

**BOARD OF ADJUSTMENT MEETING MINUTES**

**Monday, May 17, 2010**

**6:00 p.m.**

Members Present: Herman Johnson, Cathy Wilson, Laurie Jarrett, Tad Martin, Jimmy Lemons, Don Waugh, Charles Belcher  
Members Absent: Sandra Masho  
Also Present: Jeff Earp, Rob Jennings, Tammy Speicher

**Call to Order** – Chairman Johnson called the meeting to order.

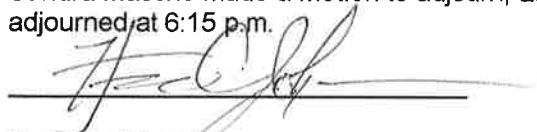
**Approval of Previous Meeting's minutes – April 19, 2010** – Tad Martin made a motion to approve the minutes; Jimmy Lemons seconded. Motion passed 7-0.

**Old Business - None**

**New Business**

**Request to hear Variance request from Earnest Murray, 202 Ferris Street, for a side setback variance to allow an additional fourteen (14) foot addition to the front of a non-conforming structure:** Manager Earp and Earnest Murray were sworn in by Clerk Speicher. Manager Earp explained the specifics of the Haw River Land Use Ordinance § 155.267 before the members of the Board. He explained that Mr. Murray would like to re-habilitate a garage on his property. He was told by an engineer that he would have to move the footings to be able to repair the structure. According to the Land Use Ordinance, a 'variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment...' The garage in question was placed on the property before there was a Zoning Ordinance. Without a variance, Mr. Murray would not be able to have a garage. Mr. Murray stated that his neighbors are fine with the garage side coming within the prescribed setback. Manager Earp stated that, according to § 155.267 (3) (e), the hardship cannot be the result of the applicant. Mr. Murray bought the property with the garage in place and he is trying to improve the structure. Charles Belcher confirmed with Mr. Murray that no other neighbors have a problem with the garage getting closer to the property line. Charles Belcher made a motion that the Board of Adjustment had found all requirements set forth in § 155.267 POWERS OF THE BAORD, Variances, Land Usage (1) (2) and (3) A-H had been satisfied and that a Variance be granted to Earnest Murray; motion was seconded by Tad Martin. Motion carried 7-0.

Sandra Mascho made a motion to adjourn; Laurie Jarrett seconded. Motion carried unanimously. Meeting adjourned at 6:15 p.m.



Herman Johnson, Chairman

DATE: 5/16/12

## LAND USE ORDINANCE 155.267 CONCERNING AUTHORIZATION AND ESTABLISHING HARDSHIP

Haw River Land Usage Ordinance 155.267:

(B) *Variances.*

(1) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in undue hardship, and so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(2) In considering all proposed variances to this chapter, the Board shall, before making any finding in a specific case, first determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district by this chapter; extend in area or expand a nonconforming use of land; change the district boundaries shown on the zoning map; impair any adequate supply of light and air to adjacent property; materially increase the public danger of fire; materially diminish or impair established property values within the surrounding area; or in any other respect impair the public health, safety, morals and general welfare.

(3) In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of proposed building, structure or use as it may deem advisable in furtherance of the purpose of this chapter. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question due to its size, shape or topography not applicable to other lands or structures in the same district.

(b) 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.

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the public good or general welfare.

(e) The special circumstances are not the result of the applicant.

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

(h) At the time of a request for a variance, the person making such a request shall pay a fee of \$50 to cover advertising and administrative costs.