

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

The Board of Adjustment held its regular meeting Tuesday, November 7, 2006. Members present were Gail Cross, Jack Suddath, Mack Noland, John Richardson and Stephanie Strickland. Also present at the meeting were Land Development Administrator Byron Hickox, Planning Director Paul Benson and Deputy Town Clerk Freida Rhinehart. Vice Chairperson Mack Noland called the meeting to order at 5:33 p.m.

Approval of Minutes of September 5, 2006

John Richardson moved, seconded by Gail Cross to approve the minutes of September 5, 2006 as presented. The motion carried unanimously.

Variance Request - Bill Harmon - 1165 Scenic Circle - Eagles Nest Rural District (EN-RD)

Byron Hickox stated Mr. Harmon is requesting a variance of 5 ft. from the front setback required for his property.

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 lot in question is only accessible from a right of way provided by the original developer. The proposed building will face this right of way, making it the front, from which the land developments standards require a 20' setback. The topography of the lot prevents a building being pushed further to the rear.

- 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 only reasonable use of the property is as a home site. Without a variance, any home constructed on the lot would simply have to be smaller.

- 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: The special conditions associated with this lot are peculiar and are applicable to few, if any, other lots in the same land development district.

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

Finding: The special conditions and circumstances do not result from the actions of the applicant.

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

Finding: While the variance would allow construction to take place a little closer to the property line, many buildings that predate the Land Development Standards are similarly close to their property lines.

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

Finding: The variance is 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.

Mr. Harmon said the property in front of his proposed house would require construction of high retaining wall and earth moving if a variance is not granted. A much smaller retaining wall can be built if the 5 ft. variance is granted..

Jack Suddath asked if there are homes on either side of this lot. Mr. Harmon replied that Mr. Kimbrough who lives next to him is in favor of his variance request. Mr. Davis, another neighbor has not indicated any negative position.

John Richardson asked if the dark line on the drawing indicates the retaining wall. Mr. Harmon replied that it does.

Gail Cross moved, seconded by John Richardson, to approve the granting of a variance to reduce the front yard setback to 15 feet at 1165 Scenic Circle in the Eagles Nest Rural District (EN-RD) based on compliance with the general requirements of Section 154.109(B)(3) Yard Standards and specific requirements of Section 154.084(F)(2)(a) Granting of Variances. The motion carried unanimously.

Conditional Use Permit - Cluster Development - Jeremy Messer - Raytown Heights - Hall Top Rural District (HT-RD)

Daniel Hyatt stated that Jeremy Messer has applied for a conditional use permit to construct a multi-family residential development on 5.4 acres in the Hall Top Rural District. By ordinance, they are allowed to construct 4 units per acre which would allow a total of 22 units. The proposed project will disturb only 2.26 acres of property with the remaining property becoming common or open space. Access will be from Raytown Heights a town road that currently meets or exceeds town standards. Due to topography access from Hall Top Road is not feasible. Pedestrian connectivity has been provided with sidewalks and trails. Landscaping requirements have been met or exceeded. Water lines will be connected from Halltop Road. The sewer lines run from Raytown Heights. The water and sewer plans are being completed. The stormwater management plan is in process and will feature rain gardens in 4 locations. The erosion control plan has been approved by DENR.

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 Density and Dimensional Standards (154.301):

Finding: Requirements contained in Section 154.301 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 Landscaping (Section 154.303):

Finding: Requirements contained in Section 154.303 have been met.

Findings of Fact for Parking and Loading (Section 154.306):

Finding: Requirements contained in Section 154.306 have been met.

Findings of Fact for Pedestrian Amenities (Section 154.307):

Finding: Requirements contained in Section 154.307 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: Although 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 contained in the site plan indicates that the proposed development will be provided with adequate ingress and egress.

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

Finding: A utility plan has not been submitted for the proposed development. The Stormwater Management Plan is unsatisfactory.

- 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 the 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.

Town Staff recommends that water, sewer, and stormwater plans be submitted and approved by staff prior to the issuance of a land development permit.

John Richardson asked about the location of the rain gardens. Mr. Hyatt pointed them out on the drawings.

Mr. Noland asked if the sewer plans are in the process and if the Public Works Director is working with the engineers. Mr. Hyatt replied that they are working together on the sewer plan with Town Staff.

Byron Hickox stated if the conditional use permit is approved, there should be a condition that scaled elevation drawings of buildings be presented to Town Staff along with water, sewer and stormwater plans.

Mr. Roy Sharp then spoke on behalf of the neighbors living on Raytown Heights. He presented a petition with 17 signatures which states:

“We, the undersigned, do hereby confirm that we are in agreement with the following statements. Raytown Heights is a residential street and is not appropriate to be a primary entrance for a condo unit. The property that exists at the end of Raytown Heights is not paved and is currently being prepared as a building site for a condo unit. The property in question is situated on a steep incline and there is a spring with a reservoir in the midst of the property. If Raytown Heights is used as an entry point, the potential for the water runoff from this spring and incline greatly increases, placing the already existing structures at risk for damage from such. The street itself is small, with the existing structures close to the edges of the road, not allowing for any widening without extensive changes to the owners. The houses along this street are inhabited by families, many with children. The street is neither appropriate nor a safe entry point for a multi-unit BUSINESS. We hereby state the desire to stop Raytown Heights as an entrance for the proposed multi-unit condo.”

Mr. Sharp also stated that Raytown Heights is more curvy and smaller than Hall Top Road. There are two especially dangerous curves. Stormwater is another issue. There is a great deal of water that comes down the mountain through that valley. Concrete will only make the situation worse. The major issue is to keep traffic off Raytown Heights. This property should be accessed from Hall Top.

Mack Noland asked if a study of the road has been done by the Town. Mr. Hickox responded that the Town Engineer had no problem regarding the road.

John Richardson asked if there are still wooded areas. Mr. Hyatt responded that there are. Only the center portion of the property is being disturbed. Mr. Hyatt said that off-site water was taken into consideration when working on the stormwater plan.

Mr. Richardson asked if permeable asphalt had been considered. Mr. Hyatt replied that they have not since only 40% of the property is being disturbed.

Stephanie Strickland asked if the erosion control plan has been approved. Mr. Hyatt said it has.

Mr. Richardson asked if the spring on the property had been located. Mr. Hyatt stated that a geotechnical report was done and no spring was indicated on that report.

Mr. Suddath asked if the units would be sold or rented. Mr. Hyatt said the developer would like to keep his options open at this time.

Mack Noland asked if the project is set to move ahead if the conditional use permit is approved. Mr. Hyatt replied they are.

Mr. Noland inquired about the exterior materials on the buildings. Mr. Hyatt stated that timber would be used.

Mr. Hyatt also pointed out that scale drawings of the buildings are already in the possession of Town Staff.

Gail Cross moved, seconded by Stephanie Strickland, to approve the granting of a conditional use permit based on the applicant's compliance with the general requirements of Section 154.083 Conditional Uses and the specific requirements of Sections 154.112 Hall Top Rural District (HT-RD) and 154.219 Cluster Developments with the following conditions:

1. Submission of a stormwater plan and approval by Town Staff
2. Submission of water and sewer plans and approval by Town Staff

The motion carried unanimously.

Waynesville Commons LLC - Shopping Complex - Hyatt Creek Road, South Main Street - Hyatt Creek Area Center (HC-AC)

Gary O'Nesti of Cedarwood Development spoke on behalf of the project being developed on the former Dayco site. Mr. O'Nesti stated that his group has been working with Town Staff over the past year developing engineering drawings for the proposed WalMart and Home Depot stores. Discussion has also taken place the North Carolina DOT regarding traffic flow and DENR about the Brownfield agreement, environmental permits and stormwater management. Final site drawings are

now being completed, the developers are working with potential tenants and demolition is being scheduled. Construction will hopefully begin in the spring.

Mr. O’Nesti gave a brief slide presentation. Pictures of other buildings in the community gave the developers a vision of a common thread of architecture in the area. These pictures gave the architects ideas for the design for the WalMart and Home Depot buildings. Elevations of both WalMart and Home Depot, the site plan and drawings of the proposed signs were presented.

Byron Hickox presented the findings of fact as follows:

Findings of Fact for Hyatt Creek Area Center Conditional Uses (154.117):

Finding: Requirements contained in Section 154.117 have been met.

Findings of Fact for Brownfield Revelopment (154.212):

Finding: Requirements contained in Section 154.212 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 Density and Dimensional Standards (154.301):

Finding: Requirements contained in Section 154.301 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 Landscaping (Section 154.303):

Finding: Requirements contained in Section 154.303 have been met.

Findings of Fact for Parking and Loading (Section 154.306):

Finding: Requirements contained in Section 154.306 have been met.

Findings of Fact for Pedestrian Amenities (Section 154.307):

Finding: Requirements contained in Section 154.307 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: As a commercial development, the proposed development would conform to the character of the neighborhood.

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- 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 be safely accessed from Hyatt Creek Rd. and S. Main St.

- 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.

Byron Hickox stated Town Staff recommends that a final site plan be submitted and approved by staff prior to the issuance of a land development permit.

Jack Suddath asked about the opening date. Mr. O’Nesti responded that if construction is able to begin in the spring as planned, Home Depot should be complete in 6-7 months and WalMart within 1 year and can open in spring, 2008.

Gail Cross asked about the size of each of the buildings. Mr. O’Nesti said Home Depot will cover about 11.8 acres with the actual building taking up 2.5 acres. The WalMart building will be about 4.5 acres on the 18 acre site. The acreage of the total site is 40 acres.

Malinda Messer expressed concerns about the development of the project. These concerns included economic development impact, environmental impact and affect by big box stores on the quality of life in the community. Other concerns are increased traffic congestion, what will happen to the existing WalMart store, what it will do to the view of the area and the opening of more strip malls. Ms. Messer wishes to make sure that progress is done with vision.

Scott Osondu stated that he is a newcomer to Waynesville and is the owner of an independent bookstore in town. He has lived in other communities where WalMart has come in and has seen the community go down. He questions whether the goal of this project is to develop Waynesville positively. He indicated there had not been enough advertising of public meetings.

Mr. Hickox indicated that in addition to this meeting there have been several other public meetings regarding this issue which have been more than sufficiently publicized and were well attended. This issue has been well advertized not only through legal ads but in newspaper articles and on the radio. Both Mr. Hickox and Mr. Benson have been interviewed.

Mr. Mike Ferguson stated this is a beautiful project which has required a great deal of work. This will contribute to the quality of life and improve the appearance of the site.

Mayor Henry Foy said that Waynesville has been “found” by people from other areas and the Town is growing. In his term as Mayor the Land Use Plan has been developed and the plan is working. Tourism has become Waynesville’s main industry and we must appeal to this market.

Elizabeth Feichter expressed her gratitude for the Board of Adjustment members, others for their interest in our community, and for all the work that has gone into this project. Ms. Feichter feels that this is a good solution for the Town of Waynesville and the project will be good for the Town.

Malinda Messer said that light pollution should be considered. She also asked if pollution would occur as a result of drainage from the parking lot. Mr. O’Nesti explained that there will be retention ponds to prevent runoff into the trout streams (Richland Creek and Allens Creek) that adjoin the property. Post development runoff cannot exceed pre development runoff. Ms. Messer reminded those present that runoff from parking lots contain oil and antifreeze.

O. V. Cagle stated he worked for Dayco for 36 years. Dayco is now gone and will not be back. Manufacturing has gone elsewhere. This property is the worst eyesore in this county. This project will be of benefit to Waynesville and is the best use of this property.

Mr. Osondu wanted to clarify that he did not feel the Town had failed to give proper notification of meetings. Also he wanted the developer to know that he did not have a problem with development of the site. It is simply the chosen tenants.

Gail Cross moved, seconded by John Richardson, to approve the granting of a conditional use permit to Waynesville Commons LLC based on compliance with the general requirements of Section 154.083 Conditional Uses and the specific requirements of Sections 154.117 Hyatt Creek Area Center (HC-AC) and 154.212 Brownfield Redevelopment with the condition that final site plans be submitted to the Town of Waynesville for review by Town Staff. The motion carried unanimously.

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Adjournment

With no further business, John Richardson moved, seconded by Gail Cross to adjourn the meeting at 7:12 p.m.

Mack Noland
Vice Chairperson

Freida F. Rhinehart
Secretary