin with a completion date of 1 to 2 months.

Joyce said that he felt the deadline to complete the process should be December 31st.

Brown said that he had his doubts that the property would be cleaned up by that time.

Rains said he thought the \$500 fine should stand. Rains said its been long enough and we have spent enough money in just gas to remedy this situation. Rains said the clean up should have already been done. Rains said we should require a written contract for services from an organization that plans to clean it up. Rains said the contract should be dated and signed. Rains said its clear that the Staleys can't get this done, but they can contract with someone to get it done. Rains said he wanted a contract by Nov 12th.

Joyce said that this is a tough deal, but code enforcement officers have done a lot of work here.

Pell commended Dale for the job he has done and said that Dale has gone above and beyond.

Pell made motion to give the Staleys until the December Planning Board Meeting to produce documentation of a contract for services to remove the scrap metal by December 31, 2010 and if the property is brought into compliance, the fine will be waved. **Joyce** seconded the motion, and the motion passed by a vote of 6 to 1 - **Rains** voted against the motion.

5. The meeting adjourned. There were 5 citizens present for this meeting.

**NORTH CAROLINA
RANDOLPH COUNTY**

Dale Johnson

Planning Director

11-10-10

Date

Jimmy Wolf

Clerk/Secretary



Randolph County Zoning Board of Adjustment Minutes 5 *November 2, 2010*