At a meeting of the Caroline County Board of Zoning Appeals held Thursday, January 10, 2019, located in the Community Services Center Auditorium, 17202 Richmond Turnpike, Milford, Virginia.

Present

W. Leo Satterwhite  
George Spinner  
Patricia Parker  
Joseph Pack  
Michael Crist  
David Rababy  
Janette Washington – Arrived late

Staff

David Nunnally, Sr. – Environmental Planner  
Craig Pennington, County Planner  
Lisa Zech, Admin. Assistant/Planning Tech.

1. CALL TO ORDER ORGANIZATIONAL MEETING

Lisa Zech opened the Organizational Meeting at 7:00 p.m., and called for nominations for Chairman for 2019.

Mr. Spinner nominated Mr. Satterwhite as Chairman for the Board of Zoning Appeals for 2019.

a. Election of Chairman

Mr. Spinner moved and Mr. Rababy seconded to nominate Mr. Satterwhite as the Chairman of the Board of Zoning Appeals for Calendar Year 2019.

Voting yea: Crist, Parker, Pack, Rababy, Spinner  
Abstain: Satterwhite

* Motion carries *

The meeting was turned over to Mr. Satterwhite as Chairman.

b. Election of Vice-Chairman

Chairman Satterwhite called for nominations for Vice-Chairman.

Chairman Satterwhite nominated Mr. Spinner for Vice-Chairman for 2019.

Chairman Satterwhite moved and Ms. Parker seconded to nominate Mr. Spinner as the Vice-Chairman of the Board of Zoning Appeals for Calendar Year 2019.

Voting yea: Crist, Parker, Pack, Rababy, Spinner  
Abstain: Spinner

* Motion carries *

c. Adoption of Rules of Order

Mr. Spinner moved and Mr. Rababy seconded to adopt the Rules of Order as presented for Calendar Year 2019.
Voting yea: Crist, Parker, Pack, Rababy, Satterwhite, Spinner

* Motion carries *

(Ms. Washington is in attendance)

d. Establish Dates and Times for Regular Board Meetings

Mr. Rababy moved and Ms. Parker seconded to adopt the Dates and Times for Regular Board Meetings as presented for Calendar Year 2019.

Voting yea: Crist, Parker, Pack, Rababy, Satterwhite, Spinner, Washington

* Motion carries *

e. Close Organizational Meeting

Mr. Rababy moved and Mr. Spinner seconded to close the Organizational Meeting.

Voting yea: Crist, Parker, Pack, Rababy, Satterwhite, Spinner, Washington

* Motion carries *

2. CALL REGULAR MEETING TO ORDER

Chairman Satterwhite closed the Organizational Meeting at 7:06 p.m. and called the regular meeting to order.

3. APPROVAL OF MINUTES (July 12, 2018)

Mr. Spinner moved and Mr. Rababy seconded to approve the Minutes of July 12, 2018 as presented.

Voting yea: Crist, Parker, Pack, Rababy, Satterwhite, Spinner, Washington

* Motion carries *

Chairman Satterwhite explained the procedure for the Public Hearing.

Mr. Rababy read the following declaration into the record:

“I, Dave Rababy, hereby publicly declare and disclose that I own a residence in Lake Caroline and I am employed as the Executive Manager of the community’s Property Owner’s Association. As such, I am employed by a business that may be directly or indirectly affected by the application for a variance that will be discussed at this meeting and voted on by the BZA. I further declare that I am able to participate in this discussion and vote, fairly, objectively, and in the public interest.”

PUBLIC HEARINGS:

4. V-03-2018 — Horstick, Jeremiah (CORELOT), Applicant; Fleming-Dahl, Arthur & Marie, Owner: Request a variance to Article XV, Supplemental Regulations, Section 4 (Accessory Building & Uses), Paragraph 3, on Tax Map #67A2-1-1177, consisting of 1.3 acres, more or less, zoned R-1, Low-Density Residential. This property is located at 306 Lake Caroline Drive, Lot 1177 Lake Caroline Development, Ruther Glen, Madison Voting District. Proposed Variance: To allow an accessory structure (detached garage) to be constructed in the front yard of a single family dwelling lot where it is prohibited.

Craig Pennington, Planner, gave the following Staff Report:
**Request**

The applicant is requesting a variance to allow a detached garage to be built in the front yard of the parcel on which a single family dwelling is located. Accessory structures are required by Section 4, Article XV of the Caroline County Zoning Ordinance to be located in the rear or side yard.

**Discussion**

The applicant is requesting a variance to allow a detached garage to be built in the front yard of the parcel on which a single family dwelling is located in the Lake Caroline subdivision.

The applicant would like to construct a detached garage for the storage of their personal vehicles and items to be stored. According to the survey provided by the applicant, there is RPA (Resource Protection Area) to the rear of the single family dwelling. Resource protection areas have a buffer of 100' that should not be encroached upon. There is also a steep slope that surrounds the dwelling as the land slopes towards Lake Caroline. The property is also hindered by the drainfield location on the property as a structure cannot be built above the drainfield. The applicant is proposing that the detached garage will meet all other setbacks for the property and is only requesting a variance for the structure to be located in the front yard.

The applicant has responded to the variance statements from the Caroline County Zoning Ordinance in a separate document which is attached.

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

(ii) 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;
(iii) 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

(iv) 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.

(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.

Chairman Satterwhite asked if Staff received any comment, written or oral, from any adjacent property owners.

Ms. Zech said no comments, written or oral, were received from any adjacent property owners.

Chairman Satterwhite asked if Staff received any comment, written or oral, from counsel to the County or the Board.

Ms. Zech said there were no comments, written or oral, received from counsel to the County or the Board.

Chairman Satterwhite declared the Public Hearing open on V-03-2018, Horstick, Jeremiah (CORELOT), Applicant; Fleming-Dahl, Arthur & Marie, Owner.

Jeremiah Horstick for CORELOT, Applicant, stated he would like to take the time to thank the Board and Staff for preparing and hearing their request this evening.

He said he has prepared a PowerPoint presentation; however, as he is sure that all members of the Board have reviewed their request, he would like to answer any questions initially and otherwise he will go straight to the PowerPoint presentation and show the Board what they have at 306 Lake Caroline Drive.

There were no questions and Mr. Horstick gave a PowerPoint presentation and said this is a vacant lot on the corner that is used by the community and there is water access there without any residents. He said above that you have the Fleming-Dahl property, which is a consolidated lot and so is a little bigger than the rest of the lots in the community. He said just to the side, front of the house, you can see where they are proposing putting the garage.

He showed the Board the latest survey of the property and the first thing he would like to note is the RPA line, which on this plat is a 110’ setback from the lake; however, the County’s line is 10 feet behind that. He said he drew a blue line to indicate where the steep slopes on the lot start from front to back, making it impractical to build on.

He stated on the right side of the house, there are drainfield components that would be prohibitive to building the garage and so they proposed the location in the farthest back, reasonably possible spot they could with the position to the front side of the house as indicated. He said this location is more than 90’ from the front of the property, well within the setbacks.

He showed the Board the As-Built on file at the Health Department, indicating the drainfield components on the left side of the house, looking at it from the front where, in actuality, the components are on the right.

He said driving around the community they found a couple of spots – three locations that they went into more detail in the report, with detached
garages located in the front yard. He said he believes some of these were located on Lake Caroline Drive.

He stated that was the end of his PowerPoint presentation.

He said their approach was to respond to the Ordinance with the requirements of what makes an acceptable variance and first of all, the homeowners purchased the property in good faith that they would be able to build a garage because they saw garages in the neighborhood in the front yard. He said this is not a substantial detriment to adjacent property owners given that it has the large vacant lot adjacent to the area that they are describing. He said also the property is not a general condition or situation because there are unique circumstances here which are uncommon and this is not then presented to Board of Zoning Appeals in the last three years as he can tell from the information that is available on the County’s website.

He stated the last two things, the granting of the variance does not result in the use otherwise permitted. He said this is a common use for a property to have a garage and the relief is only available through the Board of Zoning Appeals.

He said those are the high points of what he prepared and if any Board members have any questions, he is available and happy to answer them.

There were no other speakers for or against the request and Chairman Satterwhite closed the Public Hearing at 7:20 p.m.

Chairman Satterwhite invited the Applicant back to the podium to share any additional comments or to receive any questions from the Board before they begin deliberations.

Mr. Rababy asked Mr. Horstick the proposed dimensions of the garage.

Mr. Horstick said the garage would be 24 x 32.

Mr. Rababy said so basically, a two car garage.

Mr. Horstick said yes, it is a two car garage with a small area for pedestrian access.

Mr. Rababy asked if it was a single story garage and if anything was above the garage.

Mr. Horstick said it was single story and nothing above the garage. He said the homeowners intend to use the attic space in the garage as storage.

Mr. Spinner asked Mr. Horstick where the two garage doors would be located.

Mr. Horstick said the garage doors would face toward the house.

Mr. Spinner said he noticed that this was originally two lots and now it is one lot and asked Mr. Pennington if this has now been changed to just one lot.

Mr. Pennington said yes, they did a lot line vacation and created it as one lot.

Mr. Spinner said so it cannot be re-divided.

Mr. Pennington said that is correct. He explained that when you are inside of a major subdivision, once you lot line vacate, you cannot re-subdivide the property.
Chairman Satterwhite stated that he would simply offer a comment that it certainly appears there are unique, topographical characteristics to this property as well as site limitations, which gives them some degree of ability to consider.

Mr. Spinner asked Mr. Horstick what materials would be used to construct this garage.

Mr. Horstick stated they intend to use materials used on the house and will match the house.

Mr. Spinner asked if this was a stick built house with a garage.

Mr. Horstick said that is correct.

Mr. Rababy stated he was personally familiar with this area of the lake, being Executive Manager, and the terrain does steeply drop off where the home is located towards the lake. He said because of the location of the drainfield, there is really no other conceivable location to put a garage in, so he has no objections to the request for the variance.

**Mr. Rababy moved and Mr. Crist seconds to approve the request for the variance based on unique conditions of topographical characteristics of the lot as well as site limitations provided or contributed to by the drainfield.**

**Voting yea: Crist, Parker, Pack, Rababy, Satterwhite, Spinner, Washington**

* Motion carries *

**ANY & ALL MATTERS**

Ms. Zech advised the Board that Planning Staff has entered into their next year’s budget some monies to cover an attorney specifically for the BZA because the County Attorney can no longer represent the BZA due to a change in legislation.

Chairman Satterwhite said that was excellent news and he would ask if Staff could e-mail the BZA members if that is, in fact, approved and in what capacity.

Ms. Zech said yes, they would let the BZA members know. She said they will always have counsel if it is an administrative appeal for the BZA as in the past; however, this would be counsel for variance cases.

There were no other matters.

**ADJOURNMENT**

**Mr. Spinner moved and Mr. Rababy seconded to adjourn the Board of Zoning Appeals Meeting at 7:30 p.m.**

**Voting yea: Crist, Day, Deibel, Dyson, Horton, Satterwhite, Spinner**

* Motion carries *

Respectfully Submitted,

Michael A. Finchum
Director of Planning & Community Development