

Town of Seven Devils
Board of Adjustment

Regular Scheduled Meeting

April 27, 2009 – 5:30 p.m.

Call to Order

The meeting was called to order at 5:30 pm by Chairman Richard DeMott. Other Board Members present were George Ehlinger, Bill Wilkinson, Bobbye Hurlbrink, Lois Dodson, Carol Isquith and Alternate Member David Ehmig. Also present was the Zoning Administrator Don Fulkerson and Town Attorney Rob Angle. Member Copley was absent and excused. Town Clerk Karen Daniels recorded the minutes.

Chairman DeMott stated the Board of Adjustment is quasi-judicial in nature and that all people speaking, other than Board members, would need to sign in and be sworn in to give testimony. He explained that all testimony should be specific to the subject at hand and requested that all cell phones be turned off.

Adopt Agenda

Member Dodson made a motion to adopt the agenda. Member Wilkinson seconded the motion. The members agreed unanimously.

Approval of Minutes – March 23, 2009 Regular Meeting

Member Wilkinson made a motion to approve the March 23, 2009 minutes as submitted. Member Ehlinger seconded the motion. The members agreed unanimously.

Citizen Comments

None

Old Business

None

New Business

A. Public Hearing to consider an Application for a Variance submitted by Don Maclean

Chairman DeMott asked for all present and wishing to give testimony to sign in at the podium and stand to be sworn in.

The Town Clerk asked all standing to raise their right hand. She then administered the Oath of Testimony to Don Fulkerson and Don Maclean.

At 5:45 p.m. Member Dodson made a motion to open the Public Hearing. Member Wilkinson seconded the motion. The members agreed unanimously.

Chairman DeMott read from the **Zoning Ordinance 15.3 Variance:**

A Variance from the regulations of this Ordinance may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the Variance, and that, by granting the variance, the intent of this Ordinance, the Vision Statement, and the Comprehensive Land Use Plan will be observed, public safety and welfare secured, and substantial justice done as prescribed by the North Carolina Municipal Zoning enabling Act, Chapter 160A, Article 19. The burden of proving that these conditions exist is on the applicant.

Chairman DeMott asked the Zoning Administrator if he had anything to add to his findings. The Zoning Administrator said he did not have any additional information to add to his findings. Chairman DeMott requested the Zoning Administrator's findings be recorded in the minutes.

Zoning Administrator's Findings

The Zoning Administrator told the Board and Citizens that, Don Maclean has filed an application for a Variance to build a carport at his residence located at 258 Deepwood Court. He said where Mr. Maclean wishes to build the carport is within the required twenty foot (20') front set back from the property line as described in the Zoning Ordinance.

Pursuant to ARTICLE 7 – INTENSITY REGULATIONS TABLE 7.1 – DENSITY, LOT SIZE, HEIGHT LIMIT, AND SET BACK REQUIREMENTS this finding is submitted. This application has been filed for a variance. It is a proposed carport to be located at 258 Deepwood Court. The request for a minimum distance of seven point five feet (7.5') from the front lot of the property line is not in compliance with the twenty foot (20') front set back requirement in the Zoning Ordinance.

The Board of Adjustment members reviewed the marked up copy of the plot survey showing the proposed location of the carport; a sketch of the proposed carport; photographs of the proposed location of the carport and the Application for a Variance. A lengthy discussion followed regarding setback requirements; placement of the proposed carport and affect on adjacent properties.

Chairman DeMott asked the Zoning Administrator if all property owners within one

hundred feet (100') of the property in question have been notified. The Zoning Administrator said he has not notified any property owners.

Chairman DeMott then read from the **Zoning Ordinance 15.4.2 Public Hearing:**

The Town of Seven Devils is responsible for notification of the public hearing. Additionally, the Town is responsible for mailing notices to owners of all property within 100 feet of the property in question. The applicant is responsible for providing to the Town the list of owners who should receive this mailed notice.

At 6:03 p.m. Chairman DeMott requested a motion to close the Public Hearing. Member Wilkinson made a motion to close the Public Hearing. Member Dodson seconded the motion. The members agreed unanimously.

The Board of Adjustment members agreed no action should be taken until the property owners within one hundred feet (100') of the property in question are notified. The Board agreed to defer action on the request for a variance.

Recess

There being no other matters to bring before the Board, at 6:25 p.m. Chairman DeMott asked for a motion to recess. Member Wilkinson made a motion to recess to Tuesday, May 26th, 2009 at Town Hall. Member Dodson seconded the motion. The members agreed unanimously.

Richard DeMott, Chairman

Karen E. Daniels, Town Clerk