

The Smithfield Board of Zoning Appeals held its regular meeting on Tuesday, July 20<sup>th</sup>, 2021. The meeting was called to order at 7:30 p.m.

**Members present:**

Gregory Brown – Vice Chairman

Christopher Gwaltney

Gene Monroe

Tristan Barnes

**Members absent:**

Faye Seeley – Chair

**Staff present:**

Tammie Clary – Community Development & Planning Director

William H. Riddick III - Town Attorney

**Press:** -0-

**Citizens:** 4

Vice Chairman Brown called the meeting to order at 7:30 p.m.

The Town Attorney explained that it is the first meeting of the year. There is a new member who was appointed today by the Circuit Court, Tristan Barnes. She will be replacing Mrs. Bowden. Chair Seely was unable to attend the meeting. There are three positions to be filled; Chairman, Vice Chairman, and the clerk who transcribes the minutes. He recommended the Town Clerk, Lesley King, to be the Secretary. She and her department transcribe minutes for other Boards also.

**Election of 2021 Officers: Chairman:**

The Town Attorney opened the floor for nominations for Chairman of the Board of Zoning Appeals.

Mr. Gwaltney nominated Greg Brown.

The Town Attorney asked if there were other nominations. Hearing none, the nominations were closed. All in favor of electing Mr. Brown as Chairman say aye, opposed say nay.

On call for the vote, four members were present. Mr. Monroe voted aye, Mr. Gwaltney voted aye, Tristan Barnes voted aye, and Vice Chairman Brown voted aye. There were no votes against the motion. The nomination passed.

**Election of 2021 Officers: Vice Chairman:**

Mr. Gwaltney nominated Mr. Monroe. Chairman Brown seconded the motion.

The Town Attorney asked if there were other nominations. Hearing none, the nominations are closed. All in favor of electing Mr. Monroe as Vice Chairman say aye, opposed say nay.

On call for the vote, four members were present. Mr. Monroe voted aye, Mr. Gwaltney voted aye, Tristan Barnes voted aye, and Chairman Brown voted aye. There were no votes against the motion. The nomination passed.

**Election of 2021 Officers: Secretary:**

Chairman Brown nominated Lesley King and the nomination was seconded by Mr. Gwaltney.

The Town Attorney called for the vote for Lesley King as Secretary for the Board of Zoning Appeals.

On call for the vote, four members were present. Vice Chairman Monroe voted aye, Mr. Gwaltney voted aye, Tristan Barnes voted aye, and Chairman Brown voted aye. There were no votes against the motion. The nomination passed.

The Town Attorney turned the meeting over to the new Chairman, Greg Brown.

**Community Development & Planning Director's Report:**

The Community Development & Planning Director, Tammie Clary, reported that Summit Design & Engineering Services, PLLC, the Town consultants for the 2020/2021 Comprehensive Plan update, have developed a website to assist in providing transparency in the comprehensive planning process. The website is accessible via the following link: <https://smithfieldvacomprehensiveplan.com/>. A draft existing condition report and a draft summary report of the recent citizen survey are accessible via the link. We have surpassed our citizen participation target. Our consultants are currently working on a draft vision statement that has been posted on the comprehensive plan update website for feedback and are also working on Goals, Objectives and Strategies, and hope to have a preliminary draft for feedback soon. Town staff recently received a formal written complaint on the former Tastee Freeze located at 1400 South Church Street. A letter was sent via regular and certified mail on June 9<sup>th</sup>, 2021, in accordance with Section 22-2 "Removal or repair of dangerous buildings, spot blight abatement" of the Town Code. The owners have thirty (30) days from the date of the letter to respond with an abatement plan. Wednesday, May 12<sup>th</sup>, 2021 was Community Development & Planning Director John Settle's last day with the Town of Smithfield. In his absence, Tammie Clary has accepted the role of Community Development & Planning Director. Additionally, Joseph Reish, Planning Technician & Code Enforcement Officer, and Tammie Clary serve as the staff liaisons for the BZA. John will be missed greatly, and is leaving large shoes to fill.

**Upcoming Meetings and Activities:**

Monday, July 26<sup>th</sup> – 3:00 PM – Town Council Committee Meetings

Tuesday, July 27<sup>th</sup> – 3:00 PM – Town Council Committee Meetings

Tuesday, August 3<sup>rd</sup> – 6:30 PM – Town Council Meeting

Tuesday, August 10<sup>th</sup> – 6:30 PM – Planning Commission Meeting

Tuesday, August 17<sup>th</sup> – 6:30 PM – Board of Historic & Architectural Review Meeting

Tuesday, August 17<sup>th</sup> – 7:30 PM – BZA Meeting

**Public Comments:**

There were no public comments.

**Board Member Comments:**

Mr. Gwaltney asked if the Town sent a letter to Mrs. Bowden thanking her for her service on the BZA. He believes she had served two terms.

Vice Chairman Monroe stated that Mrs. Bowden had served for twenty years.

Mrs. Clary stated that she would let the BZA Secretary, Lesley King, know.

The Town Attorney explained that the letter would probably come from the Town Manager and the Mayor.

Chairman Brown welcomed the newest member of the BZA, Tristan Barnes.

**Public Hearing – Special Yard Exception Application – Lot 99 Smithfield Blvd. (TPIN: 22E-01—099), Daniel & Lori Welch, applicants:**

Mrs. Clary reported that the applicants have applied for a SYE for two various encroachments into the required (pursuant to Smithfield Zoning Ordinance (SZO) Section 3.B.F.2.A.1), thirty-five foot (35'), front yard setback. The first encroachment would be two feet, four inches (2'4"). The second encroachment is for seventeen feet eleven and a quarter inch (17'-11 ¼"). The encroachments total approximately 330 square feet and is constituted by a portion of the front corner of the proposed single-family dwelling, and the attached garage. Due to the large Resource Protection Area that encumbers this property, the only viable way to accommodate this proposed dwelling is to encroach into the front yard setback; therefore, staff recognized the obstacles present on this parcel and recommended the BZA make an accommodation for this parcel.

Mr. and Mrs. Welch, the applicants, were available for questions.

Vice Chairman Monroe stated that he looked at the property on Google Maps. He explained that the property is at the end of the cul de sac. No other neighbors would be affected. The applicant is not encroaching on the RPA. All liability would be on the applicant.

Chairman Brown asked if the vacant lot next to the applicant was a buildable lot.

Mrs. Welch explained that the lot has a 100' RPA that overlaps into the setback. There is negative buildable space. Several properties on the street have challenges for building.

Chairman Brown asked if there was any encroachment into the side yard setback.

Mrs. Welch indicated that they were not encroaching in the side yard.

The Town Attorney explained that the property is part of the Scotts Landing subdivision. It was built prior to the Chesapeake Bay Act rules. Had it been designed when the Chesapeake Bay Act has been adopted, they would have had to take into consideration all of the environmental limitations. The properties would have included a much larger buildable area. The applicant is faced with the dilemma to either ask for an encroachment into the 100' RPA or a SYE to encroach in the front yard setback. The BZA cannot give relief into the RPA. It would have to come from the Planning Commission. It is within the BZA's power to allow the encroachment into the front setbacks. It does not meet the same standard as a variance. It is a lesser threshold for relief.

Mrs. Welch stated that any encroachment into the RPA will not be allowed. She has spoken to many people who have verified that. It is simpler to encroach in the front than the back at the RPA.

Chairman Brown explained that if the road was a dead-end there would be no encroachment. Since the road is a cul de sac, it creates an issue with the setbacks since it sweeps out farther.

Mr. Gwaltney asked if the property was annexed into the Town of Smithfield.

The Town Attorney was not sure but thought the project had been approved by Isle of Wight County and then annexed.

Mr. Gwaltney stated that the majority of the building is inside the existing setbacks. Mainly, it is just the garage encroaching.

Mrs. Welch stated that it was only the corner of the garage that would encroach; not the whole garage.

Mr. Gwaltney cautioned the property owner that she is very limited in her back yard with the RPA.

Mrs. Welch stated that she was fully aware.

Mr. Gwaltney made a motion to approve the application as submitted. Vice Chairman Monroe seconded the motion. With no further discussion, Chairman Brown called for the vote.

On call for the vote, four members were present. Vice Chairman Monroe voted aye, Mr. Gwaltney voted aye, Tristan Barnes voted aye, and Chairman Brown voted aye. There were no votes against the motion. The motion passed.

Mrs. Welch stated that her paperwork says that the lot was platted in 1970. As the property owners, they just want to be able to build on it.

**Approval of the July 21<sup>st</sup>, 2020 Meeting Minutes:**

The Town Attorney stated that he had reviewed the summary minutes and recommended that they be approved as presented.

Chairman Brown made a motion to approve the minutes. Vice Chairman Monroe seconded the motion. Chairman Brown called for the vote.

On call for the vote, four members were present. Vice Chairman Monroe voted aye, Mr. Gwaltney voted aye, Tristan Barnes voted aye, and Chairman Brown voted aye. There were no votes against the motion. The motion passed.

Vice Chairman Monroe asked about the one meeting per year unless there was business. He thought it was to be in the beginning of the year.

The Town Attorney stated that terms expire on June 30<sup>th</sup>. The July meeting is technically the first meeting of the year.

Vice Chairman Monroe thought that was March. The last set of minutes say that Mr. Gwaltney's term expired in March of 2020.

The Town Attorney stated that, by court order, everyone's terms expire on June 30<sup>th</sup> unless someone fills an unexpired term of a member. There are five-year terms that expire on June 30<sup>th</sup>. Mrs. Bowden's term expired this year.

Vice Chairman Monroe explained that the BZA needs to make sure there is a meeting each July whether there is business or not.

Mr. Gwaltney asked if having a meeting in July had been decided previously.

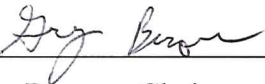
Mrs. Clary stated that the bylaws were updated to reflect an organizational meeting each July. It happened to be a coincidence that there was an application submitted for July.

The Town Attorney explained that if there had not been any business then there would have still been an election of officers organizational meeting.

Mr. Gwaltney asked if the BZA would be taking a photograph this evening.

Mrs. Clary stated that it had not been scheduled for tonight's meeting.

The meeting adjourned at 7:50 p.m.

  
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Greg Brown - Chairman

  
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Tammie Clary - Community Development  
& Planning Director