

Members:

George Quigley, Chairman
Ed Donaldson, Vice-Chair
Horace Humphrey
Melree Hubbard Tart
Joseph Dykes



Alternates:

Martin J. Locklear
Randy Newsome
William Lockett Tally
Carrie Tyson-Autry

Cumberland County Board of Adjustment

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

MINUTES
JUNE 16, 2011
7:00 P.M.

Members Present

George Quigley, Chair
Melree Hubbard Tart
Horace Humphrey
Joseph Dykes

Absent Members

Ed Donaldson (excused)

Staff/Others Present

Pier Varner
Melodie Robinson
Joan Fenley
Harvey Raynor (Deputy County Attorney)

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse.

1. ROLL CALL

Mrs. Varner called the roll and stated a quorum was present.

2. Chair Quigley swore in the staff.

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE APRIL 21, 2011 MINUTES

A motion was made by Mr. Humphrey and seconded by Mr. Dykes to approve the minutes as submitted. The motion passed unanimously.

5. ABSTENTIONS BY BOARD MEMBERS

There were none.

6. PUBLIC HEARING DEFERRALS

P11-03-C

MRS. VARNER: This case was going to be in the agenda for today but we found some irregularities in the site plan not matching with the information in the application. We asked the applicant to make the corrections so the case will be heard at the next board meeting in July.

CHAIR QUIGLEY: That should be sufficient. It was voluntary to withdraw it on the part of the applicant?

MRS. VARNER: We have to pull the case if the necessary requirements aren't met.

CHAIR QUIGLEY: Thank you.

7. BOARD MEMBER DISCLOSURES

There were none.

8. POLICY STATEMENTS REGARDING APPEAL PROCESS

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

9. PUBLIC HEARING(S)

Opened Public Hearing

- **P99-33-C:** REVOCATION OF A SPECIAL USE PERMIT (NEÉ SPECIFIED CONDITIONAL USE PERMIT) OF AN AUTOMOBILE WRECKING AND SALVAGE YARD, IN A C(P) PLANNED COMMERCIAL AND R6A RESIDENTIAL DISTRICTS ON A 2.75 +/- ACRE PORTION OF A 3.16+/- ACRE TRACT; LOCATED AT 1989 WILMINGTON HWY (SR 2337); GRADY AND CHESTINE ADAMS (OWNER)

Mrs. Varner presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: Mr. Chairman, this case was approved on January 20, 2000 with conditions. It used to be called a Specified Conditional Use Permit and is now called a Special Use Permit. Under the current Zoning Ordinance, the automobile wrecking and salvage yards use is now referred to as motor vehicle wrecking yards and junkyards and is not an allowed use in the C(P) Zoning District, but was an allowed use in the previous Zoning Ordinance. Since the Special Use Permit runs with the land, this use could be illegal and non-conforming. However, the use is inactive at this time and tonight the staff is requesting the revocation of this approved Specified Conditional Use Permit. Also, a certified letter was mailed to the owner on June 2, 2011 and was received by the owner on June 3, 2011 at the property that is listed on the tax sheet.

MRS. VARNER: Ms. Joan Fenley is the Code Enforcement Officer and she is available for any questions.

CHAIR QUIGLEY: Does any member of the Board have questions for staff?

MR. DYKES: Is this property located on 87 South, towards Wilmington?

MRS. VARNER: It is called Wilmington Highway what used to be the Old Wilmington Road.

CHAIR QUIGLEY: It is down the road from the PWC Campus. Is it vacant now?

MRS. VARNER: Yes sir.

CHAIR QUIGLEY: So the impact of what we decide would inhibit the present owner of the property from selling it to someone else who wanted to use it for that purpose?

MRS. VARNER: The use runs with the land and if somebody comes along and puts in a business such as a wrecking yard, it would be an illegal non-conformity use because according to the Zoning Ordinance, it is not allowed.

CHAIR QUIGLEY: No one is signed up to speak in favor or in opposition to this particular action. What we are looking at is to revoke this so we can bring the property into compliance with code.

MR. HUMPHREY: The code is changed from what it was and it has changed while the property is vacant?

CHAIR QUIGLEY: That is correct.

MR. HUMPHREY: I assume the property has been vacant for a while, is that correct?

MR. RAYNOR: The property has never been used for this use, has it?

MS. FENLEY: Not that I'm aware of.

CHAIR QUIGLEY: Do I have a motion?

MR. HUMPHREY: I motion that we revoke the previous zoning code.

MR. DYKES: I second the motion.

CHAIR QUIGLEY: It's been moved and seconded that we revoke the Special Use Permit that was issued on January 20, 2000 as a Specified Conditional Use Permit for the property in question. Are there any discussion? All in favor signify by saying aye.

The motion was unanimous. There was no opposition

<u>IN FAVOR</u>		<u>OPPOSITION</u>
QUIGLEY	YES	None
TART	YES	
HUMPHREY	YES	
DYKES	YES	

- **P11-04-C:** CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1102, YARD REGULATION, SUBSECTION C, FENCES AND WALLS, IN A R10 RESIDENTIAL DISTRICT ON 0.28+/- ACRES, LOCATED AT 604 CYPRESS POND DRIVE; SUBMITTED BY KEVIN C. AND AMANDA M. JEFFERY (OWNERS).

Mrs. Varner presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: I'm going to read the subsection of the Zoning Ordinance in regards to fences and walls. It states: "County Zoning Ordinance Section 1102 Yard Regulation, Sub-section: C. Fence and Walls: The setback requirements of this ordinance shall not apply to any retaining wall. Open fences and walls may be erected to any height. Solid fences and walls shall be limited to three feet in height when projecting into or enclosing a minimum front yard and shall be limited to seven feet in height when projecting into or enclosing a minimum side and/or rear yard. When a corner lot follows two front yard setbacks, as determined by the Coordinator, a solid fence or wall greater than three feet in height, but not exceeding seven feet in height, may not be erected within 20 feet of the right-of-way on the street deemed the secondary front yard by the Coordinator. The street on which the house is addressed is usually considered the primary street on which the house must follow the full front yard setback unless otherwise determined by the Coordinator."

MRS. VARNER: Joan Fenley, the Code Enforcement Officer, who issued the notice of violation, is here to answer questions related to these violations.

MRS. TART: Could you go back to the picture of the house. In the original plans, the house should have been fronting on Cambric Drive?

MS. FENLEY: On corner lots, the builder does have the option of placing the lot fronting on either street. The coordinator in this particular situation determined that the front yard setback was on Cambric Drive because of the continuity of the cul-de-sac area. Even though they chose to face the house towards Cypress Pond Drive, the continuity of the cul-de-sac was where the determination for the front yards were in this particular case and it was based on lot design. He did have the option of placing the house facing Cypress Pond Drive or Cambric Drive.

MRS. TART: So actually in this situation, if the homeowner builds a fence on the allowable side, it would be on the front side of this particular property as you view it?

MS. FENLEY: Yes, his allowable fence could come out and go across the front of his front yard.

MRS. TART: But he could not go down his side yard?

MS. FENLEY: Correct. But, it is actually his front yard.

MRS. TART: I understand now.

CHAIR QUIGLEY: I find it interesting that the property line is encroaching on someone else's driveway. I'm looking at one house out of six that were placed facing in a contrary direction to the other houses in that particular development?

MS. FENLEY: Actually two, the property at 568 is a long house but they placed the front door on the Cypress Pond side, but they designed the house to follow the contours of the cul-de-sac.

CHAIR QUIGLEY: So there are two houses that have front doors that face Cypress Pond Road and the others face the cul-de-sac?

MS. FENLEY: Correct.

MRS. TART: Why would you allow a builder to build a house in this position? I know you mentioned that they have an option.

MS. FENLEY: The Code allows for them to place structures as long as they meet the setbacks in any manner that they choose. This happens to be a zero lot line subdivision and that was the way they chose to lay out these houses. The design of the plat made these two particular houses at 568 and 604 a bad placement based on how they designed them. But again, the Code allows them to put structures as they desire as long as they meet the Code.

MRS. VARNER: Mrs. Tart, perhaps the applicant can answer you and give you more background about this house.

MRS. TART: So if they had put an address of Cypress Pond, he would have a side door, even though he is encroaching, I understand that. If you make him use what is basically the front of his yard, he really has nowhere for privacy.

CHAIR QUIGLEY: Mrs. Tart, I don't think the fence is encroaching on anybody else's property. It is in violation of the setback.

MRS. TART: If he had another address.....

MS. FENLEY: It would not have changed the setback requirements for the fence.

CHAIR QUIGLEY: So the backyard is in the eye of the beholder on the property.

MS. FENLEY: Correct. I'd like to also point out that one of the reasons why this piece of property was brought to our attention was that the fence was placed without permits. If permits were issued the situation would have been addressed prior to obtaining the permits.

CHAIR QUIGLEY: It does not appear in looking at the photos [referring to the onscreen presentation] that the fence is blocking visibility of the stop sign on the corner. Is that true?

MS. FENLEY: No, it is not sir.

CHAIR QUIGLEY: Does everyone see what I mean? I don't think that would be a problem for anyone's visibility exiting Cambric Drive east or west. We do have people signed up to speak in favor. I don't see anyone signed up to speak in opposition. Is either of the owner's here?

Chair Quigley swore in Sharon Tucker.

MS. TUCKER: My name is Sharon Tucker and I am an attorney in Fayetteville and I work at Thorp, Clarke and Neville. I live at 1544 Laurel Oak Drive, Fayetteville.

MS. TUCKER: I just wanted to say that we are here in good faith and we are requesting that the Board allow Mr. Jeffery to keep his fence in place. To my knowledge, there is no one here to oppose this request; in fact we have someone here who approves of it and the neighbor is fine with keeping the fence there. As we saw in the pictures, Mr. Jeffery's house is located on a corner lot and his address is addressed as Cypress Road and his front door faces Cypress Road. The Code Enforcement Officer has determined that his side yard should be considered his primary front yard for purposes of this Ordinance. I would present that a straight interpretation of this Ordinance would deny him a reasonable use of his property and a backyard for the safety of his children. He has a dog that he would like to keep enclosed in the backyard. A strict enforcement of this Ordinance would deny him of that right. I think every homeowner should be entitled to a backyard. The problem here is the development itself, which Mr. Jeffery has no control over. Requiring him to strictly comply with this Ordinance would cut his yard in half. The fence would be placed in the middle of his yard and we have pictures that I want to hand out later that would demonstrate that. This fence also protects other children in the neighborhood. He has a hot tub and a dog and it allows for the dog to be enclosed in that area. It is a safety issue as much as it is a private issue. The key point is that Mr. Jeffery didn't have control over the way the lot was developed. It's awkwardly shaped and it really creates an unnecessary hardship on him because his lot is placed around a curve of the cul-de-sac; but yet his front yard and his front door are placed on the opposite side of the road. Most of the other houses in the neighborhood do not have the same problem and are not faced on a curve of the cul-de-sac. This is a problem that is peculiar to his property. There are other neighbors in the neighborhood who are not complying with the setback requirements of the Ordinance and we also have pictures to show that as well. One of the reasons the fence is up now is because his backyard essentially runs into his neighbor's driveway. From one of the pictures that were shown before, you can see that Mr. Caldwell's driveway is right there on the back line [pointing to the presentation]. The fence runs like this and it allows him some privacy so that he is not staring into his neighbor's driveway. The main thing here is the fence is necessary for his reasonable use of his property. The layout of the property was caused by the developer, it wasn't caused by him, he just bought it. It provides him privacy, it gives his dog an enclosure and his daughter can go outside and play in the yard without the safety problems of not having a fence there. Without this fence, he's not going to have much of a backyard. It actually enhances the property value. An alternative would be to put up a chain link fence which would not fit with the overall scheme of the neighbor and it would not look as good because all of the other houses have the solid privacy fence. There is no one here that is opposed to the solid privacy fence; in fact, they are all in favor of it. We simply request that Mr. Jeffery be allowed a variance from this Ordinance.

CHAIR QUIGLEY: Does anyone on the Board have questions for Ms. Tucker?

MR. HUMPHREY: I have a question for the Code Enforcement Officer. There is a concern about the height of the fence. The fence is in violation because of the height, is that correct?

MS. FENLEY: Yes, that is correct.

MR. HUMPHREY: So if they lower the fence, they would still be in violation?

MS. FENLEY: No, if they lowered the fence in the area that is beyond the required setback, it would no longer be in violation regarding the height.

MR. HUMPHREY: So, by lowering the fence, they would be okay?

MS. FENLEY: No, they have two violations, height and the setback.

MR. HUMPHREY: The permit should have been issued before the fence was erected, is that correct?

MS. FENLEY: Correct.

MR. HUMPHREY: Does that fall on the fence company or the property owner?

MS. FENLEY: It ultimately falls on the property owner to make sure they are adhering to the law, which would be to obtain a permit.

MS. TUCKER: If I could respond, I'm not aware of any requirement of a permit to place a fence on a residential lot. I've reviewed the County Ordinances.

MRS. VARNER: Chair Quigley, we do have the section in regard to fences, regardless if it is residential and non residential use. We have a regulation for fences. It is Section 1102 Yard Regulation – Sub-Section C. Fences and Walls. This section of the Ordinance applies for fences and in this case this residence is located on a corner lot and it refers that whenever you have to place a fence in a corner lot, it stipulates the setbacks.

MS. TUCKER: I guess in my reading of that section, I don't see a requirement of applying for a permit.

MS. FENLEY: The requirement for taking out permits is not in that specific section, it is covered as a generality in another part of the administrative section of the Code.

MS. TUCKER: In response to the question of the fence height. Because of the nature of this fence, it is a solid fence and Mr. Jeffery would have to cut the fence to a 3-foot height. He would almost have to take the fence off completely. Other neighbors have this too, it is the scheme of the neighborhood, the 6-foot high privacy fence that encloses the yard and provides privacy to him and his family. We are asking for the variance to allow the fence to stay.

CHAIR QUIGLEY: Who is the property immediately to the north of the subject property? Is that the Caldwell property?

Chair Quigley swore in Samuel Caldwell.

MR. CALDWELL: My name is Samuel Caldwell; my address is 2806 Cambric Drive, Hope Mills. My property is adjacent north of Mr. Jeffery's property. I am in favor of the fence. It does follow the scheme of the entire neighborhood. The fence also provides some privacy for me, blocks my vehicles from being seen from the main road, Cypress Pond Drive and also Pioneer Drive, which is the south road of Cypress Pond Drive.

CHAIR QUIGLEY: Are there any questions for Mr. Caldwell? It appears he has no objection to the fence bordering his property line. Is that correct, Mr. Caldwell, you have no objections?

MR. CALDWELL: I have no objections.

CHAIR QUIGLEY: Are there any questions? Thank you very much.

Chair Quigley swore in Martin Johnson.

MR. JOHNSON: My name is Martin Johnson; I live at 567 Cypress Pond Drive, Hope Mills, NC 28348.

CHAIR QUIGLEY: Which property is yours Mr. Johnson?

MR. JOHNSON: My property is the one that is just off the bottom of the page, southeast.

CHAIR QUIGLEY: You are across Cypress Pond Drive?

MR. JOHNSON: Yes sir.

MR. JOHNSON: I am in favor of leaving the fence the way it is because as already stated by both previous parties, it falls in with the overall aesthetic of the neighborhood and then considering where the house is located. I understand what the variance is stating. Obviously, we can also see the front of the house and that what is deemed to be the front of the house in terms of what the plans is is not actually what it is. Also, with the overall property value decreasing in the area, we as homeowners in the area need to do some things that would help increase our property values. So, I am in favor of leaving the fence.

CHAIR QUIGLEY: Does anyone have any questions?

MR. HUMPHREY: Do you have a fence around your property?

MR. JOHNSON: It is not completely joined, but not exactly like his, so you have the separation between the two.

MR. HUMPHREY: Is it the same height as that one?

MR. JOHNSON: Yes sir.

MR. HUMPHREY: Thank you.

Chair Quigley swore in Anthony Watson.

MR. WATSON: My name is Anthony Watson, my address is 2808 Carabic Court. You can see the back of my house in this photo, over to the far right. [pointing to the presentation] I'm in favor of the fence. I have a fence too. When I was talking to the inspector, he was informing me about why the fences have the zoning and the way they need to be erected and he showed me the regulation. I did not see anything in there that stipulated a cul-de-sac. This gentleman lives in a cul-de-sac which is here [pointing to the presentation] and I live in a cul-de-sac which is on the other side. This street is a dead end. [pointing to the presentation]. Another reason he stated is you cannot see oncoming cars coming down the main road when someone is coming out of the area. Both sides are dead ends and there is no way to put that street to go all the way through because there is a house at the end of the dead end road. You can see vehicles approaching or coming out from the cul-de-sac from the stop sign. He sits back and all the rest of the houses sit back far enough that there is no danger of not being seen when you come up to the stop sign.

CHAIR QUIGLEY: You are not opposed in any way that there is a fence on that property?

MR. WATSON: No.

MR. HUMPHREY: What type of fence is it, the same as his with the same type of construction? Is it metal or wood?

MR. WATSON: Mine is white and it is vinyl.

CHAIR QUIGLEY: Ms. Tucker, do you have any other comment?

MS. TUCKER: Mr. Jeffery, the owner of the property is here to speak.

Chair Quigley swore in Kevin Jeffery.

MR. JEFFERY: My name is Kevin C. Jeffery, I live at 604 Cypress Pond Drive, Hope Mills. As far as my argument, everybody has basically made it for me. I am ultimately at fault as far as the fence and the variance request. I hired a contractor from Fayetteville who is a licensed contractor by the State. The construction crew came out and specific questions were asked; how far can I go out and how tall can my fence be? They came back days later and said they checked on it and I did not require a permit because I am on County property, not city property and my fence could go directly out to the property line. According to the general scheme of the neighbor, that is what I believed because everybody's fence in the area followed the exact same type of look. I have pictures of everything; my house and pictures of the neighborhood. There are pictures that would show how small my yard would become if we had to move the fence back to what the designated setbacks are according to the Ordinance. As you can see, it actually runs inside the back corner of my house, so it would cut it down to nearly nothing.

CHAIR QUIGLEY: We will consider your pictures, recognizing that the only pictures that can be introduced as evidence here are pictures of the subject property.

MR. JEFFERY: Also, I have statements from two other property owners. One is Ms. Andrea Cooper and she couldn't be here tonight because she had a function at school with her daughter.

CHAIR QUIGLEY: You can introduce them but we cannot accept them without the person being present.

MR. JEFFERY: I'll just say she is totally in support of it and she is the corner lot directly to the east of my property. I actually have pictures of her property. She was forced to move her fence due to a violation of the Ordinance and I don't know if the rest of the neighborhood would agree, but I agree that her fence looks ridiculous because it was moved and it is so skewed because of the direction of the cul-de-sac. She is unable to sell her house because of it and is forced to rent it because it has reduced the property value so much. I also have another letter from Martin and Laja Johnson. She rents it to her daughter and son-in-law. She doesn't live in the state but I have a letter from her in favor of the fence due to property values.

MRS. VARNER: Mr. Chairman, the neighbor that he is talking about, she was aware of the right to submit an application for a variance. She came to the office and we gave her the application.

MR. JEFFERY: Her husband is on orders to move and that is why she didn't have the time or the resources to do a variance request while in the process of trying to sell her house.

Mr. Raynor reviewed Exhibit A [pictures of Mr. Jeffery's house] and Exhibit B [pictures of the other homes in the neighborhood] and said they needed to be submitted as evidence.

MR. JEFFERY: According to these photos, where I have placed these pieces of wood, if we were to move this section of the fence and place it in where the ordinance allows, it would actually be inside the back corner of my property and would reduce the yard to nearly nothing.

MR. RAYNOR: Mr. Chairman, Mr. Jeffery would also like to submit Exhibit C [statements from Mrs. Andrea Cooper, Mrs. Laja Johnson and Mrs. Gwendolyn Gaines]. You may want to make a limit on that.

Mr. Raynor passed Exhibits A, B and C to the Board members to review.

Chair Quigley asked Mr. Jeffery to point again to the Cooper house.

CHAIR QUIGLEY: I rule that the Exhibit C [statements] is admissible, but admissible only as statements; not as sworn testimony. Does the Board have any questions for Mr. Jeffery?

MR. HUMPHREY: How did your follow-up with the fencing contractor go?

MR. JEFFERY: He was difficult to work with as a contractor. The follow-up really didn't go any better because they still have not fixed part of my gate that was ruined. He also isn't living in this state; he is just managing his company from another state. From my understanding, he is also dealing with other legal issues with his construction company in North Carolina while he is living out of state. He doesn't like to answer phone calls. It took me a week just to get his license number.

Public Hearing Closed

CHAIR QUIGLEY: What we're faced with is clearly a violation. However, it does not appear that any neighbors are objecting to the violation. That is what our case is hindering on.

MR. HUMPHREY: It seems like the owner is between a rock and a hard place. He hired a contractor to put it there and now it is in violation, so where does he go from here? I have some real concerns on what he would do.

MRS. TART: I think the bottom line is the design of the whole subdivision as far as this particular cul-de-sac and the positioning of the house. It really does present a unique situation as far as whoever owned that property having a fence that would enclose any appreciable amount of the land.

CHAIR QUIGLEY: The situation is equity to the homeowner by changing the geometry of his backyard or usable space.

MRS. TART: There has been testimony that there are several homes in this particular development that are in violation of our fence ordinance, are they being pursued?

MS. FENLEY: Yes, I have cases on three properties in the neighborhood, this being one of them.

MR. HUMPHREY: Does that mean we could possibly see other cases coming to this Board about this same type of situation?

MS. FENLEY: Currently, I have not had contact with the other cases. They have not contacted me. At this point, the next step in those particular cases would be Environmental Court unless they chose at some point to do as Mr. Jeffery's did and file a request for a variance.

MR. DYKES: I have not heard any opposition, all the testimony has been in favor of the case. If someone opposes it in the future, will this case come back before the Board?

CHAIR QUIGLEY: No.

MR. HUMPHREY: It's a tough call, but a decision has to be made. I understand the property owners' concern, but we also have the County Code. My concern is that you said there are several others in the same situation which could end up here, but we have to deal with what is before us and not the other possibilities.

Mrs. Tart made a motion, seconded by Mr. Dykes to grant the variance based upon the following conclusions:

1. It is the Board's **CONCLUSION** that, there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district. This finding is based on the following **CONDITIONS:**

The position of the house and the front of the house makes it very difficult to conform to the Ordinance as it now exists;

2. It is the Board's **CONCLUSION** that granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located. This finding is based on the following **CONDITIONS**:

Testimony by other residents of the neighborhood;

3. It is the Board's **CONCLUSION** that the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. This finding is based on the following **CONDITIONS**:

The size of the lot and the way the neighborhood was laid out;

4. It is the Board's **CONCLUSION** that, if granted, the requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This finding is based on all of the **CONDITIONS** listed above, as well as the following:

No one spoke in opposition. Those who spoke in favor are in close proximity to the house and therefore, they feel that they would not be injured;

5. It is the Board's **CONCLUSION** that the special circumstances are not the result of the actions of the applicant. This finding is based on all of the **CONDITIONS** listed above as well as the following:

He was depending upon a contractor who was not acting in accordance with the statues and the Ordinances of Cumberland County;

6. It is the Board's **CONCLUSION** that the variance requested is the minimum variance that will make possible the legal use of the land, building or structure. This finding is based on the following **CONDITIONS**:

The position of the house as it rest on the lot and the fact that he would not have any yard that he could enclose as it now sits;

7. It is the Board's **CONCLUSION** that the variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries. This finding is based on the following **CONDITIONS**:

This variance request will not change the boundaries of the land, it will only change the setbacks that are required and the height of the fence; and

8. It is the Board's **CONCLUSION** that the existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of this requested variance. This finding is based on the following **CONDITIONS**:

This decision was not based on the existence of any nonconformity in the area.

CHAIR QUIGLEY: I've got a motion that has been properly seconded to grant the variance. Is there any other discussion? All in favor signify by saying aye.

The motion passed unanimously. There was no opposition.

IN FAVOR		OPPOSED
<u>QUIGLEY</u> :	YES	None
<u>TART</u> :	YES	
<u>HUMPHREY</u> :	YES	
<u>DYKES</u> :	YES	

10. DISCUSSION

MRS. VARNER: Mr. Donaldson asked if we could request additional information from the applicants who apply for the Board of Adjustment vacant positions. We will ask the applicants and inform them the request is voluntary. If the applicants agree to provide additional information, we will provide the information to the Board.

CHAIR QUIGLEY: There is an application.

MRS. VARNER: Yes, there is a standard application.

11. UPDATES(S)

CHAIR QUIGLEY: We have a correction to the January 20, 2011 minutes on page 4. When the minutes were finalized, a maximum fine of \$40,000 was typed into the minutes, but the actual maximum fine is \$4,000. I'll accept a motion to accept the change of the January 20, 2011 minutes.

Mr. Humphrey motioned and it was seconded by Mr. Dykes. The vote was unanimous.

12. ADJOURNMENT

There being no further business, a motion to adjourn was made by Mr. Humphrey and seconded by Mr. Dykes. The meeting adjourned at 8:20 pm.