

**Town of Amherst
Board of Zoning Appeals
April 21, 2015**

A meeting of the Town of Amherst Board of Zoning Appeals was called to order by Vice Chairman Tatlock at 6:00 PM on April 21, 2015 in the Council Chambers of the Town Hall. Members Kevin Akershoek, Ed Carton, Marvin Hensley and Teresa Tatlock were present and member Gary Mays was absent. Town Manager Jack Hobbs was present in his capacity as Secretary to the Board.

After welcoming everyone to the meeting, Mrs. Tatlock noted that a quorum was present and asked for a moment of silence. It was noted it was Mr. Carton's first meeting as a Board member.

Mr. Carton made a motion that was seconded by Mr. Hensley to dispense with the reading and approve the minutes from the April 15, 2014 meeting. The motion carried 4-0 with Messrs. Akershoek, Carton, and Hensley and Mrs. Tatlock voting in favor; Mr. Mays was absent.

There was a discussion on the Board's bylaws and rules of procedure.

Mr. Hensley nominated Mr. Mays to be Chairman. Mr. Akershoek seconded that nomination. As there were no other nominations, the Board voted 4-0 to elect Mr. Mays Chairman by acclamation. Messrs. Akershoek, Carton, and Hensley and Mrs. Tatlock voted for Mr. Mays; Mr. Mays was absent.

Mrs. Tatlock nominated Mr. Carton to be Vice Chairman. Mr. Akershoek seconded that nomination. As there were no other nominations, the Board voted 4-0 to elect Mr. Carton Vice Chairman by acclamation. Messrs. Akershoek, Carton, and Hensley and Mrs. Tatlock voted for Mr. Carton; Mr. Mays was absent.

Mrs. Tatlock nominated Mr. Hobbs to be Secretary. Mr. Hensley seconded that nomination. As there were no other nominations, the Board voted 4-0 to elect Mr. Hobbs Secretary by acclamation. Messrs. Akershoek, Carton, and Hensley and Mrs. Tatlock voted for Mr. Hobbs; Mr. Mays was absent.

Recent and pending changes to the Code of Virginia regarding variances were reviewed.

Variance Application: Moore property - 120 Troopers Trail

The Secretary provided the following report on a variance application:

Mark Moore has applied for a variance for his property located at 120 Troopers Trail (TM#96A5-A-4B), zoned General Residential District R-2. The application pertains to Section 18.1-804 of the Zoning and Subdivision Ordinance. If approved, an addition to Mr. Moore's existing dwelling at 120 Troopers Trail could be built to within 20' of the rear property line instead of maintaining the 35' separation between the proposed construction and the adjacent lot as required by the Ordinance.

Factors favoring the approval of this proposal include:

- The desire of the property owner to improve the property by building third bedroom onto the side vs. the rear of the existing dwelling.
- The shape and size of his property relative to the zoning ordinance with would prevent any construction there (the front setback is 50', the rear setback is 35' yet the property tapers from 90' to 80' deep).
- The rear-to-side and rear-to-rear arrangement of dwellings on adjacent property relative to Mr. Moore's dwelling.

A significant consideration that is not favorable to the application is the theory that the Town should work towards conformity with established ordinances.

Per §18.1-1006.02 of the Town Code, this will be on the Planning Commission's docket for review on May 6.

This case is similar to many variance requests in that the Board of Zoning Appeals must be concerned with the preservation of the integrity of the ordinance. The Board will note that the legal/hardship finding requirements are currently in a state of flux (See § 15.2-2201; §15.2-2309; Town Code §18.1-1402.03).

The Town of Amherst Board of Zoning Appeals needs to schedule a public hearing on this application, after which time the Board will be in position to debate and decide upon the application.

As always, the Board should pay close attention to the state law and the Town's Zoning and Subdivision Ordinance in addition to the testimony during the required public hearing. As a procedural note, three affirmative votes by Board members will be required to approve this request. Everyone involved should also remember the "one year" rule at §18.1-1006.05 which indicates that "substantially the same petition affecting the same land shall not be considered within any twelve (12) month period."

Mr. Moore came forward to explain his application.

Mr. Hensley made a motion that was seconded by Mrs. Tatlock to advertise the required public hearing on the application for May 19, 2014 at 6:00 PM. The motion carried 4-0 with Messrs. Akershoek, Carton, and Hensley and Mrs. Tatlock voting in favor; Mr. Mays was absent. A copy of the advertisement is as follows:

PUBLIC HEARING NOTICE

The Town of Amherst Board of Zoning Appeals will hold a public hearing at 6:00 PM on May 19, 2015 in the Council Chambers of the Town Hall at 174 South Main Street.

The subject of the hearing is an application by Mark Moore for property located at 120 Troopers Trail (TM#96A5-A-4B, zoned General Residential District R-2.) for a variance to Section 18.1-804 of the Zoning and Subdivision Ordinance. If approved, an addition to an existing dwelling could be built to within 15' of the rear property line instead of maintaining a 35' separation between the proposed construction and the adjacent lot as required by the Ordinance.

Documents relating to the request are available for public inspection in the Town Hall during normal working hours.

There being no further business to discuss, at 6:40 PM Mrs. Tatlock declared the meeting adjourned.

Teresa Tatlock
Vice Chairman

ATTEST:

Secretary