



## TOWN OF WAYNESVILLE Zoning Board of Adjustment

9 South Main Street  
Waynesville, NC 28786  
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Henry Kidder (Chairman)  
Stephanie Strickland (Vice-Chair)  
Edward Moore  
Joshua Morgan  
George Escaravage  
John Baus  
Margaret Chandler  
Robert Herrmann

Development Services  
Director  
Elizabeth Teague

### Regular Meeting

**Town Hall, 9 South Main Street, Waynesville, NC 28786**  
**Tuesday, September 7<sup>th</sup>, 2021, 5:30 pm**

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**THE WAYNESVILLE ZONING BOARD OF ADJUSTMENT** held a regular meeting on September 7<sup>th</sup>, 2021 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville NC.

### A. CALL TO ORDER

Zoning Board of Adjustment Chairman, Henry Kidder called the meeting to order at 5:30 p.m.

The following members were present:

Henry Kidder, Chairman  
George Escaravage  
John Baus  
Robert Herrmann

The following members were absent:

Stephanie Strickland, Vice-Chair  
Edward Moore  
Joshua Morgan

The following staff members were present:

Elizabeth Teague, Director  
Byron Hickox, Land Use Administrator  
Olga Grooman, Planner  
Esther Coulter, Administrative Assistant

In attendance:

Town Attorney Ron Sneed

Zoning Board of Adjustment Minutes  
Regular Meeting  
September 7<sup>th</sup>, 2021

2. Election of Chair and Vice-Chair

*A motion was made by Board Member George Escaravage, seconded by Board Member Robert Herrmann to continue the postponement of the election for Chair and Vice-Chair for FY 21-22 until next month's meeting. The motion passed unanimously (4-0).*

3. Adoption of Minutes

*A motion was made by Board Member John Baus, seconded by Board Member Robert Hermann, to approve the minutes of the August 3rd, 2021 board meeting as presented or corrected. The motion passed unanimously (4-0).*

4. Public Hearing to consider a request for a variance at property known as PIN 8615-21-2584, an unaddressed lot on Springview Drive within the Country Club Low Density Residential District.

Chairman, Henry Kidder opened the hearing and proceeded with the meeting and read through the protocols for a Quasi-judicial hearing and the rules of conduct. All speakers were sworn in. Mr. Kidder advised the applicant that 4 votes were required to pass.

Land Use Administrator Byron Hickox presented the Staff Report for a request for a variance of the minimum lot size standards for the Country Club Low Density Residential District, Land Development Standards Section 2.4.1(3) a. The subject property consists of 0.45 acres, with frontage along Springview Drive. The lot is currently undeveloped and unimproved. The lot is surrounded by single-family lots.

The applicant would like to relocate the rear property line of the lot in question, making that lot smaller. The rear property line abuts a lot owned by Jason Fulton, described as 253 Auburn Park Drive (8615-21-3606). The purpose for moving the lot line is to match the existing topography, which creates a concentrated flow of water during heavy or prolonged rain events. The property which would increase in size would then be able to maintain this drainage area which impacts his yard.

Current zoning is Country Club Low Density Residential. The purpose and intent of this district as established by the Land Development Standards, Section 2.3.1(D) states:

The **Country Club Residential—Low Density District (CC-RL)** is an area predominately comprised of large lot subdivisions with the Waynesville Country Club serving as its social and recreational center. While single-family homes are the dominant residential use in this area, townhouses and accessory apartments are also permitted. Connections to the South Main Street Business District should be enhanced as new development takes place. A residential scale is required for all new development. Tree preservation and proliferation along the South Main Street corridor is critical to the ambiance of the area.

The subject property is surrounded by single-family and undeveloped lots. In the application materials, the applicant provided aerial lot information for the neighborhood documenting that many of the nearby lots are also smaller than the minimum lot size for the district.

The purpose and intent statement for this zoning district recognizes that it consists primarily of large lot subdivisions.

Staff offers the following comments regarding the findings that must be considered by the Zoning Board of Adjustment:

- (1) That there are unnecessary hardships in the way of carrying out the strict letter of this chapter.
  - The existing conditions on the ground related to stormwater on the lot in question and the above-referenced adjacent lot could be better managed and maintained if the shared property line matched the topography.
  - The abutting property owners, the Fulton's, are negatively impacted and would like to take over ownership of the drainage area so that they can manage the stormwater.
- (2) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district.
  - The lot's topography does not correspond to the rear property line. Such topographic features are frequently used to determine the placement of lot lines.
  - The lot to be reduced does not have a structure on it so that relocation of the property line does not create any setback issues with existing structures.
  - Any possible future development on the property in question would still have to comply with the district setbacks.
- (3) That the special conditions and circumstances do not result from the actions of the applicant. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  - The hardship is not the result of actions taken by the property owner. In fact, the property owner has done considerable work and incurred considerable expense to manage the stormwater that ultimately affects properties other than his own.
- (4) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
  - Many properties within this zoning district do not meet the minimum lot standards. The proposed lot line relocation is in harmony with other existing lots in the district.
- (5) That the variance is the minimum necessary to afford relief.
  - A variance is the minimum necessary to encompass the drainage area in order for the Fulton's to address stormwater impacts.
- (6) That the public safety and welfare have been assured and substantial justice has been done.

- While the relocation of the rear lot line would increase the degree of nonconformity, it would encourage cooperation between adjacent owners to create and maintain improved stormwater management measures.

Notice of this Public Hearing was mailed to owners of property within 100 feet of the subject property on August 20, 2021. A public notification sign was posted on the subject property on August 20, 2021. Notice was submitted to local media.

**Items Entered as Evidence:**

1. Staff Report
2. Variance Request Application
3. Chart Showing Lot Sizes in the Surrounding Area
4. Zoning Map Showing Lot Sizes in the Surrounding Area
5. Topographic Map of the Subject Property
6. Topographic Map of the Property at 253 Auburn Park Drive
7. Survey Showing the Proposed Lot Line Relocation
8. Photograph Showing Stormwater Runoff on Subject Property
9. Town of Waynesville Land Development Standards by Reference
10. Notification Materials

**Jason Fulton**  
**Waynesville**

Adjacent property owner Jason Fulton came to the podium and told the history of his home belonging to his Grandfather and he would help him with the stormwater drainage. Mr. Fulton is an engineer major from NC State, and he has dealt with property lines and stormwater. Mr. Fulton stated that this would benefit both properties and will not change the feel of the neighborhood.

Commission Member John Baus asked in what way would this change the flow of the water. Mr. Fulton said he was not changing the flow. What he is interested in is maintaining the stormwater. If Mr. Sutton was to sell the property and the new owner brought something in it could cause problems with the drainage of the stormwater. Mr. Fulton said Mr. Sutton and his Grandfather had a great relationship over the years and it just continued with them both. Mr. Fulton said he has put a lot of money into keeping the stormwater out of his basement. Mr. Fulton stated that it is important to him that the stormwater is maintained and protected in a logical way.

Commission Member George Escaravage stated to Mr. Sutton that he has a non-conforming lot now and you're making it less non-conforming lot and if Mr. Sutton wants to sell the land later the board then might not grant him variance. Mr. Sutton said that lot has a huge water line and sewer line that runs through the property. Mr. Hickox made the statement that the land could be built upon as long as it meets setbacks.

With no further questions from the board and no public comment.

Zoning Board of Adjustment Minutes  
Regular Meeting  
September 7<sup>th</sup>, 2021

***Mr. Kidder asked for a motion to close the Public Hearing at 6:03 pm. Motion granted by Commission Member George Escaravage and seconded by Commission Member John Baus. The motion passed unanimously (4-0).***

The Board deliberated through the variance worksheet:

1. yes
2. yes
3. no
4. yes

***A motion was made by Board Member George Escaravage, seconded by Board Member Robert Hermann, to approve the variance at Springview Drive. The motion passed unanimously (4-0).***

#### **D. ADJOURN**

***With no further business, A motion was made by board member Robert Herrmann and seconded by board member John Baus to adjourn the meeting at 6:07 pm. The motion passed unanimously.***

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Henry Kidder, Chairman

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Esther Coulter, Administrative Assistant