



Casey B.
Armstrong
Director

COUNTY of ROCKINGHAM
Department of Community Development

Board of Zoning Appeals

March 1, 2016

4:00 P.M. Training Session

6:00 P.M. Call To Order

Pledge Of Allegiance And Invocation- Henry Lily

Approval Of Minutes

1. Minutes From November 4, 2015

Documents: [11-4-15.pdf](#)

Public Hearing

1. Zoning Variance

a. VAR16-028

Crossroads Farm LLC, PO Box 218, Penn Laird, 22846 requesting an increase in the road grade from 10% to 16% in one section of the subdivision located on the north side of Shen Lake Drive (Route 689) approximately 930' west of Woods Road (Route 686), zoned R-5. Election District #3. Tax Map #126-(A)-24

Documents: [Administrators Report.pdf](#), [Application.pdf](#), [GIS map.pdf](#),
[Layout.pdf](#)

Unfinished Business

Miscellaneous

Adjournment

20 E. Gay Street Telephone (540) 564-3030 PO Box 1252
Harrisonburg, VA 22802 Fax (540) 564-2922 Harrisonburg, VA 22803

Web Site: www.rockinghamcountyva.gov

Board of Zoning Appeals

MINUTES

November 4, 2015

The Rockingham County Board of Zoning Appeals met on Wednesday, November 4, 2015 in the Board of Supervisors Room in the Rockingham County Administration Center. Members present were Chairman Larry Bowman, Mr. Jon Ritenour, Mr. Henry Lilly, and Mr. Charles Dean. Staff members present were Zoning Administrator, Diana Stultz; Code Compliance Officer, Kelly Getz and Secretary Amanda Thomas.

At 6:02 p.m., Mr. Larry Bowman called the meeting to order.

Chairman Bowman offered the Pledge of Allegiance and Invocation.

MINUTES

On motion by Mr. Lilly and seconded by Mr. Ritenour, the September 1, 2015, minutes were approved with a 4-0 vote.

ELECTION OF OFFICERS

Mr. Dean motioned for the Board of Zoning Appeals to elect Mr. Bowman to Chairman; Mr. Ritenour seconded the motion.

On a vote of 4-0, the Commission elected Mr. Bowman to Chairman.

Mr. Dean motioned for the Board of Zoning Appeals to elect Mr. Harvey to Vice Chairman; Mr. Bowman seconded the motion.

On a vote of 4-0, the Commission elected Mr. Harvey to Vice Chairman.

Chairman Bowman appointed Amanda Thomas to secretary of the Board of Zoning Appeals.

ZONING VARIANCE

Chairman Bowman presented the request.

VAR15-249 Gerald & Judy Messier, 2251 Airport Road, Bridgewater 22812 requesting a side yard variance from 15' to 5' for an existing storage building on property located on the southwest side of Airport Road (Route 727) approximately 1 mile east of Warm Springs Pike (Route 42), Election District #4, Zoned A-2. Tax Map #136-(A)-58

Mrs. Stultz presented the background information of the property.

At 6:13 p.m., Chairman Bowman opened the public hearing.

Mr. Messier, the applicant, stated that he purchased the property in 2005 and at the time had the need for a larger detached garage. Mr. Messier hired a contractor by the name of Russ Showalter. Mr. Showalter applied for a building permit, but was unable to be listed as the contractor due to having only a Class C license. Mr. Messier was living out of the area at the time, and chose to list himself as his own contractor, but allow Mr. Showalter to do the work. It was not until a month prior that Mr. Messier was informed, by a realtor, that the building was too close to the property line. Mr. Messier stated that he was unaware for the last ten years that he was encroaching on the neighboring property. He also stated that there were no records kept, either by him or the Community Development Department. Mr. Messier stated that there was a permit issued and there were inspections that were done by County employees, but no one mentioned that it was too close to the property line. The property line itself, had a tree line and was easy to spot. Mr. Messier stated that the building was finished in 2006.

Mr. Ritenour questioned if the contractor had surveys done. Mrs. Stultz stated that surveys were not required at that time. Mrs. Stultz added that building inspectors only inspect the building itself. They do not know what setbacks need to be met.

Mr. Messier questioned if the County sent anyone out to check the setbacks. Mrs. Stultz stated that the County does not check setbacks at the property itself. It is the responsibility of the applicant and/or contractor to provide the correct information.

In response to a question by Mr. Dean, Mr. Messier stated that the lane beside his property is owned by a Mr. Tim Shifflett. Mr. Messier stated that he has had a good relationship with both of his adjoining neighbors and that they do not mind the encroachment.

At 6:23 p.m., Chairman Bowman closed the public hearing.

Mr. Dean questioned if there would be a hardship with trying to sell the property. Mr. Messier stated that he was unsure that it would be a hardship until his realtor pointed out the possible encroachment. Mr. Messier stated that he has had two contracts fall through to this point, including a contract by Mr. Tim Shifflett.

Mr. Ritenour questioned if it were a possibility to purchase enough land from the adjoining landowners to meet the setbacks. Mr. Messier stated that he had previously tried to purchase land from Mr. Shifflett to straighten out the property line, which would have taken care of one setback. The other adjoining property owner is not likely to sell any property due to a large

underground tank. Mr. Messier stated that he does not think the adjoining landowners would be willing to sell any property.

Mr. Ritneour stated that with staying inside of the bounds of the law, there are no options but to deny the request.

Mr. Ritenour motioned for the Board of Zoning Appeals to deny the proposed variance; Mr. Dean seconded the motion

On a vote of 4-0 the Board of Zoning Appeals denied this variance.

UNFINISHED BUSINESS

There was no Unfinished Business.

MISCELLANEOUS

There were no Miscellaneous items.

ADJOURNMENT

At 6: 30 p.m., having no further business, the Board of Zoning Appeals adjourned.

Mr. Larry Bowman, Chairman

Amanda Thomas, Secretary

ZONING APPEAL STAFF REPORT
BZA# VAR16-028

APPLICANT: CROSSROADS FARM LLC
ADDRESS: PO BOX 218
PENN LAIRD, VA 22846

AMOUNT OF LAND: 70+/- IN UNDEVELOPED PORTION ZONING: R-5
TAX MAP NO.: 126-(A)- L24
DESCRIPTION: (existing use of property) according to tax records:
Planned neighborhood subdivision

HISTORY: The subject property was rezoned to R-5 in 1999 with further master changes made following that. At the time of the rezoning the 10% grade was not a factor. However, over the years, Codes have changed, and the applicants, who are not the original owners, are attempting to finish up the subdivision. However, under current Codes, no road shall have more than a 10% grade.

REQUEST: Applicant requests a variance to Section 17-701.03(b) to increase the road grade from 10% to 16% which would have been permitted under the Code when the development was begun.

FACTORS:

1. The development was started under a Code that did not require the maximum 10% grade.
2. Applicants were not the original developers so they have purchased a parcel of land that had this problem.
3. The variance, if approved, provides additional ingress/egress for Emergency Services.
4. Emergency Services has expressed they have no problem with this request.

THINGS TO CONSIDER:

1. Is there a topographical hardship?
2. Is this request a necessity or is it a convenience to the applicant?
3. Is this a self-imposed hardship brought about by the applicant?
4. Does the applicant have an alternative that could be used which would bring the property into compliance with the law?

POINTS TO REMEMBER:

1. **THE BURDEN OF THE PROOF IS ON THE APPLICANT. IT IS NOT UP TO THE BOARD TO FIND A WAY TO GRANT THE VARIANCE. IT IS UP TO THE APPLICANT TO PROVE TO THE BOARD WHY THE VARIANCE SHOULD BE GRANTED.**
2. **THE BOARD SHOULD BASE ITS DECISION ON THE EVIDENCE PRESENTED TO IT.**
3. **FINANCIAL HARDSHIP CANNOT BE THE SOLE REASON USED FOR GRANTING A VARIANCE.**
4. **THE CRITERIA SET ASIDE BY THE STATE OF VIRGINIA FOR GRANTING A VARIANCE MUST BE MET. IF THAT CRITERIA CANNOT BE MET, THE VARIANCE SHOULD NOT BE GRANTED.**

**ROCKINGHAM COUNTY
ZONING VARIANCE APPLICATION**

FOR OFFICE USE ONLY

FEE: \$350.00

DEADLINE DATE: _____

RECEIPT # _____

HEARING DATE: 3/2/14

DATE REC _____

TAXES PAID _____

BZA # VAR16-028

APPLICANT: CROSSROADS FARM LLC

ADDRESS: PO BOX 218; PENN LAIRD, VA 22846

CONTACT PERSON: SETH RODERICK, P.E. (Owner's Agent / Engineer) Daytime No. (540)434-6365

Address: VALLEY ENGINEERING; 3231 PEOPLES DRIVE; HARRISONBURG, VA 22801

LOCATION: (N S E W) side of Road Name SHEN LAKE DRIVE (Route Number) 689
approximately 930 miles (feet) (N S E W) of Road Name WOODS ROAD (Route
Number) 686 in the CENTRAL Magisterial District, Election District # 3.

TAX MAP # 126-(A)-L24 ZONING: R5 ACRES: 70+/-

TO THE BOARD OF ZONING APPEALS:

I (We) respectfully request that the Board of Zoning Appeals decide our appeal for a variance. This appeal is for a variance to the Rockingham County Code and is relative to the: Area, Sidyard, Height, Use, Parking or x Other (specify other) 10% STREET GRADE LIMIT provisions of the Code; specifically

I (We) request to be allowed to use a maximum street grade of 16%, which conforms to VDOT standards, in the design of Frederick Road extension in the next phase of the Crossroad Farm Estate subdivision. This request is a variance of §17-701.03.(b), which limits private streets to a 10% maximum street grade.

for the following reason(s): (1) The Master Plan for this development was approved prior to the ordinance change limiting the street grade to 10%. (2) The proposed street will tie into existing streets at both ends, which limits the design grades of the proposed street. (3) A 10% grade would create extremely steep slopes for a portion of the new lots, which would render them unusable.

A previous appeal on this (has has not) been filed on this property. My (Our) interest in this property is as owner, lessee, contract purchaser).

VALLEY ENGINEERING

Owner's Agent / Engineer

By: [Signature] SETH RODERICK, P.E.

(SEE OTHER SIDE)

ADDITIONAL DETAILS REQUIRED WITH APPLICATION:

Attach a drawing on 8 1/2" x 11" plain paper showing the following:

- A. Size and Shape of property.
- B. Location of proposed or existing building - distance from public highway/street and from adjoining property.
- C. Size and shape of proposed or existing building.
- D. Show other buildings, driveway, septic, etc. located on the property.

NAMES AND COMPLETE MAILING ADDRESSES (USE E-911 ADDRESSES) OF ALL ADJACENT LANDOWNERS, INCLUDING LANDOWNERS ACROSS ANY ROAD. IF ADJACENT TO CITY, A TOWN, OR ANOTHER COUNTY, YOU NEED TO SUPPLY THOSE NAMES AND ADDRESSES ALSO. Name of owners may be found in Real Estate and Land Use office located in the Rockingham County Administration Center. Complete mailing addresses are listed in Land Use Books in front of the Treasurer's Office also (located next to the Land Use Office).

<u>NAME</u>	<u>ADDRESS</u>
CROSSROADS FARM LLC	PO BOX 218; PENN LAIRD, VA 22846
LAKEVIEW DEVELOPMENT CORP	4101 SHEN LAKE DRIVE; ROCKINGHAM, VA 22801
JAMES E JR & BRENDA J KIDD	965 CLAREMONT AVENUE; ROCKINGHAM, VA 22801
ANDREW L FORWARD	915 FREDERICK ROAD; ROCKINGHAM, VA 22801
GARY G & CRYSTAL J BLOSSER	1324 KEEZLETOWN ROAD; WEYERS CAVE, VA 24486
RICHARD L & PATRICIA S OURS	995 FREDERICK ROAD; ROCKINGHAM, VA 22801
NELSON L & NANCY G MILLER	4074 MEADOWOOD LANE; MARSHALL, VA 20115
GARRY J & REJENA K DRIVER	775 CONFEDERACY DRIVE; PENN LAIRD, VA 22846
STEVEN D & MARY S OWEN REVOCABLE LIVING TRUST	1050 FREDERICK ROAD; ROCKINGHAM, VA 22801
LUCINDA A NOFTSINGER REVOCABLE TRUST	4135 LUCY LONG LANE; ROCKINGHAM, VA 22801
WALNUT HILL BUILDERS LLC	165 HASTINGS COURT; ROCKINGHAM, VA 22801
WALNUT HILL BUILDERS LLC	3593 ISAAK WALTON LANE; ROCKINGHAM, VA 22801
JAMES E & CYNTHIA C TINGLE	170 HASTINGS COURT; ROCKINGHAM, VA 22801
ROBERT EGAN & LUCINDA HOLMES KENNEY	120 HOBART COURT; ROCKINGHAM, VA 22801
WILLIAM L & JACQUELINE Y SAMMON	970 FREDERICK ROAD; ROCKINGHAM, VA 22801
CHARLES R & ELIZABETH S BRUBAKER	125 PELHAM PLACE; ROCKINGHAM, VA 22801



Crossroads Farm LLC Variance Request

03/02/2016

VAR#16-028



