

Richlands Board of Zoning Appeals Public Hearing

August 21, 2023

Board Members Present:

Gene Hurst Jr., Chairman

Bill Patton

Barry Alley

Phillip Cook

Glayde Brown

Town Staff Present:

Clarence Monday

Billy Shelton

Nathan Keen

Mike Thomas

Others Present:

Paul Hackworth

Oris Martin

Connie Estep

Gene-The meeting was called to order by Gene Hurst. The purpose of the meeting was for an appeal to zoning permit number 5680 in regard to The Town of Richlands Land Usage Ordinance 154.055 Yard Regulations which requires at least 10 feet of land to a structure from any property line. The home structure is addressed 127 Downey Court, Richlands VA 24641 with a tax map number 105BA0002. Connie, I will let you all speak on this matter.

Connie – Ok. May I ask, are there four members currently on this board?

Gene – We currently have five members here. We have two new members.

Connie- I only made four copies of my papers to hand out. I am Connie Estep. Thank you for letting come and speak to you this evening about this appeal. I have several concerns with. First, I would like to say it was an impartial decision made by your interim town manager Holt to show favoritism to Mr. Hackworth. I have several reasons to believe that. First, I was required to get an updated survey of my land and he has not. Can anyone here that has looked at his property tell me where is property line is? I would say not as there are no documents to show the property lines. As we go forward, I thought it was odd your interim manager came to my home in April to begin this discussion with “What can be done so this man can make some money back here?” It was irrelevant to him the rights of the homeowners it was affecting. I also have my brother here with me, Oris Martin who has helped me do the street search and he may be able to answer some of your questions better than me. I mentioned in the appeal letter this ongoing issue came up in 2021 and at that point I was told by town officials I had to have an up-to-date survey of my property. I took that plat to Town Council and the town manager at that time agreed that the home should not have been put where it is currently. Then move on to April of this year when the interim town manager Holt came with Mr. Keen. Mr. Holt seemed to think by putting up another fence higher than mine it would solve the situation. When I asked him of the property rights of other individuals nearby, he said he would talk with my neighbor Ms. Bostic, but he never did. Then on June 22 Mr. Hackworth applied for the new zoning permit and it was issued the same day. I bring two concerns first being a fire hazard back there and the second is he actually on his own land? I will talk about the fire hazard first and I think some of you gentlemen went over there while I was at work. You see I have a privacy fence less than seven feet from the mobile home. He has also put up another behind me about a

foot and half closer to the trailer which is about five feet from the mobile home. My neighbor also has a privacy fence. Then you have a wooden pole with a town light within three feet of those fences. To the left of that you have trees, brush, and other greenery that could easily go to the next house. That is the fire hazard. I have notes that I am keeping up with dates and times. Another issue is the mobile home is huge. I think the paperwork said 14' x 76'. It was backed at an angle into the lot and the front sticks out onto Downey Court roadway. Looking at the paperwork I gave you. The first plat goes to 1937 when the Daltons had the estate. Take note of lots 12, 13, and 14. Gay Bostic lives in lot 12. I am in lot 13. Ms. Lee is in lot 14. Those lots are 133 and 134 feet length and are equal in the back. Over time John McClintock bought these lots. Looking at the next plat done, in 1976 Mr. McClintock bought a strip about 40 feet off of the General Shale before the mobile home park was back there. This shows that 12, 13, and 14 are essentially the same. The next document is the actual deed where it was written out. Take note of where the actual stake is located at 40 feet because I will reference this stake again. The next document is a deed from John McClintock to Sally Blankenship with lots 12 and 13 that includes the partial showing the 40 feet. It has the same verbiage if you look. Next, I have Ms. Bostic deed where she bought number 12 and it clearly states she has this partial too. If you take her 134 feet and add these 40 feet you are getting 174 feet. So, I think I told you a surveyor would be looking at her land. Well come to find out he would not survey it because the survey on file does not match the deeds. In order to fix this the entire strip of lots 12-19 that Mr. McClintock bought would all have to be surveyed. This would be an expensive task to remedy. Now looking at my deed. I have lot 13 but they did not include the partial. I do have a survey and I am stuck with 166 feet unless we survey the entire strip of lots. I am trying to get up with Ms. Blankenship, but she is in Richmond to maybe have these lots surveyed. Next is a document of my lot survey which shows my lot as 166 feet, but I do want to point out this also shows Ms. Bostic lot extends 8 and half feet past mine which corresponds with the original two plats I showed you. They were 134 feet when the Daltons owned them and then another 40 feet added while Mr. McClintock owned them. If you look at lot 14, hers go back 10 feet which puts her at 176 feet. On the next one is a plat made by Mr. Griffith in 2011 which clearly shows her lot goes back 176 feet. The last document is the survey on file I could find for the mobile home park. You can see it has the Dalton addition on here and shows a straight line behind our lots. This plat is wrong as I have explained my lot is 166 feet and lots 12, 14, 15, and 16 have 176 feet lots as per the deeds.

Oris- Lots 14, 15, and 16 they all go back 176 feet.

Connie- My question is can you show me on his plat where it deviates from the 166 feet mark to 176 feet as his plat only shows a straight line? If Ms. Bostic pursues this and fixes her survey, then this mobile home will be sitting on her property. Is it not reasonable for him to show where his line actually is before making this decision? The fire hazard actually concerns me as this has all been going on since 2021.

Oris- Those two trailers have been rejected since 1978 back there.

Connie- Jack Rimmer had the mobile home park opened up for people who had been flooded and needed a place to stay. There was a trailer and hookups there, but it was back and extremely small. Once it was taken out the Cantrells would not allow another there. You can look on record as my daughter tried to put a home there behind me and was told there is not enough room and she put it in across the way. You can look at the record for Amy Estep and was not allowed to put a home there in 2010 so it stayed empty until 2021. Do you have any questions before I sit down?

Phillip-I am seeing 166 feet but I do not see the 40 feet partial on the survey of your property.

Connie- My survey is wrong. As you can see my neighbors on both sides of me have 176 feet and my property actually goes back another 10 feet passed my 166 feet survey when you see the straight line from the Shale Street survey confirms this.

Paul- I have my survey of the park that was done in 1991 if you need a copy of that. This mobile home is closer than 10 feet as the Town Ordinance says. Back in 2021 when the home was put in Tim Taylor and Nathan was called out to look at the home and he said it looked good where it was, so they issued the permit for the home. The Lesters that owned the home did not get the home finished to live in so that permit expired because of the time it took them. They then reapplied for an update zoning permit and got denied due to the property line issue. They left this home in my park, and I have since filed for a lost or abandoned title with the DMV. I do not have the title yet and I am pursuing getting the title. My position is it does not meet the 10 feet setback, but it is on my property. My question is can I get a variance for where it sits currently? That is all I have.

Gene- From looking at it and being over there seems at least one end of the home is on Ms. Bostic property.

Paul- I feel like everything is on my property by how much I do not know. I do not believe I am encroaching on anybody's property.

Connie- May I ask where is your property line located?

Paul- There is a concrete monument on the very back over there. There is a straight line on the back side.

Connie- If there is a straight line how does the line deviate behind my home.

Paul- If there is any deviation that could be error. My wife does the deed work. She has worked with multiple attorneys. This is what she does for a living as doing the deed searches. There can be mistakes. I am not a surveyor. When I bought that park there was a mobile home sitting there with fences that have been up since 1976.

Connie-Can I say also the surveyor that came said he felt they went with those fences instead of getting the correct distances. You cannot go by fencing for a survey to be accurate.

Oris- Those old chain-link fences are located only 166 feet like it was before Mr. McClintock bought the additional partial. The properties extend another 8 feet and 10 inches beyond those fences.

Paul-Regardless of that fact this park has been here since 1976. Very clearly there was a water hookup here on the back side of where this new mobile home is located that was there before. I am not saying it was correct. I am just saying I think this is what Tim Taylor had looked at. There again I am just saying this mobile home is not sitting at the 10 feet setback required. I am not trying to tell you it is.

Oris- Hud or whatever when Grundy flooded, they put those small box trailers in for the flood victims. They were very small trailers.

Paul-Also as far as the mobile home being out on Downey Court Road. Downey Court is my property. The Town has Shale Street, and the rest is private property. This is why The Town allowed me to set a mobile home on this street.

Connie-May I ask how you feel about the fire hazard?

Paul-As far as the brush behind it? I cannot control other people having brush back there.

Gene-Who told you to cut your brush off the fence Connie?

Connie-The renters he had in there. The reason was he had two small children he could not get from his home to the home next door.

Gene-How did he have electricity?

Connie-It was ran from extension cords from his home to the neighbors. I reported that multiple times to different agencies. I reported it to The Town PD and the folks in Tazewell as well as the people who take care of the kids because they were living in a unanchored mobile home without running water or electricity except what came from the neighbors. Those little kids were running underneath the mobile home, so I made reports several times.

Phillip- Mr. Hackworth what is the newest survey done on your property?

Paul-This is the only survey I have from 1991. Surveys will not go bad. They are good forever. Anybody that says a survey expires has misspoken.

Connie- I was told by a Town Official I would be required to have an updated survey to show the home was too close to my property. Not only did I spend money on that but also put a privacy fence up. The people that lived in this mobile home were adamant and cussing because I had some tree limbs on their trailer, so I had to pay a huge amount to cut this tree.

Paul-Are you saying they were across the fence?

Connie-Yes but I do not believe the home should have been placed there to begin with.

Gene- Well unless anyone else has any questions I will ask you all to leave to we can enter into concussion about this needed discussion.

Paul-Will you guys contact us with the results?

Mike- We have a letter we will send you both.

Paul- Ok you actually have the wrong address down. My updated address is 624 Buck Knob Road in Cedar Bluff. I have had this address changed for about a year. I don't know how you got the old address.

Connie- Do you have a time frame on when to expect this letter?

Mike- It has to be within 90 days within the time you appealed but I do not expect it to take that time. It has already been approximately 30 days so I imagine you should have this decision as soon as the mail can run.

Gene- Thank you all!

All- Talked about the issues of the mobile home being too close to the properties and of it not following The Towns Ordinance.

Mike- My opinion there is no way to uphold the current permit legally and you would have to overturn this permit.

Gene-I do not see how John could not issue a permit and now Mr. Holt has?

Mike-Well from what I heard originally this permit was granted in 2021 by Tim and then Ms. Estep got her new survey Tim saw it did not meet zoning requirements. Correct me if I am wrong Nathan. Then it lay dormant for 2 years with John and Heather terms as interim manager then this new manager Holt gave the permit in 2023. I believe Mr. Holts opinion was that the mobile home is within a foot and half. That is what I know so if anybody else wants to add to this?

Clarence-Sure, once I got involved in it as Ms. Estep came to our office and Town Council meeting with her concerns. Then Nathan, Bill, and I discussed it and reviewed the permit Mr. Holt issued with a 6'x10' front porch and 4'x4' rear porch with an 8 feet tall privacy fence. This is the contents of what the permit said. Then after we talked about it Bill and I went over to the site and met with Mr. Holt to talk about why he issued the zoning permit. What Mr. Holt said was that Mr. Hackworth produced a survey that was different from what Ms. Estep had. Based on that he thought that with a concession made for the 8 feet tall privacy fence then all parties would be happy. He said following this concession being made he went ahead and issued a permit. After that and talking with the legal counsel we felt best to let the permit stand unless an appeal came for the permit as the current zoning administrator did not have the authority to overturn the permit made by an old administrator. Bill, did I leave out anything on the ground?

Bill- No that is what happened.

Gene-Well we need to do something now. The home is a mess with no underpinning. No porch on one side and no railings on the other porch. If the survey is right, then he is on the other properties with this home.

Barry- Alright just to make sure you are saying we can either accept the permit as is or revoke this permit?

Mike- That is correct. You do not have the ability to grant a variance. This appeal meeting is just to say does the permit fit the current code. As Mr. Hackworth has said it does not. Honestly, I think your hands are tied and you have to revoke this permit.

Barry-After looking at the property I think the three of us reached the consensus that this permit should never have been issued as the home sits.

Glayde- I agree. Coming in here and based on the research I did here myself will agree with this statement from Barry.

Phillip-I feel the same way reading the material that this home was red tagged and then the next thing you knew it had been approved. I mean why was it approved, and will this set a precedence for future permits? What happens if someone else comes along and wants to do the same thing? They would say you approved this one for another guy in town. They would say why can't I have my permit? I was a little

put out by the statement made that surveys don't change. There is a reason for getting an updated survey as I have been an engineer for 34 years and I know that deeds do change. I know his wife works with deeds, but I did not agree with that statement.

Gene- Ms. Estep has paid a lot of money on this project and did her homework. I think she or someone helping her is very well educated.

Barry- I make the motion to revoke this existing zoning permit as issued.

Glayde- I second that motion.

Gene- All in favor say aye.

All members present "Aye".

Gene-Made motion passed unanimously.

Barry made the motion to adjourn, seconded by Bill Patton; all members present voted "aye" and the meeting was adjourned.

Submitted by: Nathan Keen