

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ADJUSTMENT
MARCH 7, 2006
TUESDAY - 5:30 P. M.
TOWN HALL

The Board of Adjustment held its regular meeting Tuesday, March 7, 2006. Members present were Gail Cross, Mack Noland, Mike Erwin, Garnell Day and Boyd Medford. Also present at the meeting were 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 February 7, 2006

Garnell Day moved, seconded by Mack Noland, to approve the minutes of February 7, 2006 as presented. The motion carried unanimously.

Conditional Use Permit - Mountain Song Subdivision - Pigeon Street

Byron Hickox reported that this issue was tabled at the last meeting due to several issues that needed to be resolved. These major problems have now been worked out and Mr. Hickox presented the following Findings of Fact:

1. All of the specific requirements set forth in Sections 154.122, 154.225, 154.302 and 154.403 of the ordinance for the proposed conditional use will be satisfied if the property is developed in accordance with the plans submitted to the Board of Adjustment.

Findings of Fact for Pigeon Street Neighborhood District (Section 154.122)

- a. A pedestrian way must be provided from the sidewalk to the entry of the building.

Finding: Sidewalk connections are now shown for Units 15, 16, 17 and 18.

Findings of Fact for Developments Over 100,000 Square Feet in Gross Floor Area or Five (5) Dwelling Units (Section 154.225):

Finding: Requirements contained in Section 154.225 have been met.

Findings of Fact for Driveway Access (Section 154.302):

Finding: Requirements contained in Section 154.302 have been met.

Findings of Fact for Hillside Protection (Section 154.403):

Finding: Requirements contained in Section 154.403 have been met.

2. The proposed use does satisfy the general requirements listed in Section 154.083 of the ordinance.

Findings of Fact for Conditional Uses (Section 154.083):

- a. That the proposed conditional use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.

Finding: Although severely restricted by topography, the proposed development contains units that would conform to the character of the neighborhood.

- b. That adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

Finding: The information provided by the developer indicates that the proposed development can safely be accessed from Highway 276/Pigeon Road.

- c. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use.

Finding: Adequate public utilities are available for the proposed development. The Stormwater Management Plan is satisfactory.

- d. That the proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

Finding: The proposed development would not be noxious or offensive by any of the specified reasons.

- e. That the establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the land development district.

Finding: The proposed development would not impede the reasonable use of surrounding properties.

- f. That the establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety or general welfare.

Finding: The proposed development would not be detrimental to or endanger the public health, safety or general welfare.

3. The Town of Waynesville Planning and Public Works Staff make the following recommendations:
 1. That the driveways for Units 15, 16, 17 and 18 be redesigned to create a “Y” with a landscaped area in the middle.
 2. That the turnaround located across from Units 17 and 18 be redesigned to be a radius-type cul-de-sac. Its current design too closely resembles a parking area.
 3. Up to date front elevation drawings must be submitted for each of the building types in the proposed development.

Mack Noland asked if Fred Baker has approved the water, sewer and stormwater plans. Mr. Hickox replied that he had. The sewer line will go across Pigeon Road and back through Thomas Park.

Bill Roark of McGill Associates, the designer of the plan, stated that the developer would like to begin work as soon as possible. The only portion of the property above 2900' in elevation will become one single family home lot. There will also be 18 duplex and 1 triplex unit for a total of 39 multi-family units.

McGill has redesigned the intersection onto Pigeon Road. There is now a good sight distance at the T-intersection. The hill will be graded back about 19 ft. to the east side to improve visibility.

Garnell Day expressed concern about cars turning left toward downtown coming out of the subdivision. Mr. Day asked about allowing only right turns onto Pigeon Road. Mr. Roark explained that a sight analysis had been done and the option has been left open to move the entrance by a few feet toward downtown if necessary. This will only require staff approval and will not have to come back before the Board of Adjustment.

Mr. Stan Wester, one of the developers said that the exterior of the units will be of stone, stucco and Hardi-plank. A model will be constructed first. The units will be constructed as they are sold. They will range between 2100 and 3000 sq. ft. in size and will sell for around \$400,000 to \$500,000. After a certain percentage of the homes sold, the property will be turned over to the homeowner's association with restrictive covenants.

Hazel Hollingsworth, a property owner on Pigeon Road, spoke and was concerned that mud and water might run onto her property from this development. She said that the DOT had been working near her property and informed her that they were hydroseeding. Both Mr. Hickox and Mr. Wester assured Ms. Hollingsworth that the stormwater management plan is sufficient to prevent any extra runoff onto her property.

Ann Gibbs, another close property owner, expressed concern about runoff once construction has begun. Mr. Wester explained that silt fencing would be installed and if it is not, Ms. Gibbs could contact the North Carolina Department of Environmental and Natural Resources, who have quite stringent restrictions regarding silt fencing. Also, Ms. Gibbs was informed that the actual construction will not cross the ridgeline toward her property since there is only one single family lot at the top of the hill.

Mr. Melvin Inman expressed support of the new development. He said that the development plans are good and that the intersection with Pigeon Road would be safe.

Ms. Gibbs asked if two cars could pass going into and out of the subdivision. She thought the right turn only might be a good idea. Mr. Roark pointed out that this will be an 18 ft. wide road and that a right turn only would not be enforceable.

Mack Noland moved, seconded by Boyd Medford, to grant the conditional use permit for Mountain Song Subdivision based on the Findings of Fact and subject to compliance with the following recommendations of Town Staff:

1. That the driveways for Units 15, 16, 17 and 18 be redesigned to create a "Y" with a landscaped area in the middle.
2. That the turnaround located across from Units 17 and 18 be redesigned to be a radius-type cul-de-sac. Its current design too closely resembles a parking area.
3. Front elevation drawings must be submitted for each of the building types in the proposed development.
4. A pedestrian connection to the sidewalk be shown for Units 16, 17 and 18.

The motion carried unanimously.

Variance - Riley Lewis Inman, Jr. - Lot 5, Patrick Drive

The Finding of Facts in this case were presented by Mr. Hickox as follows:

1. All of the specific requirements set forth in Section 154.084 of the ordinance for the proposed use will be satisfied if the requested variance is granted by the Board of Adjustment.

Findings of Fact for the Granting of Variances (Section 154.084 (F)(2)(a))

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

Finding: The applicant's subdivision was originally platted for single-wide manufactured homes. The applicant was given a verbal assurance by Town of Waynesville Planning Staff that one additional single-wide manufactured home would be allowed to be placed on the property in question.

- b. 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: The applicant could place a double-wide manufactured home, modular home, or stick-built home on the property in question.

- c. 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.

Finding: There are no special conditions and circumstances which are peculiar to the land, structure or building involved. The condition is applicable to other lands, structures, and buildings located in the same land development district.

- d. That the special conditions and circumstances do not result from the actions of the applicant.

Finding: Not applicable.

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

Finding: The variance would allow the use of building type that is clearly prohibited in the Land Development Standards. However, this building type would conform to the character of the neighborhood.

- f. That the variance is the minimum necessary to afford relief.

Finding: The variance is not the minimum necessary to afford relief.

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

Finding: The public safety and welfare would be assured and substantial justice would be done by the granting of the variance.

2. The proposed use does satisfy the general requirements listed in Section 154.120 of the ordinance.

Findings of Fact for Ninevah Neighborhood District (Section 154.120):

- a. 154.120(B)(8)(c)(3) Flat roofs are prohibited.

Finding: The proposed single-wide manufactured home does not have a flat roof.

3. Town Staff concludes that all of the general and specific conditions precedent to the granting of a variance have been satisfied. It is recommended that the variance be granted subject to the following conditions:
 1. The applicant shall fully comply with all of the general and specific requirements stated in the ordinance for the proposed use, as well as any additional conditions stated below.
 2. If any of the conditions stated below shall be held invalid, then this variance shall become void and of no effect.

David Sutton, Attorney, spoke on behalf of Riley Lewis Inman, Jr. Mr. Sutton stated that Riley Lewis Inman Sr. developed this parcel of land for single wide manufactured homes over three years ago prior to passage of the current Land Development Standards. The lots were subdivided for family members. Mr. Inman Jr. intends to move a single wide onto Lot 5. If there is strict application of the ordinance, it would cause Mr. Inman and his family hardship. Mr. Inman Jr. needs affordable housing and if the variance is granted, the benefits to Mr. Inman and his family outweigh the aesthetics of the neighborhood. It is the least possible limitation of the ordinance and there is already single wide manufactured housing in this neighborhood. Pictures of Mr. Inman's mobile home were shown to Board of Adjustment members. If Mr. Inman were to be required to place a double wide unit on Lot 5, it would require extensive land disturbing activity. Mr. Sutton requested the granting of the variance to Mr. Inman so that he might be able to place his 14 x 65 mobile home on Lot 5.

Melvin Inman stated that he had lived in this subdivision for 9 years. He wishes for other family members to be able to have a home and Riley Lewis Inman Jr. is not able to afford a double wide manufactured home. The sewer and water systems have been upgraded in the subdivision.

Peter F. Hession also spoke on behalf of the Inman family. He stated that he knows the family well and that they are honest, dedicated hard working people. He asked that the Board of Adjustment consider favorably the granting of a variance.

John McCann, an engineer, helped the Inman family upgrade their sewer system. He stated that the

family spent between \$2000 and \$3000 to run the sewer extension across the property. Mr. McCann

Board of Adjustment Minutes

Page 7

March 7, 2006

said that it would be a gross miscarriage of justice not to grant the variance to this family. He understood that this project was done to allow for placement of this single wide manufactured home.

Mr. Hickox stated that the intention was for a single wide to be placed on the lot and he is not really concerned about setting a precedent of allowing single wides throughout the district.

Mack Noland pointed out that this is a peculiar situation and only involves Lot 5 of the manufactured housing park.

Mack Noland then moved, seconded by Garnell Day, to grant the variance to Riley Lewis Inman Jr. to place a single wide manufactured home on Lot 5, Patrick Drive based on the finding of facts presented. The motion carried unanimously.

Adjournment

With no further business, Mack Noland moved, seconded by Gail Cross, that the meeting be adjourned at 6:40 p.m. The motion carried unanimously.

Mike Erwin
Chairperson

Freida F. Rhinehart
Secretary