

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ADJUSTMENT
JUNE 6, 2006
TUESDAY - 5:30 P. M.
TOWN HALL

The Board of Adjustment held its regular meeting Tuesday, June 6, 2006. Members present were Gail Cross, Mack Noland, Mike Erwin, John Richardson and Neal Ensley. Also present at the meeting were Land Development Administrator Byron Hickox, Planning Director Paul Benson and Deputy Town Clerk Freida Rhinehart. Chairperson Mike Erwin called the meeting to order at 5:30 p.m.

Approval of Minutes of April 4, 2006 and April 18, 2006

Mack Noland pointed out that in the minutes dated April 4, 2006, the first sentence on page 7 should read: "Mack Noland moved, seconded by Gail Cross, to schedule a continuance for Tuesday April 18, 2006 at 5:30 p.m."

Mack Noland moved, seconded by Gail Cross, to approve the minutes of April 4 and April 18, 2006 as revised. The motion carried unanimously.

Conditional Use Permit - Richard Miller - 241 Camelot Drive - Cypress Creek Condominiums

The purpose of this public hearing is to consider a request for a conditional permit from Richard Miller to construct a multi-family dwelling consisting of 8 units at 241 Camelot Drive in the Hazelwood Neighborhood (H-ND). Mr. Hickox explained that a conditional use permit is required for multi-family dwellings of more than 5 units in the Hazelwood Neighborhood District. The project has been reviewed by Community Appearance Commission and Planning Board. The application currently meets all of the Town's requirements for granting a conditional use permit.

The following findings of fact were presented by Mr. Hickox:

Findings of Fact for Hazelwood Neighborhood District (Section 154.113)

Finding: Requirements contained in Section 154.113 have been met.

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 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: The proposed development 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 proposed development can be safely accessed from Camelot Drive.

- 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.

Town Staff concludes that the general and specific conditions precedent to the issuance of a conditional use permit have been satisfied 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 condition proposed by the Board of Adjustment.
2. If any of the conditions shall be held invalid, then this permit shall become void and of no effect.

Rachel Whitmire spoke on behalf of Mr. Miller who was out of town. Ms. Whitmire distributed elevation drawings to the Board. She stated that the proposed construction will consist of 8 units of approximately 800 sq. ft. The cost per unit will be approximately \$100,000 to help provide for the demand for affordable housing in the area.

Gail Cross asked about the configuration. Ms. Whitmire responded that the units will consist of two bedrooms and one bath.

Mack Noland asked if they would be sold. There will be a homeowner's association. Ms. Whitmire responded that they would and if the buyer chooses to rent them, there can be no more than 2 tenants per year.

Mike Erwin asked about the living space in each unit. Ms. Whitmire replied that the living space in each unit is all on one floor. There will be 4 units on each floor.

Neal Ensley asked about pre-sales. Ms. Whitmire stated that interest has already been expressed for 4 units. She further stated that these are modular units and construction time is estimated at 3 months. On the end of the building facing Camelot Drive construction will feature hardi-plank with

brick and an awning to provide a transitional entryway. This will be an entrance to one of the units.

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The other units will be accessed from two doors leading into a foyer from the parking lot. The parking lot will be buffered on the back side of the building with Leland Cypress.

Gail Cross asked if only one entrance into each unit was in compliance with fire regulations. Mr. Hickox responded that this would be addressed by the building inspectors as the next step before construction. There are other buildings in the Town built recently with only one ingress and egress.

Kevin Cable stated that he lives on Georgia Avenue and thanked Mr. Miller for tearing down the house on Camelot which definitely needed to go. He and his neighbors have some serious concerns about the Cypress Creek proposal. Their concerns are as follows:

- the scale and high density of the project makes them question the type of occupant this project will attract
- parking - they do not feel parking in the street is desirable
- traffic will be increased on narrow streets increasing danger to pedestrians

Mr. Cable said that while the Land Development Standards Vision/Goal Statement for Hazelwood calls for "keeping with the residential scale and character of the existing neighborhood" the Density/Lot Size Standards set no maximum density for the Hazelwood Neighborhood District. He also quoted from Planning Board minutes concerns expressed about density concerns in the Country Club District. Mr. Cable further stated that he feels the character of his community is something that should be protected.

Ms. Whitmire addressed the parking issue. She stated that there will be 12 parking spaces for these units. The ordinance only requires ½ space per unit or a total of 4 spaces. On street parking is also allowed in the Hazelwood Neighborhood District.

Violet Massie also lives in the neighborhood said that there are children in the street and there are more people in the neighborhood than can be accommodated.

Carol Hamick had a concern about the flooding possibility since they have property downstream. She fears additional drainage problems from the paved parking lot. Ms. Whitmire responded that there is only 4 feet of the property in the parking area which is in the floodplain. There is storm drainage in place.

Mike Erwin asked Mr. Hickox if Mr. Miller had submitted a stormwater plan. Mr. Hickox said that due to the size of the project it would not be necessary. Mr. Erwin asked if the parking area was to be paved and how much of the total area would be pavement. Ms. Whitmire indicated on the map the area that is located in the 100 year floodplain is a grassy area.

John Richardson asked about paving material. Ms. Whitmire said that asphalt would be used and

they had a quote from a paving company. Mr. Richardson suggested permeable pavement. Neal Ensley agreed that permeable paving would be one solution. Another solution suggested by Mr. Ensley was

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building some retention into some underground piping. He felt that there would be quite a bit of runoff. Mr. Noland also asked about pervious concrete.

Mr. Paul Grooms stated that he has the impression the decision in this case is already “cut and dried”.

Mr. Erwin explained that the Town has requirements that the applicant must meet in order to be granted a conditional use permit. That is the purpose of the public hearing.

Mr. Grooms further stated that rentals had been the downfall of their community. They have deteriorated and attracted a less desirable clientele. The police constantly have calls there. His concern about the condominiums is that they will be purchased and then used by the owners as rentals as well. Another concern of his is the runoff from the property.

Mr. Robert Cable then spoke. He agreed that the Police Department has to respond to this area very often. He feels that the Town is trying to stack people on top of each other. The sale of property in this area would be very difficult and if sold, would eventually end up as rentals. He feels that this development will de-value his property. He said that before development takes place the nature of the neighborhood needs to take place.

Gail Cross asked if a 5-unit multi-family facility could be constructed without approval of the Board of Adjustment.

Dorothy Rhinehart stated that she bought a new house across the street 7 years ago. All the other properties in the neighborhood with the exception of hers and one other are rentals. She is concerned about the safety of the neighborhood with children roaming the streets and the incidents of police raids as well as devaluation of properties in the neighborhood if these units are built.

Mr. Richardson asked how often the police come to the neighborhood. The response was daily. Drug raids usually occur twice weekly.

Mr. Ensley stated that he felt with the investment by individuals in the purchase of these units even if they are rented, the rental rates would probably attract a more decent clientele.

Mr. Grooms stated that in addition to not feeling safe in the neighborhood, those living there must deal with a great deal of trash.

Mr. Erwin explained that these will be condominium units and there will be 8 owners rather than a single owner. Ms. Whitmire added that with a homeowner’s association and their bylaws that if one property owner is causing a problem the other homeowners can boot that person out.

Mr. Erwin explained that this developer has come to the Town with plans for a development. It is Mr. Hickox's job to determine if he has met Town standards for development. If the developer has met the requirements, it is the job of the Board of Adjustment to grant the conditional use permit.

The hearing has nothing to do with who will or will not live in the neighborhood.

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Ms. Cross reminded the group that what is being considered is whether there will be 5 unit building or an 8 unit building if the conditional use permit is granted.

Kevin Cable asked about the process for amending the Land Development Standards and if a presentation for decreasing density could be brought before the Planning Board. Mr. Hickox explained that the process for amending the Land Development Standards is apply to the Planning Office to take to the Planning Board for recommendation to the Board of Aldermen. The Board of Aldermen would ultimately decide whether or not to amend. He asked if a moratorium could be placed on this development until a text amendment could be approved. Mr. Hickox explained that this is the end of the process unless the Board of Adjustment should choose to deny and Mr. Miller could appeal the decision to Superior Court.

Josh Snow stated that he does not understand why the people of this Hazelwood neighborhood are so upset about the condos. This has nothing to do with making the crime rate worse.

Regina Cable does not understand the parking regulations. Byron Hickox explained that he felt that the parking standards were too low, however Mr. Miller has met and exceeded the requirements. On street parking is allowed in this district. Ms. Cable said that she does not feel that the number of spaces is sufficient.

Neal Ensley pointed out that any concerns about the Land Development Standards as they are written should be addressed to the Planning Board for future development.

Kevin Cable asked about pets. Ms. Whitmire responded that only small pets are allowed by the bylaws that will be used for the development. These bylaws will be based on the bylaws used for two previous developments at Cypress Villas and Cypress Meadows.

Mike Erwin and Neal Ensley expressed concerns over the stormwater issue. Mr. Hickox pointed out that Fred Baker, Public Works Director has looked at the project and has not expressed any concern over the stormwater. Mr. Baker does require stormwater calculations which includes percentage of paving and non-permeable materials as a percentage of the whole lot.

John Richardson pointed out that breaks are needed in the curb to allow run off to flow into planted areas.

It was the consensus of the Board that they would like more information on the stormwater plan before making a decision. Mack Noland moved, seconded by John Richardson to hold a continuance of this public hearing on Wednesday, June 28, 2006 at 5:30 p.m. The motion carried unanimously.

Variance Request - Elaine Huston - 25 J. F. Morris Drive - Place of a Single Wide Mobile Home

Elaine Huston is requesting a variance to place a single wide mobile home on a lot at 25 J. F. Morris Drive in the Ninevah Neighborhood District (N-ND).

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Byron Hickox presented to following finding of facts in this case:

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. It is, however, difficult to find single-wide mobile homes that meet the 10-inch minimum eave projection.

- 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.

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- 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.

Findings of Fact for Dwellings, Manufactured Homes on Individual Lots (Section 154.228):

- a. The roof shall have a minimum eave projection and roof overhang of ten (10) inches, not including the gutter (154.228(B)).

Finding: The proposed single-wide manufactured home does not have a ten-inch eave projection and roof overhang.

Mr. Hickox stated that the request for the variance is to waive the ordinance requirement of the ten-inch eave projection and roof overhang. The single-wide that is to be placed on the property does not meet the ten-inch eave and roof overhang requirement. This is the hardship created in the case.

Attorney David Sutton spoke on behalf of Ms. Huston, the property owner; her mother, Irene Putnam (who receives the income from the mobile home park) and Josh Snow and Laura Sherrill, owners of the mobile home which has been placed on the lot since October but has not yet been hooked up to water and sewer. The problem is that this mobile home does not have the ten-inch eave overhang that is required. There are very few single wide mobile homes built with this overhang. Coming into compliance with the ordinance would cost the mobile home owners over \$5000 which they cannot afford. As has been indicated a stick-built home or double wide could be placed on this lot. However, when the mobile home park was developed in 1995 prior to the adoption of the current Land Development Standards, the thought was to provide affordable housing for the residents of Waynesville. Affordable housing is not something easy to come by in this area. If this variance is denied it will change the whole focus of this mobile home park. It is uncertain whether they could get double wide or stick-built homes in that area. Ms. Huston and Ms. Putnam have been gracious enough not to charge Mr. Snow and Ms. Sherrill rent since October. This represents a loss of income of \$200 per month for them until this situation can be resolved. There are other homes in this park which do not satisfy the ordinance requirement.

There has previously been a question that granting a variance of this type would create a precedent for future variance requests of the same nature. This process has made Ms. Huston aware of the ordinance and she has assured Mr. Sutton that any future renters will be required to meet all the

requirements of the ordinance. There is no intent to establish a precedent with the granting of this variance. Mr. Sutton asked the board to consider the financial impact on Ms. Huston, Ms. Putnam, Mr. Snow and Ms. Sherrill.

Neal Ensley asked what the solution would be to bring the mobile home into compliance. Mr. Sutton responded that it would be building a new roof on the mobile home.

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Laura Sherrill explained that their mobile home is a 1998 model with shingled roof with double pane windows. It does not have a tin roof. It cost \$1600 to move the mobile home into the park and set it up.

Mack Noland agreed with Ms. Sherrill. Mr. Noland said that manufactured housing does not provide ten-inch overhangs on single wide mobile homes. Mr. Noland questioned why this is a requirement of our Land Development Standards. Mr. Noland said there are probably 60 such units in his mobile home park. To allow for affordable manufacturers are not going to change on the body styles since this would drive up manufacturing costs which would have to be passed on to consumers.

Gail Cross pointed out that there are other units there without the ten-inch overhangs and this unit would not change the look of the neighborhood.

Mack Noland moved, seconded by John Richardson, to grant the variance based on the findings of fact stated for this case. The motion carried unanimously.

Neal Ensley moved, seconded by John Richardson, to close this public hearing for Case No. 06-12. The motion carried unanimously.

Mike Erwin
Chairperson

Freida F. Rhinehart
Secretary