

**King and Queen County
Board of Zoning Appeals
Minutes
January 20, 2015**

**MINUTES
BOARD OF ZONING APPEALS
JANUARY 20, 2015**

The Board of Zoning Appeals (BZA) of King and Queen County met in the King and Queen County Courts and Administration Building on January 20, 2015, at 6:00 P.M., with public notice having been published in the *Tidewater Review* and *Rappahannock Times* and written notice mailed to interested parties, as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The following Board members and staff were present:

James Dabney
Robert Bland, IV
Bruce Taylor
Pam Ashely (**arrived at 6:15 p.m.*)

Donna Sprouse, Assistant Zoning Administrator

**IN RE:
CALL TO ORDER**

Vice-Chair, James Dabney called the meeting to order in the absence of the Chairwoman, Pamela Ashley. Mrs. Sprouse determined that there was a quorum present with three members. (James Dabney, Bruce Taylor and Robert Bland, IV were present at the time of roll call)

**IN RE:
APPROVAL OF AGENDA**

Mr. Dabney stated he would entertain a motion to approve the agenda. A motion was made by Mr. Bruce Taylor to approve the agenda as presented, seconded by Mr. Bland.

Voting For: Dabney, Bland, B. Taylor
Voting Against: None
Abstain: None

**IN RE:
WELCOME NEWLY APPOINTED BUENA VISTA BZA MEMBER – ROBERT
T. BLAND, IV**

Mr. Dabney welcomed Mr. Bland, Buena Vista representative to the BZA.

**IN RE:
2015 CHAIR & VICE-CHAIR NOMINATIONS**

A motion was made by Mr. Dabney to appoint Mrs. Ashley as Chair, seconded by Mr. Taylor. A motion was made by Mr. Taylor to appoint Mr. Dabney as Vice-Chair, seconded by Mr. Bland.

Voting For: Dabney, Bland, B. Taylor

Voting Against: None

Abstain: None

**IN RE:
APPROVAL OF MINUTES**

Members of the BZA that were present during the January 17, 2012 meeting were Mr. Taylor, Mrs. Ashley and Mr. Wyatt. Mrs. Sprouse stated that with the passing of Mr. Wyatt and absence of Mrs. Ashely, the BZA could not vote on the minutes at this time. Mrs. Sprouse stated that she will have it placed on the next meeting's agenda.

**IN RE:
NEW BUSINESS**

VARIANCE

VAR14-01, Baker Heating & Air Conditioning, Inc. C/o Miles Baker

Applicant: Baker Heating & Air Conditioning, Inc. C/o Miles Baker

Owner: Baker Heating & Air Conditioning, Inc. C/o Miles Baker

Agent: James E. Mitchell, Mitchell Land Surveying, LLC

Subject: The Planning and Zoning Department received an application to the Board of Zoning Appeals (“BZA”) on December 18, 2014 from James Mitchell on behalf of Baker Heating & Air C/o Miles Baker, requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts. The

applicant states that in order to construct a single family residence on property owned by Mr. Baker, such request must be granted.

Premises: The subject property is located off of State Route 655 Courthouse Landing Road, on a private gravel road known as Courthouse Landing Terrace, located on the Mattaponi River, in the Stevensville Magisterial District. The property is identified as County Tax Map Parcel No. 1624-54R-32E-2. The property is zoned Residential Single-Family. The parcel is zoned Residential Single-Family (RS) and consists of a 1/2 of an acre. This lot is a pre-existing non-conforming parcel.

Mrs. Sprouse noted that Mr. Baker requests a variance from Zoning Ordinance, Article 5, Table 5.1, "Table of Minimum Dimensional Regulations for Primary Zoning Districts" to allow for the proposed construction of a single-family residence. According to the King & Queen County Zoning Ordinance, Article 5, Table 5.1, Table of Minimum Dimensional Regulations for Primary Zoning Districts, required setbacks for the residential single-family (RS) zoning district is as follows: 75' from the road frontage, 25' from each side property line, and 25' from the rear (however with this being a waterfront parcel, the rear setback shall be 100' from the water/RPA). The current owner is seeking a 5' front setback encroachment to allow for a 70' front setback for the construction of a single-family residence.

The previous owner of the parcel (Mr. Clyde C. Davis, Jr.) obtained an approved variance from the Board of Zoning Appeals on November 20, 2007, to construct a 2,150 sq. ft. home with an additional 548 sq. ft. waterfront attached wooden deck. Mr. Davis was granted a road front setback of 63.38' and side yard setbacks of 20'. The reason for Mr. Baker's current request is that once a variance approval is granted, it is only valid for one (1) year from the approval date. Since the approval in 2007, the property has since sold and the current owner wishes to construct a 1,196 sq. ft. single-family residence, with a 110 sq. ft. front porch and a 180 sq. ft. waterfront attached wooden deck. The owner will also seek an approval from the King & Queen County Planning Commission for a Chesapeake Bay Exception for the encroachment into the 100' RPA.

(*Mrs. Ashley arrived at 6:15 p.m.)

Mrs. Sprouse read the following code sections from Article 20, Appeals...

"Section 3-462(B)(2) of the Zoning Ordinance, a variance may be granted when the property owner demonstrates the property was acquired in good faith and (a) the exceptional size or shape of the property existed when the Zoning Ordinance became effective [8-12-1986]; (b) due to physical conditions of the property, or the use or development of an adjoining property, strict application of the terms of the Ordinance effectively would prohibit or unreasonably restrict use of the property; or (c) where the BZA finds that granting the variance would alleviate a clearly demonstrable hardship approaching a "taking," as opposed to the applicant seeking a special privilege or convenience."

"Section 3-462(B)(3), the BZA may grant the variance if it finds that (a) strict application of the Ordinance would produce an undue hardship; (b) the hardship is not shared

generally by adjoining properties; and (c) granting the variance will not be substantially detrimental to adjoining properties, and the character of the district will not be changed by granting the variance.”

“Section 3-467, A special exception or variance granted by the Board of Zoning Appeals shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the BZA, no construction or charge in use pursuant to such special exception or variance has taken place; provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant a special exception or variance.”

Mr. Dabney opened the public hearing and asked if there was anyone in the audience that would like to speak.

Mr. Baker, property owner stated that he needed the variance in order to construct a home as Mrs. Sprouse had stated. He also mentioned the previous approval granted to prior property owner, Clyde Davis, however that variance has since expired. He noted that he did not know that it was only good for a year once approved. Mr. Baker said that had he known he either may not have bought the lot or would have built within the year time frame.

Mr. Mitchell, agent stated that he prepared the site plan and that the front porch and steps would encroach 4.85’ feet into the front setback. He also noted that other houses on that street are just as close as what Mr. Baker is requesting.

Hearing no further comments, Mr. Dabney closed public comment period.

Mr. Dabney stated that he didn’t have any issues with the request and felt that if Mr. Baker was not informed of the year time frame, he felt that was not his fault. He said he would like a waterfront lot and would like to have a deck and porch if he owned a waterfront lot.

Mr. Bland noted that his comments are nothing personal but there are ordinances for a reason and that when he built his home a few years ago, he too had to follow the rules and setbacks. He asked if there was any way that he could shrink the size of the house, deck or front porch to meet the 75’ front setback.

Hearing no further comments, Mr. Dabney stated that he would entertain a motion to either approve or deny the request.

A motion was made by Mrs. Ashley to deny the request, seconded by Mr. Bland.

Voting For: Bland & Ashley

Voting Against: Taylor & Dabney

Abstain: None

Motion died to deny the request with a tie vote.

Mrs. Ashley stated that should would make a motion to table the request so that she can better study the packet and request. Mrs. Ashley's motion was seconded by Mr. Taylor.

Voting For: Taylor, Dabney, Ashley

Voting Against: Bland

Abstain: None

Mr. Baker said that he would see if he could work something out with Mr. Mitchell and see if he can move a few things to make it work if he has to. He stated that if he is able to make the site work without needing to encroach, he will then not need to meet next month and will withdraw his application request.

IN RE:

BOARD MEMBER COMMENTS

Hearing no comments, Mr. Dabney asked if staff had any comments. Mrs. Sprouse stated that she did not have any comments.

IN RE:

ADJOURN

Hearing no further comments, Mr. Dabney stated he would entertain a motion to adjourn the meeting. A motion was made by Mrs. Ashely, seconded by Mr. Taylor to adjourn the meeting.

James Dabney, Vice Chair