

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



CUMBERLAND COUNTY

NORTH CAROLINA

Board of Adjustment

Rawls Howard
Director

David Moon
Deputy Director

MINUTES
August 18, 2022
6:00 PM

Members Present

CHAIR GREGORY PARKS
LINDA AMOS
VICKIE MULLINS

Absent Members

KENNETH TURNER- ALT
ROBERT DAVIS
MARVA LUCAS-MOORE

Staff/Others Present

DAVID MOON
LATASHA JOHNSON
ROBERT HASTY (ASST COUNTY
ATTORNEY)
CHRIS PORTMAN

Alternate Members in Attendance

STACY MICHAEL LONG-ALT

Chair Parks called the meeting to order at 6:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

1. INVOCATION

Vickie Mullins read the invocation.

PLEDGE OF ALLEGIANCE

Recited by all.

CHAIR GREGORY PARKS:

Ok, we have four.

2. ROLL CALL

Mr. Moon called the roll. Mr. Moon made note of the absence of Mr. Robert Davis, Mrs. Marva Lucas-Moore, and Mr. Kenneth Turner. Mr. Moon stated we do have a quorum.

SWEAR IN OF STAFF

Chair Parks swore in staff David Moon.

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE JULY 21, 2022, MINUTES

Mrs. Vickie Mullins made a motion to approve the minutes from the July 21, 2022, meeting as written, seconded by Mr. Long. The motion was passed unanimously.

	IN FAVOR
PARKS	YES
AMOS	YES
MULLINS	YES
LONG	YES

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5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

7. POLICY STATEMENT REGARDING APPEAL PROCESS:

N/A

8. PUBLIC HEARING(S)

BOA-2022-019: Variance from Section 1002, Incidental Uses, Paragraph E., Accessory Structures, requesting storage building setback at 23 feet instead of required minimum of 30 feet; and Variance from Section 1102, Paragraph C, requesting fence setback at 19 feet instead of required minimum of 20 feet, for a lot containing 0.23 +/- acres within an R10 Residential Zoning District and located at 3625 Camden Road EXT., Cumberland County: submitted by Roger and Sarah Larson (property owner(s))

ATTY ROBERT HASTY:

The item under item 10 the BOA-2022-0019: You held a quasi-judicial hearing on June 16, on that matter, two variance requests and the board granted those after holding its quasi-judicial hearing.

CHAIR GREGORY PARKS:

Correct.

ATTY ROBERT HASTY:

The day after that hearing, I received a phone call from Neil Yarborough who the Larsons had spoken with and that call and subsequent calls learned that there was an issue regarding the permitting process after the variance was granted, the Larson apparently had already begun seeking the permit to get the fence and whatnot done. And it appears that there was an error or miscommunication as to what was applied for and what perhaps the board understood, and staff understood as to what the variance should be. In their application the Larsons have stated they wanted the fence 19ft from the road.

CHAIR GREGORY PARKS:

From the road or from the easement?

ATTY ROBERT HASTY:

That's the quote from their application. The 19ft from the road is what they asked for. The staff interpreted that as 19ft from the right way or a 19-foot set back.

CHAIR GREGORY PARKS:

That is correct, which is in the middle of the road.

DAVID MOON:

No.

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ATTY ROBERT HASTY

What the Larsons intended, they literally meant from the road, from the pavement of the road. So, when the staff presented it as a setback, it's off about 6ft five or 6ft somewhere in that neighborhood. Staff went out and measured and so the variance that was granted in the packet the minutes reflect the motion was: "motion to be granted." And that was on both motions. So, it wasn't really set forth and no one caught it at the hearing that it wasn't a meeting of the minds. We're talking two different things.

VICKIE MULLINS

Right.

ATTY ROBERT HASTY:

And so, obviously, it's an important issue that needs to be resolved. We need to. The board needs to, I guess, to clarify what it intended for the variance to be and if need be, amend the variance. But it's really up for discussion. Staff may want to weigh in as to what the numbers are. Mrs. Larson is here if she can answer any questions or state what she would like to if I've not fully briefed the board as to the issue, but that's basically what it is. Where the fence would go. Would be that's not moving. It's just a matter of what the variance was and what the Larsons asked for. Is it 19ft or is it 14ft? Basically, I think, is that. A 6ft difference.

DAVID MOON:

It's 6ft from the property line or right way line and the shed is 10ft from the property line right away line. The required setback is 30ft.

VICKIE MULLINS:

And that was for the building, right?

DAVID MOON:

For the shed.

VICKIE MULLINS

Yeah.

DAVID MOON:

And 20 ft. for the fence. So, what the applicant was really requesting was a six-foot setback from the property line to the fence and a ten-foot setback for the shed.

STACY LONG:

Instead of 20 and 30.

DAVID MOON:

Instead of 20 and 30, correct.

STACY LONG:

Six and ten.

DAVID MOON:

My understanding of Mr. Hasty's discussion is that he's asking the Board of Adjustments to determine if it's motion at the June hearing is based on an understanding that the setback was from the edge of the paved road or from the property line. The only information I'll add on to that is the staff report and the minutes for the June meeting state that it's 23ft from the property line and that's also reflected in the minutes.

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CHAIR GREGORY PARKS:

Did we say anything? I know we discussed edge of road and easement, we talked about that. But the way that it was presented to give them the variance, how does that affect them the way we gave the variance to them? I guess we need to hear from the people we gave the variance to. How does that affect them? You know.

DAVID MOON:

Well, how it directly affects them is based on a setback granted by; based on a property line. If they located the fence at the 19foot and the shed at the 23ft it is not practical because of the location of the house and the swimming pool.

CHAIR GREGORY PARKS:

Not practical.

DAVID MOON:

Correct.

CHAIR GREGORY PARKS:

Ok, I remember the last time we.

DAVID MOON:

In other words, it's not feasible.

ATTY ROBERT HASTY:

I don't. If I understand it, they couldn't get a permit. That's kind of what the issue, how it popped up. If it doesn't solve their problem, they need it to back up to make up for the non-accounting for the right of way.

CHAIR GREGORY PARKS:

I follow you. So, at this point that we gave them the variance, they can't get a permit with what we gave them as the variance.

ATTY ROBERT HASTY:

Assuming, you meant form the right of way.

ATTY ROBERTY HASTY:

That not. That wasn't really clear in the motion.

CHAIR GREGORY PARKS:

So, all we need to do is clarify that it was from the edge of the road as opposed from easement. Is that all we need to clarify?

DAVID MOON:

The property line.

CHAIR GREGORY PARKS:

Property line. Will that solve the issue?

ATTY ROBERT HASTY:

Well, let's make sure we get our terminology right. It would solve the issue if it's 19ft from the pavement, and then we have to figure out the footage from the property line. If you wanted to.

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CHAIR PARKS:

And make those numbers. Get the correct numbers is what you're saying.

ATTY ROBERT HASTY:

If I understand the fence is going to go in a certain spot.

DAVID MOON:

So, for example if I can interject, if you're going to grant the variance based on a property line with setbacks and measured from the property line; what the Larsons really requested is a setback of 6ft for the fence and 10ft for the shed.

CHAIR PARKS:

So that's a motion we need to make; Or how would you do that?

ATTY ROBERT HASTY:

If it's your intent to grant the variances and allow the fence to be put where the Larsons want the fence to be put. A motion to amend for clarification purposes the motion made at the June 16, 2022, meeting to allow the variance at 13 ft. 19 minus six.

DAVID MOON:

Allow the fence to be located 6ft from the property line and the shed to be located 10ft from the property line.

CHAIR GREGORY PARKS:

Six feet on the fence, 10ft on the building.

DAVID MOON:

Correct. Staff that actually visited the property and measured based on the center of the roadway. Now, it's not a survey but there's a 60ft right of way in the road and is aligned from the center of the road. We checked that, so maybe from the center of the road we're able to generally identify the property line and from that point we made a measurement. So, the fence is basically 6ft from the um. That's generally 6ft from the property line. The shed is 4ft from the fence which would put it at about 10ft.

CHAIR GREGORY PARKS:

Ok.

DAVID MOON:

Now the only condition that I would add and it's a question for Mrs. Larson. Is the intent, to have that shed, and I'll give you a picture of it; there it is, on a slab or to keep it on the center blocks? So, if you choose to revise your, your motion, I'll suggest that you add a condition that the shed has to be on the center blocks. The reason why, its located in a drainage easement as long as it's not on the ground it can't interfere with the drainage flow.

CHAIR GREGORY PARKS:

It's on concrete block at this particular point, is that what you're saying?

DAVID MOON:

Yes, it's on concrete blocks, so water can flow underneath it.

CHAIR GREGORY PARKS:

So, we need to make that part of the situation.

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DAVID MOON:

Yes, as a condition of.

CHAIR GREGORY PARKS:

That it remains on some sort of elevation or block or whatever to keep the drainage issue.

DAVID MOON:

To allow for the drainage to flow under the shed.

CHAIR GREGORY PARKS:

Ok.

DAVID MOON:

I believe the intent was to place it on the center blocks because they already started constructing the fence around it.

CHAIR GREGORY PARKS:

These buildings, and I assume. You what happens when you assume. But I assume these buildings are on a treated floor system. I've seen a bunch of them. Putting them on blocks, that's better for that. So, you wouldn't want to put that on a concrete foundation, it'd be a waste of money. So, can we make that amendment to the situation and handle it at this point?

ATTY ROBERT HASTY:

I don't know if it would be appropriate. If Mrs. Larson wants to address that issue.

CHAIR GREGORY PARKS:

Mrs. Larson, do you want to come speak to us?

SARAH LARSON:

I can speak to you, sure. Yes, that would cover everything. So, we're just clarifying setback, roadway and that we're able to keep it where it is.

CHAIR GREGORY PARKS:

So, what was? Oh, the issue was when we gave you the last variance, the permit department would not give you a permit.

SARAH LARSON:

I was informed that they would not. Yes.

CHAIR GREGORY PARKS:

Ok. Understood. So, Mr. Counselor, can we make this amendment at this time once we discuss it and make sure everybody agrees with this?

ATTY ROBERT HASTY:

Yes, the hearings already been held. It's just a matter of basically clarifying what was done because the motion of the last meeting didn't really specify, and it needs to be done one way or the other.

CHAIR GREGORY PARKS:

Got you.

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ATTY ROBERT HASTY:

The board has a quorum and it's on the agenda so this would be the perfect time.

DAVID MOON:

A survey has not been prepared, so our staff's measurement is not going to be based on a survey. Staff's measurement was not based on a survey. So, one option if acceptable to Mr. Hasty is your motion to be to grant the variance based on the location of the fence and the shed as currently installed.

SARAH LARSON:

For clarification purposes. It's not completed. The poles and the rails are there, so that I assume that's sufficient for its current installation.

CHAIR GREGORY PARKS:

Well, the boundaries are the same, it's not like you're going to make a; the fence isn't going to be three feet?

SARAH LARSON:

No, sir. I just wanted to make sure that the board knew that it's not completed now. We haven't done anything since we received the violation notice.

DAVID MOON:

And the shed is not going to be moved? It's going to stay where its located.

SARAH LARSON:

That is correct. It will stay in that location on the cinder blocks.

CHAIR GREGORY PARKS:

Okay. All right. Last time we approved it. Now we're just trying to get the wording correct.

STACY LONG:

To me, this brings up a whole other issue, because I think last time we talked, it was 19ft. Right? So, we're talking 1ft. I think we were all leaning towards well, they called the contractor. They thought they were doing the right thing. It's 1ft. Now it's 6ft. And if someone came in here and built a fence and said, well, I didn't know, that it was a six-foot setback, we've said no tons of times to people like that. Like, why now?

VICKIE MULLINS:

We're done voting. Now it's the wording.

CHAIR GREGORY PARKS:

Right. We have pretty much.

STACY LONG:

So, is that the thing? Are we just figuring out how to fix our yes? Or are we saying hey we need to redebate this?

CHAIR GREGORY PARKS:

We're not redebating it. What we're saying is that when we did the wording, the way it was written up, it wasn't written up from the edge of the road. Everybody thought it was the easement.

STACY LONG:

Right.

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CHAIR GREGORY PARKS:

So, it is what it is. We've seen this before, and we approved it. Now we just have to get the wording correct so that she can get a permit to do that. It's as simple as that today. I'll discuss that other situation with you later.

STACY LONG:

Sure. Ok.

CHAIR GREGORY PARKS:

So, all right Counselor, we're going to try to reword this situation and just see if we've got it correct at this time so that she can get a permit, okay.

VICKIE MULLINS:

I'm going to make a motion to amend the June 2022 meeting for the variance, I guess for the fence. Right? To make it for the property line, correct? No, it'd be the edge of the road. I'm sorry.

DAVID MOON:

I think the easiest way to address this is to create a variance to allow the fence and the shed to remain where they're currently established.

VICKIE MULLINS:

Ok. All right, then I make a motion to amend the June 2022 meeting and I guess I'm going to leave it all as it is already set. Correct?

CHAIR GREGORY PARKS:

I can't make the motion.

VICKIE MULLINS:

No.

CHAIR GREGORY PARKS:

So, we're going to amend this to make a motion to where the fence and the building sit at this time and to add.

VICKIE MULLINS:

The condition that the building needs to stay on blocks for drainage.

CHAIR GREGORY PARKS:

Exactly. Did you hear that discussion?

DAVID MOON:

Yes.

CHAIR GREGORY PARKS:

We made an amendment to where the building and the fence sits now, and that the storage building remains on blocks to obtain the drainage that is necessary.

DAVID MOON:

Very good.

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CHAIR GREGORY PARKS:

Ok. She made that motion.

DAVID MOON:

Yes. Chair do you call for a second?

CHAIR GREGORY PARKS:

Can I call for a second?

LINDA AMOS:

I'll second it.

LINDA AMOS:

I think you and I are kind of thinking alike on this situation, but we've already voted on it, so we have to correct what we have.

CHAIR GREGORY PARKS:

Then we'll have a discussion when everything else is done.

STACY LONG:

I move to second.

CHAIR GREGORY PARKS:

Got a second, all in favor say I/ all opposed.

Mrs. Vickie Mullins made a motion to amend the June 2022 meeting for the shed and the fence to remain as they are set with the condition that the shed remains on blocks for drainage. Motion seconded by Mr. Long. The motion was passed unanimously.

	IN FAVOR
PARKS	YES
AMOS	YES
MULLINS	YES
LONG	YES

CHAIR GREGORY PARKS

No opposed. Take care.

SARAH LARSON:

Thank you!

DAVID MOON:

Chair there are no other items for discussion other than I'd like to share the information from the last Board of County Commission meeting. They did appoint two new members of the community as the alternate members so we may have some new faces here in the near future.

CHAIR GREGORY PARKS:

Did they take our recommendation?

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DAVID MOON:

I know they took the first, and the second one, the name was Ian Reaves, I can't remember if that one was recommended.

CHAIR GREGORY PARKS

We said Silverman.

DAVID MOON:

Yes.

CHAIR GREGORY PARKS

Ok and we said. Who was the other one, Reaves?

DAVID MOON:

Here it is. I've got the summary sheet.

CHAIR GREGORY PARKS:

OK. Yeah, that was our two. Yeah. Is that correct?

DAVID MOON:

I'll confirm it. Garry Silverman and Ian Reaves.

DAVID MOON:

And I also would like to introduce LaTasha Johnson

LATASHA JOHNSON:

Good evening, all.

DAVID MOON:

She is the new Administrator Specialist with the Current Planning Division, and she will be serving as the clerk for the Board of Adjustment meetings.

CHAIR GREGORY PARKS:

At this time, I'm going to adjourn the meeting. Is there any other thing that we need to go over today, Mr. Moon?

DAVID MOON:

No sir

Meeting adjourned at 6:26 p.m.

Gregory Parks, Vice- Chairman

LaTasha Johnson, Sen. Admin Support Spec.