

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ADJUSTMENT
DECEMBER 6, 2005
TUESDAY - 5:30 P. M.
TOWN HALL

The Board of Adjustment held its regular meeting Tuesday, December 6, 2005. Members present were Gail Cross, Mack Noland, Mike Erwin, John Richardson and Garnell Day. Also present at the meeting were Planning Director Paul Benson, Land Development Administrator Byron Hickox and Deputy Town Clerk Freida Rhinehart. Chairperson Mike Erwin called the meeting to order at 5:30 p.m.

Approval of Minutes of July 5, 2005

Mike Erwin pointed out that on Page 8, paragraph 4 read Gail Noland rather than Gail Cross. John Richardson moved, seconded by Garnell Day, to approve the minutes of July 5, 2005 as revised. The motion carried unanimously.

Variance Request - Manor Equities, Ltd. - 466 Lickstone Road

The variance request is submitted by Manor Equities, Ltd. for property located at 466 Lickstone Road in the Allens Creek Neighborhood District. The variance requested is to Section 154.600(F)(2) to permit continuation of a nonconforming use that has been discontinued for more than 180 days. The nonconforming use is an "Inn". An "Inn" is defined as having 20 or fewer guest rooms.

Inns are permitted as a conditional use in the Allens Creek Neighborhood District subject to the following conditions:

1. The inn must be buffered from any adjoining residentially zoned property.
2. An owner or manager of the inn shall reside on the property.
3. The property shall be at least 5 acres in size or have a historic building (at least 60 years old).
4. Inns on residential lots may not exceed 30 rooms.
5. At least 50% open space must be maintained.
6. All buildings shall be no closer than 50 feet from the rear and side property lines.

This inn does not meet standards 1 and 6.

The required findings for a variance are:

1. That there are practical difficulties of unnecessary hardships in the way of carrying out the strict letter of this chapter.

Finding: the property is an old, large house used for an extended period of time as a lodge and dining place. Strict application of the ordinance would not permit future use in this way.

2. That if the applicant complies with the provisions of the chapter, the property owner seeking the variance can secure no reasonable return from, or make no reasonable use of his property.

Finding: This property was constructed and has been historically used as an inn, it would not be reasonable to require that the property no longer be used as such.

3. 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 building located in the same land development district.

Finding: No other known property in the district has a historical use and existing structure of an inn.

4. That the special conditions and circumstance do not result from the actions of the applicant.

Finding: The applicant stopped use of the property due to poor health. The applicant took no specific action to create the current situation.

5. That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.

Finding: The ordinance does permit inns within the Allens Creek District, so the continuation of a pre-existing inn does not conflict with the permitted uses within the district. The district does require certain standards for new inns, but the intent of the nonconforming situation standards is to permit the continuance of pre-existing situations, so as to not create an undue hardship stemming from requiring existing situation to meet new standards.

6. That the variance is the minimum necessary to afford relief.

Finding: Varying the time period for lapse in nonconforming use status is the simplest way to afford relief in this situation. It applies only to this property and does not change the ordinance.

7. That the public safety and welfare have been assured and substantial justice has been done.

Finding: No adverse impacts are anticipated as a result of this variance on the general public, or surrounding property owners. Permission for continued use of this property as an inn avoids a severe hardship to the property owner.

When Mr. Benson was approached about this property, he felt a variance request would be appropriate since a conditional use permit could not be granted to a new owner. A variance could be granted since:

1. It would cause severe hardship for the owner
2. No objections have been received and there would be no adverse impact on adjoining properties based on phone calls received and no one is present to object.

John Richardson asked if the building was originally constructed as an inn. Mr. Benson replied it was probably an old farm house but has been used as an inn for many years.

John Kersten spoke on behalf of Stan and Linda Arnold, current owners of Grandview Lodge. Mr. Kersten stated that for many years Grandview Lodge has been a place to stay and go to for meals. Mr. and Mrs. Arnold bought the inn in 1986, remodeled it in 1990 and operated it for about 15 years. They never intended to discontinue its operation as an inn but Mr. Arnold's health failed and caused him to stop working. The non-conforming use was not actually abandoned. It was his client's intent to find another buyer as soon as possible to continue the operation of the inn. A previous potential buyer wanted to spend a great deal of money to expand the inn. This was not feasible since the nonconformity would have been increased. So the Arnolds looked for another buyer and have found one who wishes to operate the inn. Mr. Kersten is requesting that the Town of Waynesville Board of Adjustment grant a variance to Section 154.600 which will permit continuation of a nonconforming use which has been discontinued for more than 180 days.

Mr. Kersten further stated the inn consists of 12 bedrooms, a kitchen and dining room. This is a unique business. There will be no adverse effects on the neighborhood. In addition, it will be a loss to the county if this business cannot continue to operate. Since the period of cessation of operation was involuntary, the use should be reinstated.

Mike Erwin asked how long the inn had been out of operation. Mr. Kersten replied that it has been on the market since the end of 2001.

Mack Noland inquired as to when the new buyers intend to reopen the inn. Mr. Kersten answered that they wish to begin operation as soon as possible.

Gail Cross asked if anyone is living there now. Mr. Kersten responded that the Arnolds still live there but have a contract to sell contingent upon their ability to be able to reopen as an inn.

No one spoke against the granting of the variance.

Mack Noland moved, seconded by Gail Cross, to grant the variance to Section 154.600(F)(2) to reinstate the nonconforming use as an "Inn" which had been discontinued for more than 180 days to Manor Equities Ltd. based on the 7 findings presented by Paul Benson. The motion carried unanimously.

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Other Business

Paul Benson announced there will be a Board of Adjustment Training Session conducted by the Division of Community Assistance at the North Carolina Arboretum Friday, January 20, 2006 from 9:00 a.m. until 3:00 p.m. The registration fee is \$25. The class is limited to 90 persons and the deadline is January 16. A reminder will be sent out to which Board members can respond if they wish to attend.

Adjournment

With no further business, Mack Noland moved, seconded by Gail Cross, that the meeting be adjourned at 5:50 p.m. The motion carried unanimously.

Mike Erwin
Chairperson

Freida F. Rhinehart
Secretary