

**King and Queen County  
Board of Zoning Appeals  
Minutes  
March 15, 2010**

**MINUTES  
BOARD OF ZONING APPEALS  
MARCH 15, 2010**

The Board of Zoning Appeals (BZA) of King and Queen County met in the King and Queen County Courts and Administration Building on March 15, 2010, 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:

Pamela Ashley  
Robert Taylor  
Leland Wyatt

Donna Sprouse, Assistant Zoning Administrator

**IN RE:  
CALL TO ORDER**

Mr. Taylor called the meeting to order. Mrs. Sprouse determined that there was a quorum present with three members. (Pamela Ashley, Robert Taylor and Leland Wyatt were present)

**IN RE:  
ELECTION OF 2010 OFFICERS**

Mr. Taylor stated that she will open the floor for a motion/nomination for this year's Chairman. A motion was made by Mr. Wyatt and seconded by Mrs. Ashley to nominate Mr. Taylor as Chairman of the BZA.

*Voting For: Ashley, Taylor, Wyatt  
Voting Against: None*

Mr. Taylor thanked the BZA members and then opened the floor for nominations for Vice-Chair. A motion was made by Mr. Taylor to nominate Mrs. Ashley for Vice-Chair, seconded by Mr. Wyatt.

*Voting For: Ashley, Taylor, Wyatt  
Voting Against: None*

**IN RE:  
APPROVAL OF AGENDA**

A motion was made by Mr. Wyatt and seconded by Mr. Taylor to approve the agenda as presented. Approval of the agenda was ratified by all saying "Aye".

*Voting For: Ashley, Taylor, Wyatt  
Voting Against: None*

**IN RE:  
APPROVAL OF MINUTES**

A motion was made by Mr. Wyatt and seconded by Mrs. Ashley to approve the August 17, 2009 minutes as written.

*Voting For: Ashley, Taylor, Wyatt  
Voting Against: None  
Abstain: None*

**IN RE:  
APPROVAL OF ANNUAL 2010 MEETING DATES**

-Monday, March 15, 2010	-Monday, August 16, 2010
-Monday, April 19, 2010	-Monday, September 20, 2010
-Monday, May 17, 2010	-Monday, October 18, 2010
-Monday, June 21, 2010	-Monday, November 15, 2010
-Monday, July 19, 2010	-Monday, December 20, 2010

Mrs. Ashley reaffirmed that the meetings are to be held at 6 p.m. each month. Mr. Taylor stated that it would be good to include the time in the minutes and for the record.

**IN RE:  
REVIEW BZA BYLAWS**

Mrs. Sprouse explained that should the BZA have an application request during the months of January and February, they run the risk of falling on a legal holiday. She suggested that the BZA amend their bylaws so that if a meeting date falls on a legal holiday, the meeting will be rescheduled for the next day (Tuesday). A motion was made by Mrs. Ashley and seconded by Mr. Taylor to amend the bylaws accordingly.

*Voting For: Ashley, Taylor, Wyatt  
Voting Against: None  
Abstain: None*

**VARIANCE**  
**VAR10-01, Larry DeJarnette Gayle, ET ALS**

**Applicant:** Larry DeJarnette Gayle, ET ALS

**Agent:** Dick Blackwell with Blackwell Engineering

**Subject:** The Planning and Zoning Department received an application to the Board of Zoning Appeals (“BZA”) on February 17, 2010 via UPS (overnight) from Blackwell Engineering, PLC on behalf of Larry D. Gayle, requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts.

**Premises:** The property is located at 7154 Richmond Tappahannock Hwy., in the Newtown Magisterial District. The property is identified as County Tax Map Parcel No. 1625-43R-250B. The property is presently zoned Agricultural.

Mr. Taylor noted that Mr. Gayle is requesting a Variance (concurrent with a rezoning request to change the zoning from Agricultural to General Business) from Zoning Ordinance, Article 5, Table 5.1, “Table of Minimum Dimensional Regulations for Primary Zoning Districts,” to (1) allow a 9.24 foot front yard setback vs. the required 100 foot front yard setback (2) allow a 44.38 foot left side yard setback vs. the required 50 foot side yard setback for the General Business zoning district. Mr. Taylor reminded the Board that they are there to only hear the Variance request, not the rezoning portion of the request. He stated that the Planning Commission will address the rezoning aspect of the application.

Pursuant to Zoning Ordinance, Title II, Article 5, Table 5.1, there must be at least a 100-foot front yard setback and a 50-foot side yard setback in the General Business zoning district when an adjacent property’s zoning district permits residential uses.

The existing commercial building was built in 1950 (according to the Commissioner of Revenue’s land records), thus before the adoption date of the King & Queen County Zoning Ordinance. The front setback was also affected by the widening of State Route 360 completed by Virginia Department of Transportation in 1969.

Mr. Taylor read aloud the following...

*According to 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.”*

Per 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.”*

Mr. Taylor opened the public hearing and asked if there was anyone in the audience to speak either for or against the project.

Property Owner’s agent, Mr. Dick Blackwell introduced himself and stated that Mr. Taylor had pretty much covered everything. He added that the building has always had a business use and explained that before it was a printing company, it was a restaurant.

Mr. Davis, an adjoining property owner approached the Board and had concerns about the use of the “Old Route 360” which is the entrance he uses to his property in Essex County. Mr. Taylor asked Mr. Davis to take a look at the site plan and explained that the setback is requested off of Route 360 (Richmond Tappahannock Hwy., not “Old Route 360). After the clarification, Mr. Davis had no other comments.

Ms. Tonya Berry & Ms. Violet Holmes (adjoining property owners) asked to see the site plan as well and had questions about the use of “Old Route 360” as well. Mr. Taylor explained that the variance is from the front property line (Route 360, Richmond Tappahannock Hwy.) and stated that they do not need a variance from “Old Route 360”. After the clarification, Ms. Berry & Ms. Holmes had no other concerns.

After hearing no other comments from the audience, Mr. Taylor closed the public hearing.

After no additional comments were made among the Board, Mr. Taylor stated that he would accept a motion to either approve or deny the variance request. He reminded the Board that should they not approve the request, they must state their reasons why. Mrs. Ashley made a motion to approve the Variance request as submitted, seconded by Mr. Wyatt. Mr. Taylor noted that because of the circumstances of this property, he felt it is indeed a hardship.

*Voting For: Ashley, Taylor, Wyatt*

*Voting Against: None*

*Abstain: None*

*The request was approved by a unanimous vote.*

**IN RE:  
BOARD MEMBER COMMENTS**

Mr. Wyatt stated that he understands that the BZA will be meeting again next month and he believes there will be more projects in the future.

**IN RE:  
ADJOURN**

Mr. Taylor stated he would entertain a motion to adjourn the meeting. A motion was made by Mr. Wyatt, seconded by Mrs. Ashley. Adjournment was ratified by all saying "Aye".

---

Robert Taylor, Chairman