1. Call To Order

2. Approval Of Minutes

3. Unfinished Business

3.I. V-03-2019 – Scott, Joseph & Peggy, Owner/Applicant

**V-03-2019 – Scott, Joseph & Peggy, Owner/Applicant:** Request a variance on tax map #61-7-4, consisting of 3.81 acres, more or less, zoned RP, Rural Preservation. This property is located at 18460 Passing Road, Milford, Virginia, Bowling Green Voting District. **Proposed Variances:**

1) Variance to Article XII, Lot Area & Other Dimensional Requirements, to allow a 10’ rear setback for an unpermitted addition & deck on a principal structure when a 40’ rear setback is required.

2) Variance to Article XV, Supplemental Regulations, Section 4 (Accessory Buildings & Uses), Paragraph 3(d) to allow 1’ side & 1’ rear setback for an unpermitted accessory structure when a 5’ side & 5’ rear setback is required.

Documents:

**V-03-2019 MAY STAFF REPORT PACKET.PDF**

4. Any And All Matters

5. Adjournment
CASE NUMBER: V-03-2019  
CASE NAME: Scott Variance  
LOCATION: 18460 Passing Rd.  
TAX MAP: 61-7-4  
ZONING: RP  
ACREAGE: 3.81 +/- acres (total)  
DISTRICT: Bowling Green  

REQUEST:  
The applicant is requesting a variance to allow a detached garage, a deck, and an addition that was built without a permit, and built within the setbacks to stay on the property.  

UPDATE  

The Caroline County Building Official and Planning staff made a visit to the site to perform a preliminary inspection of the structures to determine if there were any major building code violations with the structures in question. The Building Official determined that there were no life safety issues and there were a few small items that were not constructed to code, however, all issues could be corrected with a building permit and minor construction. 

Upon the visit to the site, staff noted survey tape from a survey on the abutting property to the rear. There was approximately a 15 foot gap between the applicant’s survey and the property to the rear survey. It is unclear at this time who this 15 feet of property belongs to and would need to be solved civilly between the two property owners and their surveyors/engineers. Should the 15 feet belong to the applicant then the deck and addition would then meet county setback requirements. This is not an item that Caroline County can force to be solved as it is a civil matter. 

The County must go by the survey provided and on record which is attached to your staff report. However, the discrepancy regarding the rear property could change on a future survey.
IF THE BZA DETERMINES A VARIANCE IS APPROPRIATE, STAFF SUGGESTS THE FOLLOWING CONDITIONS OF APPROVAL

1. The variance is applicable to only the existing 9’ x 10’ addition, existing rear deck and existing 24’ x 24’ accessory structure (garage) as shown on the House Location Survey by Griffin Surveying, PLLC dated February 13, 2019. If the existing addition, deck and/or accessory structure for which this variance is granted is ever destroyed, removed or undergoes substantial alteration/renovation, then the variance granted for the respective existing addition, deck or accessory structure shall thereafter be null and void.

2. The granting of this variance is conditioned upon the existing structures being in compliance with all applicable building codes as determined by the Caroline County Building Official through the appropriate permitting/inspection process.

3. If the Caroline County Building Official determines that the existing addition, deck and/or accessory structure for which this variance is granted is require demolition, removal, or substantial alteration/renovation to comply with building codes, then the variance granted for the respective existing addition, deck or accessory structure shall be null and void. Any new construction shall comply with the Zoning Ordinance.

4. The To-Wit (approval letter) for this variance shall be recorded in the Office of the Circuit Court of Caroline County within 30-days of receipt from the Department of Planning and Community Development.

THE FOLLOWING IS FROM THE APRIL 11TH STAFF REPORT AND IS INCLUDED FOR REFERENCE ONLY - NO CHANGES HAVE BEEN MADE.

DISCUSSION

The applicant is requesting a variance to allow a detached garage, a deck, and an addition that was built without a permit, and built within the setbacks to stay on the property.

The applicant purchased this property with the addition and deck that do not meet zoning setbacks approximately 3 years ago. According to aerial photographs it appears that the deck and addition were in place prior to 2013. There are no permits on file with Caroline County for the construction of this addition and deck. The required rear setback for this property is 40 feet. The addition currently sits at 35 +/- feet away from the rear property line and the deck sits approximately 10 feet from the rear property line.
THE DETACHED GARAGE THAT CURRENTLY SITS ON THE PROPERTY ALSO DOES NOT MEET ZONING SETBACKS. THE REQUIRED SETBACK FOR ACCESSORY STRUCTURES IN THE CAROLINE COUNTY ZONING ORDINANCE IS 5 FEET FROM THE REAR AND SIDE PROPERTY LINES. THE CURRENT DETACHED GARAGE SITS 1.8 FEET FROM THE REAR PROPERTY LINE AND 1.9 FEET FROM THE SIDE PROPERTY LINE. ACCORDING TO AERIAL PHOTOGRAPHS THE DETACHED GARAGE WAS CONSTRUCTED SOMETIME PRIOR TO 2007. THERE ARE NO PERMITS ON FILE FOR THIS STRUCTURE.

AS IT APPEARS THE ADDITION, DECK, AND DETACHED GARAGE WERE ALL CONSTRUCTED PRIOR TO THE PURCHASE OF THIS PROPERTY WITHOUT PROPER PERMITS IN PLACE. SHOULD THE VARIANCE BE GRANTED THE STRUCTURES WOULD THEN NEED TO BE INSPECTED BY THE BUILDING DEPARTMENT TO ENSURE THAT EVERYTHING IS TO CODE. SHOULD THE VARIANCE BE DENIED ALL THREE OF THE STRUCTURES WOULD NEED TO BE DEMOLISHED.

§ 15.2-2201 OF THE CODE OF VIRGINIA STATES THAT A "VARIANCE" MEANS, IN THE APPLICATION OF A ZONING ORDINANCE, A REASONABLE DEVIATION FROM THOSE PROVISIONS REGULATING THE SHAPE, SIZE, OR AREA OF A LOT OR PARCEL OF LAND OR THE SIZE, HEIGHT, AREA, BULK, OR LOCATION OF A BUILDING OR STRUCTURE WHEN THE STRICT APPLICATION OF THE ORDINANCE WOULD UNREASONABLY RESTRICT THE UTILIZATION OF THE PROPERTY, AND SUCH NEED FOR A VARIANCE WOULD NOT BE SHARED GENERALLY BY OTHER PROPERTIES, AND PROVIDED SUCH VARIANCE IS NOT CONTRARY TO THE PURPOSE OF THE ORDINANCE. IT SHALL NOT INCLUDE A CHANGE IN USE, WHICH CHANGE SHALL BE ACCOMPLISHED BY A REZONING OR BY A CONDITIONAL ZONING.
EXCERPT FROM THE CAROLINE COUNTY ZONING ORDINANCE, ARTICLE VIII, BOARD OF ZONING APPEALS: SECTION 4, VARIANCES, SUB-SECTION B. AUTHORIZATION AND STANDARDS

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, GENERAL OR SPECIAL, TO GRANT UPON APPEAL OR ORIGINAL APPLICATION IN SPECIFIC CASES A VARIANCE AS DEFINED IN § 15.2-2201 OF THE CODE, PROVIDED THAT THE BURDEN OF PROOF SHALL BE ON THE APPLICANT FOR A VARIANCE TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT HIS APPLICATION MEETS THE STANDARD FOR A VARIANCE AS DEFINED IN § 15.2-2201 OF THE CODE AND THE CRITERIA SET OUT IN THIS SECTION.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, GENERAL OR SPECIAL, A VARIANCE SHALL BE GRANTED IF THE EVIDENCE SHOWS THAT THE STRICT APPLICATION OF THE TERMS OF THE ORDINANCE WOULD UNREASONABLY RESTRICT THE UTILIZATION OF THE PROPERTY OR THAT THE GRANTING OF THE VARIANCE WOULD ALLEVIATE A HARDSHIP DUE TO A PHYSICAL CONDITION RELATING TO THE PROPERTY OR IMPROVEMENTS THEREON AT THE TIME OF THE EFFECTIVE DATE OF THIS ORDINANCE, AND

(i) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

(ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

(iii) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

(iv) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

(v) The relief or remedy sought by the variance application is not available through the County’s special exception process or the process for modification of the County’s zoning ordinance at the time of the filing of the variance application.
I am applying for this variance because the appraiser for the bank that is making the loan for the sale of my property questioned if the 10 x 8 addition to the back of the home was ever permitted. The county records did not show that it was, so I applied for a permit to satisfy the appraiser's requirement. When I applied for the permit the survey identified that the addition and decks did not have adequate setback requirements. I purchased this home 3 yrs ago with all of the additions + decks already in place. This property is located in the middle of nowhere and surrounded by forest + farmland, I never thought that this would ever present a problem. I just want to resolve this issue, your cooperation in this matter is greatly appreciated.

[Signature]
DATE SUBMITTED: 3-4-19 CASE NUMBER: V-03-2019

1. TYPE OF REQUEST

☐ REZONING: FROM _____ TO _____ ☐ PROFFER AMENDMENT,_____ (REZONING CASE #)

☐ SPECIAL EXCEPTION: ___________ (ORDINANCE SECTION)

☑ VARIANCE: ___________ ☐ SITE PLAN: _____ MAJOR _____ MINOR

☐ COMP. PLAN AMENDMENT ___________ ☐ ADMINISTRATIVE APPEAL ___________

☐ SUBDIVISION (MAJOR) ___________ ☐ OTHER ___________

☐ SUBDIVISION (OTHER) _____ PRELIMINARY _____ FINAL _____ CONCEPT

☐ SUBDIVISION (OTHER) _____ MINOR _____ BLA/VACATION _____ FAMILY

2. PROPERTY INFORMATION

TAX MAP NUMBER 61-7-4 CURRENT ZONING RP

ACREAGE OF REQUEST 3.81 ACRES TOTAL ACREAGE 3.81 ACRES

PHYSICAL ADDRESS/LLOCATION 18460 PASSING RD MILEFORD VA 22514

VOTING DISTRICT ___________

UTILITIES: _____ PUBLIC ☒ PRIVATE ☒ EXISTING _____ NEW

3. CONTACT INFORMATION

JOSEPH A. SCOTT

APPLICANT NAME 9430 WOODFORD RD WOODFORD, VA 22580

MAILING ADDRESS, CITY, STATE, ZIP CODE:

JOSEPH A. SCOTT

OWNER(S) NAME (ATTACH SEPARATE SHEET(S) IF NECESSARY) 9430 WOODFORD RD WOODFORD VA 22580

MAILING ADDRESS, CITY, STATE, ZIP CODE:

JOSEPH A. SCOTT

MAIN POINT OF CONTACT

703-967-7344 DAYTIME PHONE NUMBER

703-967-7344 DAYTIME PHONE NUMBER

703-967-7344 DAYTIME PHONE NUMBER

2016
4. **Fee Schedule**

**REZONING**

+ (_______ x $50) =

**PROFFER AMENDMENT**

+ (_______ x $100) =

**SPECIAL EXCEPTION**

+ (_______ x $50) =

**SITE PLAN: MAJOR**

+ (_______ x $50) =

**SITE PLAN: MINOR**

+ (_______ x $50) =

**COMP PLAN AMENDMENT**

+ (_______ x $50) =

**VARIANCE/ADM. APPEAL**

+ (_______ x $50) =

**SUBDIVISION: MINOR**

$250 - MINOR $200 - BLA $100 - VACATION =

$200 + $50 PER NEW LOT - FAMILY

+ (_______ x $50) =

**SUBDIVISION: MAJOR**

+ (_______ x $50) =

**CONCEPT PLAN**

+ (_______ x $50) =

**OTHER**

+ (_______ x $50) =

**TOTAL**

\[ \text{Received #} 766 \]

\[ \text{Cash} \quad \text{Charge} \quad \text{Receipt # 533574} \]

**Review by/Comments:**

\[ \underline{\text{[Signature]}} \]

5. I/we read this completed application, understand its intent and freely consent to its filing. The information provided is accurate to the best of my/our knowledge. I understand that the County may approve, conditionally approve, or deny the request for which I am applying. Furthermore, I grant permission to the Department of Planning and Community Development and other authorized government agents to enter the property and make such investigations as they deem necessary to evaluate the request.

\[ \underline{\text{[Signature]}} \quad \underline{\text{[Signature]}} \]

**Owner Signature**

**Agent/Applicant Signature**

**Owner’s Name**

**Agent/Applicant Name**

**Date**

**Date**

\[ 3-4-19 \]

\[ \underline{\text{Note: An application shall not be deemed officially filed until all required plans, plats, fees and supporting documentation are submitted to this Department.}} \]