

**King and Queen County
Board of Zoning Appeals
Minutes
November 21, 2011**

**MINUTES
BOARD OF ZONING APPEALS
NOVEMBER 21, 2011**

The Board of Zoning Appeals (BZA) of King and Queen County met in the King and Queen County Courts and Administration Building on November 21, 2011, 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
James Dabney
Bruce Taylor

Donna Sprouse, Assistant Zoning Administrator

**IN RE:
CALL TO ORDER**

In Mr. Robert Taylor's absence, Vice Chair, Pamela Ashley called the meeting to order. Mrs. Sprouse determined that there was a quorum present with three members. (Pamela Ashley, Bruce Taylor and James Dabney were present)

**IN RE:
APPROVAL OF MINUTES**

A motion was made by Mr. Bruce Taylor to approve the minutes as written, seconded by Mr. Dabney. Approval of the September 19, 2011 minutes was approved.

*Voting For: Ashley, Dabney, B. Taylor
Voting Against: None
Abstain: None*

**IN RE:
APPROVAL OF AGENDA**

Mrs. Ashley stated that she noticed that she skipped an item on the agenda, however will entertain a motion to approve the agenda. A motion was made by Mr. Dabney to approve the agenda as presented, seconded by Mr. Bruce Taylor.

Voting For: Ashley, Dabney, B. Taylor

Voting Against: None

Abstain: None

**IN RE:
NEW BUSINESS**

**VARIANCE
VAR11-02, Jeffrey G. & Susan P. Fudala**

Applicant: Jeffrey G. Fudala

Owner: Jeffrey G. & Susan P. Fudala

Subject: The Planning and Zoning Department received an application to the Board of Zoning Appeals (“BZA”) on September 26, 2011 from Jeffrey G. Fudala, requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts.

Premises: The subject property is located off of State Route 666, on Bell Road, located in the Cricket Shores Subdivision, in the Buena Vista Magisterial District. The property is identified as County Tax Map Parcel No. 1623-131L-396A-2. The parcel is zoned Residential Single-Family (RS) and consists of a 1/3 of an acre.

Mrs. Sprouse noted that Mr. Fudala 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 addition of an attached garage and utility room to the existing 2 story home. Presently the current home is 74’ from the front property line with the exception of the 2nd floor deck that is 5.79’ deep. Mr. Fudala is requesting a 39-foot variance to allow for a front yard setback of 35 feet.

Pursuant to Zoning Ordinance, Title II, Article 5, Table 5.1, the minimum front yard setback for primary structures located in the Residential Single-Family zoning district is 75’. She noted that presently Mr. Fudala’s home is 74’ from the front property line with the exception of the 2nd floor deck that is 5.79’.

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.”

Mrs. Sprouse also reminded the Board of Section 3-467, should they approve Mr. Fudala’s request, which reads as follows...

“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 change 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.”

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

Mr. Jeffrey Fudala was present to answer any questions that the BZA may have. Also in attendance was Mr. Gove, adjoining property owner. Mr. Fudala stated that Mrs. Sprouse pretty much summed it up, however he was not aware that if the approval is granted, it is only good for one year. He then noted that he is not ready to start construction for at least another 5 years or so and until his daughter has completed school at West Point. Mr. Fudala stated that his engineer told him that the variance is good forever once granted. Mr. Dabney stated that he was sorry but he was informed incorrectly.

Mrs. Sprouse reminded the Board that they have the option to extend the time period only for “good cause”. Mr. Gove asked if the meeting could be tabled until Mr. Fudala is ready for construction. Mrs. Ashley asked Mrs. Sprouse if the by-laws stated how long a meeting could be tabled for. Mrs. Sprouse replied that it did not. She did however state that the meeting could not be tabled for an uncertain number of years.

Mrs. Ashley stated that she would like to recommend tabling the request until next month in order to gain further information. A motion was made by Mr. Dabney and seconded by Mr. Bruce Taylor to table the request until their December 19th meeting at 6:00 p.m.

Voting For: Ashley, Dabney, B. Taylor

Voting Against: None

Abstain: None

**IN RE:
BOARD MEMBER COMMENTS**

Hearing no comments, Mrs. Ashley asked if staff had any comments.

**IN RE:
ADJOURN**

Mrs. Sprouse stated that the Board needs to set their 2012 meeting dates and reminded the board that their January and February meeting dates will fall on a holiday. The Board approved the following meeting dates for 2012....

January 17, 2012 (Tuesday Meeting)
February 21, 2012 (Tuesday Meeting)
March 19, 2012
April 16, 2012
May 21, 2012
June 18, 2012
July 16, 2012
August 20, 2012
September 17, 2012
October 15, 2012
November 19, 2012
December 17, 2012

Hearing no further comments from staff, Mrs. Ashley adjourned the meeting.

Pamela Ashley, Vice-Chair