



Mathews County Board of Zoning Appeals

Wednesday, June 19, 2024 at 7:00 PM

MINUTES

1. CALL TO ORDER

The meeting was called to order by the chair at 7:00 pm.

2. PLEDGE OF ALLEGIANCE

3. INVOCATION

Mr. Fauver gave the invocation.

4 ROLL CALL / ESTABLISHMENT OF A QUORUM

.

Committee Members Present:	Chairperson Sonny Fauver Vice Chair Peter Clendenin Member Brian Russell Member Sue Thomas
Committee Members Absent:	
Staff Present:	Maria Hubbard, Planner Heather Thomas, Wetlands Technician

5. APPROVAL OF MINUTES

A. Minutes will be added as additional documents by Monday, June 17th.

Per Mr. Clendenin corrections are as follows:

The Harris Project: The last sentence should read "revisions to be made"

Line Item 8A: 10-B-23 should include general comments.

MOTION: On Motion of Peter Clendenin, seconded by Mark Lenz, the Board of Zoning Appeals voted 5-0-0 as follows: Sonny Fauver, Peter Clendenin, Brian Russell, Sue Thomas, Mark Lenz - aye; None - nay; to Approve the Agenda with corrections.

Roll Call:

Member Brian Russell - Aye

Vice-Chair Peter Clendenin - Aye

Member Mark Lenz - Aye
Sue Thomas - Aye
Chairperson Sonny Fauver - Aye

6. REVIEW OF PUBLIC HEARING PROCEDURE BY THE CHAIRPERSON

Member Sue Thomas recused herself from Application #2-V-24 as she will be representing the applicants.

Chairperson Mr. Fauver read the Public Hearing Procedures.

7. NEW BUSINESS

- A. **Application #2-V-24:** Request by Heath & Trish Gathright for a variance from the Mathews County Zoning Ordinance Section 175-6.4 (B) to allow a detached garage to be constructed with a one (1) setback from the property right-of-way property line where 50' is required by ordinance. The subject property is located at 84 Lanes Creek Road, Hudgins, VA 23076 and identified as Parcel 11(A) 86A, 84 Lanes Creek Road and is zoned Residential-1 (R-1) Planner, Maria Hubbard's reading of the staff report (attached).

Speakers:

Sue Thomas, Agent for the Applicants
North, VA

Ms. Thomas has been involved in this case since the beginning and has conferred with several Zoning Administrators for the County. Ms. Thomas submitted a letter from one of the adjacent property owners. Ms. Thomas stated a difference in the verbiage on the agenda and what was read aloud by Ms. Hubbard this evening. Full discussion can be heard by using the following link: Public Hearing Discussion

Member Mark Lenz asked Ms. Thomas, who maintains the easement, Ms. Thomas stated there could be an agreement between the parties (submitted). Member Peter Clendenin asked about the white fence, Mr. Gathright explained that it was there when they moved in, and he intends to remove the majority of the fence. He also stated that they have maintained the road with a tractor since they moved there in 2019.

MOTION: On Motion of Peter Clendenin, seconded by Mark Lenz, the Board of Zoning Appeals voted 4-0-1 as follows: Sonny Fauver, Peter Clendenin, Brian Russell, Mark Lenz - aye; None - nay; Sue Thomas - abs to Approve Application 2-V-24 to permit the 16X24 ft garage with the following conditions: The garage and the porch be site surveyed to confirm their locations as well as the Staff Recommendations of A Plan of Development be submitted if there will be more than 2,500 sq. ft. of disturbance before a Zoning Permit is issued. Also, an Agreement in Lieu of Erosion and Sediment Permit shall be required. (attached).

ROLL CALL VOTE:

Member Brian Russell - Aye
Vice-Chair Peter Clendenin - Aye
Member Mark Lenz - Aye
Member Sue Thomas - Abstained
Chairperson Sonny Fauver - Aye

8. OLD BUSINESS

- A. **1-V-24: Kathy & Noel Harris,** Applicant requests a variance from the Mathews County Zoning Ordinance as follows: Section 175-22.11 and Section 175-22.16 to reduce the one hundred (100)

foot resource protection area buffer to forty-three (43') feet for the purpose of constructing an addition to the primary dwelling and accessory features. The property is identified as Parcel 18 (A) 67B, 1050 Elm Grove Lane and is zoned Residential-1 (R-1).

John Singleton, Agent for the Applicant
Hayes, VA

The applicant took the board's concerns into consideration and looked at the other options (see attachments).

Noel Harris, Applicant
North, VA

The setback has not moved, upon the board's request, the project was moved to comply with Mathews County Zoning Ordinance [§22.14](#). Full discussion can be heard at link: [1-V-24 DISCUSSION](#)

MOTION: On Motion of Peter Clendenin, seconded by Mark Lenz, the Board of Zoning Appeals voted 5-0-0 as follows: Sonny Fauver, Peter Clendenin, Brian Russell, Sue Thoams, Mark Lenz - aye; None - nay; to Approve Application 1-V-24 as presented with the following conditions:

- A Plan of Development must be submitted if there will be more than 2,500 square feet of disturbance before a Zoning Permit is issued.
- An Agreement in Lieu of Erosion and Sediment Permit shall be required.
- A Memorandum of Agreement for mitigation plantings will be required to offset the addition of impervious cover.
- The granting of this variance shall not be construed to vest in the applicant a right to the variance until all necessary local, state, and federal plan application, review, and approval processes have been completed.
- This approval may be revoked by the County of Mathews or its designated agent for failure by the applicant or its assigns to comply with any of the listed conditions or any provision of federal, state, or local regulations.
- The new sidewalk needs to be of previous material in every instance.

ROLL CALL VOTE:

Member Brian Russell - Aye
Vice-Chair Peter Clendenin - Aye
Member Mark Lenz - Aye
Sue Thomas - Aye
Chairperson Sonny Fauver - Aye

9. PLANNING DIRECTOR'S REPORT

Nothing to Report

10. OTHER MATTERS

A. MOTION TO RECONSIDER

Chairperson Fauver read aloud the Roberts Rules of Order's definition of a Motion to Reconsider. Concerning approved conditions for Spencer Francis, 10-V-23, The Chair received communication from staff indicating that there were implementation issues with one of the conditions. The chair instructed the staff to place the matter on the agenda for the May 15, 2024, meeting, for board consideration. A Motion to Reconsider was made to modify the conditions previously approved and that motion was subsequently passed with a 4-0 vote of the board members. The chair subsequently

received communication from staff that the validity of that action had been questioned.

Additionally, the chair was informed that the interim Planning Director had asked the BZA attorney to provide an explanation in writing for the file, in case litigation arose. The chair declined to seek a written statement.

A Motion to Reconsider is a valid action, under Robert's Rules of Order, and its application to BZA matters had been previously discussed with Ann Cosby, BZA attorney. Its use was familiar to the chair.

The chair subsequently discussed the use of the Motion to Reconsider, in this instance, with Ann Cosby, BZA attorney. Ms. Cosby opined that the BZA was correct in this application of the motion, and that it was proper to do so. She additionally advised that although she could respond in writing to the use of the Motion to Reconsider, it was not necessary to do so and that this statement of explanation, by the chair for the record, was sufficient.

The Motion to Reconsider is found in section 37.1 of Robert's Rules of Order: It states: "37.1 Reconsider--A motion of American origin--enables a majority in an assembly, within a limited time and without notice, to bring back for further consideration a motion that has already been voted on. The purpose of reconsidering a vote is to permit correction of hasty, ill-advised, or erroneous action or to take into account added information or a changed situation that has developed since the taking of the vote."

B. There is a Memorandum of agreement with Attorney Ann Cosby for representation should the board so require her services.

C. Mr. Clendenin questioned whether a BZA member, even when recused, should represent an applicant. He stated that this should not occur since it jeopardizes the independence of the BZA.

11. ADJOURNMENT

MOTION: On Motion of Peter Clendenin, seconded by Brian Russell, the Board of Zoning Appeals voted 5-0-0 as follows: Sonny Fauver, Peter Clendenin, Brian Russell, Sue Thoams, Mark Lenz - aye; None - nay; to Adjourn.

ROLL CALL VOTE:

Member Brian Russell - Aye

Vice-Chair Peter Clendenin - Aye

Member Mark Lenz - Aye

Sue Thomas - Aye

Chairperson Sonny Fauver - Aye