

The Christiansburg Board of Zoning Appeals met on Thursday, March 26, 2015 at 100 East Main Street, Christiansburg to conduct a Public Hearing. Present were James Stewart, Chairman; Tacy Newell, Secretary; and members James L. Kirk, Earnest Wade and Karen Drake. Planning Director Nichole Hair was also present.

The meeting was called to order at 7:00 pm by Chairman Stewart.

The Public Hearing was opened to receive information on an application submitted on January 28, 2015 (previously scheduled Public Hearing for March 5, 2015 was cancelled due to inclement weather) by Harold H. Speed, Jr. of 110 Kimball Lane for a variance to Section 42-95 of Chapter 42 "Zoning" of the Christiansburg Town Code for tax parcel 557-((6))-5 in the R-1 Single Family Residential District, said section applies to setbacks and states: "Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or , in the event that buildings are already constructed on the same side of the street in the same block no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street." The requested variance is to allow a detached carport with a front setback of approximately four (4) feet rather than the required 35 feet.

The property does not lie within the 100-Year and 500-Year Flood Hazard Areas nor within a Historic District. Adjoining properties are zoned R-1 Single Family Residential and A Agricultural. Adjoining properties are residential.

Mr. George Dalley of 90 Kimball Lane stated he had no issue with the existing structure and noted that it provided a good windbreak.

Mr. Harold Speed stated the contractors, probably from North Carolina, installed the detached carport approximately three years ago and should have obtained necessary permits. He noted several other similar structures throughout town which should also require a variance, and actually contracted for his after a neighbor had one constructed. He stated that water lines ran along one side of Kimball Lane and sewer lines were on the opposite side of the road. He stated that moving or replacing the existing structure would pose a significant financial hardship upon him.

Mr. Al Davis of 140 Kimball Lane stated that customers of these detached carports were duped by contractors who assured buyers that all necessary permits and regulations were being met.

Ms. Sue Speed of 110 Kimball Lane stated they had liked the detached carport built at 140 Kimball Lane so much they had sought out the contractor to build one on their property at 110 Kimball Lane and that neither property owner had received negative comments from neighbors.

Chairman Stewart noted a second Public Hearing was also scheduled for 140 Kimball Lane and the applicant was Emily Doucette (application made February 27, 2015). Chairman Stewart noted the same section of Chapter 42 "Zoning" applied to the second property, that the detached carport was also already constructed and had been present for at least three years. Chairman Stewart confirmed that Mr. Davis was speaking on behalf of the applicant. Mr. Davis agreed and stated he was a retired US Marine and there had been no intention to circumvent any laws or regulations.

The conjoined Public Hearings were closed at 7:15 pm. Chairman Stewart opened up discussion by members on both applications. Upon questioning, Planning Director confirmed that both structures had now been inspected and were both sufficiently anchored. Mr. Wade noted both a previous and recent request for a similar variance with the same type of structure and of yet another similar variance one street over. Mr. Wade inquired if there was some way to "grandfather" existing structures, while balancing this with owners or contractors flouting the law and then begging forgiveness or claiming ignorance. Ms. Hair indicated that satellite maps were last updated in 2013 and newer ones would be available later this year or early 2016. A review for such variances wasn't seen as feasible, while noting one could expect to see more such structures appearing in updated images.

Ms. Drake clarified that both of these structures had not been inspected by town staff at the time they were installed and asked if they would be inspected if the applications were approved. Ms. Hair stated that if these two variances were approved, each would be inspected and would be required to meet building standards even if that meant corrective action or demolition if they could not be brought up to code. Ms. Drake noted an applicant might two years to rebuild and would be required to obtain a permit and her concerns were relative to the uncertainty of property lines, precise right-of-ways or whether and where water and sewer line easements fell in relation to these structures. Ms. Drake stated she wanted it documented in the minutes that a possible approval of either or both of these applications did not establish precedent while the board awaited more information about enforcement through contractor or business licensing or determining whether establishing conditions for approved variances could include demolition if property transferred or non-replacement if structure(s) were damaged.

Mr. Kirk stated he would support approving variances for both 110 Kimball Lane and 140 Kimball Lane, but would not support any future ones. Ms. Hair indicated she would check with legal counsel as regards whether conditions could be placed or other police powers allowed by State Code.

Mr. Kirk made a motion that both applications be approved, seconded by Mr. Wade who stated that having these structures in place for over three years presented an extraordinary situation. Ms. Newell indicated she would not support an affirmative vote and would prefer to see lack of a permit result in consequences as provided by law. Motion to approve carried 4:1.

All members indicated they had personally conducted site visits to each property.

The next agenda item included Election of Officers. It was noted the Board met on an "as needed" basis when variance applications were received; however there should be an annual organization meeting establishing officers. Ms. Drake and Ms. Newell suggested at least a second meeting each year, presuming organizational meetings would be conducted in January, such as June or July, to receive general updates relative to State Code changes and summaries of Zoning changes made by the Planning Commission. Ms. Drake stated she would like copies of previous meetings to be provided to members at future meetings or via official email.

Mr. Kirk nominated Mr. Stewart as chair, seconded by Mr. Wade. Mr. Stewart was renamed Chairman by unanimous vote. Mr. Wade nominated Mr. Kirk as Vice-Chair, seconded by Mr. Stewart. This was affirmed by unanimous vote. Ms. Newell nominated Mr. Wade as Secretary, and Mr. Wade indicated Ms. Newell should remain as Secretary, seconded by Mr. Stewart. This was affirmed by unanimous vote.

There being no further business, the Chairman adjourned the meeting at 7:45 pm.

Respectfully submitted by

T.L. Newell, Secretary