

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ADJUSTMENT
MAY 1, 2012
TUESDAY - 5:30 P.M.
TOWN HALL - 9 SOUTH MAIN STREET

The Board of Adjustment held a regular meeting Tuesday, May 1, 2012. Members present were Stephanie Welch Strickland, Neal Ensley, John Richardson, Jack Suddath, and Vice Chairman Mack Noland. Also present were Land Use Administrator Byron Hickox and Administrative Assistant Eddie Ward. Vice Chairman Mack Noland called the meeting to order at 5:35 p.m.

Approval of Minutes of June 7, 2011

Vice Chairman Mack Noland asked for a motion to approve the minutes of the June 7, 2011 Board of Adjustment meeting. Board member Jack Suddath stated his name had been misspelled, and the wrong address had been listed for him in the June 7, 2011 minutes. After noting the correct spelling and address, a motion was made by John Richardson, and seconded by Stephanie Welch Strickland to approve the minutes as amended.

Variance Request: A request from Scotty Schulhofer for a variance to allow replacement of a nonconforming building at 816 Howell Mill Road Waynesville, NC PIN 8616 62 8943

Vice Chairman Mack Noland asked Land Use Administrator Byron Hickox, to give some background information for this request. Mr. Hickox said that currently, section 154.084 (F) (2) (a) only makes provisions for the replacement of structures damaged by fire or natural causes. As part of the North Carolina Department of Transportation's improvement on Howell Mill Road, the existing structure on this property will be demolished. Mr. Scotty Schulhofer is asking that a variance be granted to replace the building that will be demolished through eminent domain. The special conditions associated with this lot are applicable to few and do not result from the actions of the applicant. Mr. Hickox concludes there is no allowable replacement of the structure under the current ordinance.

Vice Chairman Mack Noland asked if anyone had any comments or questions about the request. The first to speak was Mr. Patrick Bradshaw, 216 Stepping Stone Lane, Waynesville, NC. Mr. Bradshaw stated he was an engineer at Civil Design Concepts in Waynesville and was speaking on behalf of Mr. Schulhofer. He explained the property was about eighteen acres adjoining the Waynesville Recreation Center. The North Carolina Department of Transportation is taking approximately four acres of this property containing three structures. The total area of the building being demolished is eight thousand two hundred square feet. This is a five thousand square foot building, with an adjoining structure with three thousand two hundred square feet. In reviewing Chapter 14 of the Land Development Standards, which addresses nonconformities, 13.52 (D) and 13.53 (C), there is no provision for replacement of this structure. Mr. Bradshaw said there had been

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a vast clean up of the property over a period of time, and if a variance is granted as requested, Mr. Schulhofer can build a building in line with the Land Development Standards. Board member John Richardson had a question about the size of the proposed building. Mr. Bradshaw said the building would not exceed the size of the current building. There was discussion about the location of the building on the property in relation to Howell Mill Road.

In response to a question about the time frame for the Department of Transportation project, Mr. Hickox stated that once the property acquisition phase has started, the project will be moved along at a faster pace. He also said a variance can be extended from six months to one year.

The next person to speak was Mr. Scotty Schulhofer, PO Box 1581, Waynesville, NC. He explained that the building to be demolished is a five thousand square foot metal building built in 1978, and also a three thousand two hundred square foot connecting block building. The only building that will be left on the property is a warehouse type building. Instead of trying to remodel the 25-year-old warehouse building, Mr. Schulhofer would like to be able to construct a new building to be used as an office. He stated he had done a tremendous amount of clean up on the property. Recycling scrap metal is still his primary business, but compared to past years, his business is a much smaller operation.

The next person to speak was Thomas Parris, 64 Happy Hill Rd., Waynesville, NC. Mr. Parris expressed concerns about the location of the building and the exact size of the building to be constructed. Mr. Bradshaw explained the building would follow the same foot prints of the existing building and would abide by the set backs already in place. Mr. Hickox also said the exact location of the new building would depend a lot on the location of the new road planned by the Department of Transportation.

The next person to speak was Patsy Cook, 59 Happy Hill Road, Waynesville, NC. Ms. Cook had questions about what is being planned other than a building being built. Mr. Schulhofer stated what he had in mind with this building is office space for his customers to come and go, and a small storage area. North Carolina Department of Transportation has given Mr. Schulhofer ninety days to move out of the existing building, and from all indications the Department of Transportation job will start later this year. Mr. Schulhofer said the state actually owns the property now.

Vice Chairman Mack Noland then closed the public comment portion of the meeting and asked if any Board member had questions or comments.

Board member Neal Ensley commented that this was a very reasonable request made by Mr. Schulhofer.

A motion was made by John Richardson, and seconded by Neal Ensley to grant the variance as requested from Scotty Schulhofer based on the following:

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: While provision is made in the Land Development Standards for the replacement of non conforming structures damaged by fire or natural disaster, there is no such provision for the replacement of structures taken or demolished through eminent domain.

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: Without a structure on this property, the existing business could not continue.

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: As mentioned above, the LDS makes provision for replacement of nonconforming structures lost through other means beyond the control of the property owner. Eminent domain is arguably similar.

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

Finding: The variance is the minimum necessary to afford relief.

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g. That the public safety and welfare have been assured and substantial justice would be done by the granting of the variance.

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

The motion was approved unanimously.

Election of Chairman and Vice Chairman

Vice Chairman Mack Noland asked for nominations for Chairman and Vice Chairman of the Board of Adjustment. Board member Jack Suddath made a motion to elect Mack Noland as Chairman and John Richardson as Vice Chairman. The motion was seconded by Stephanie Welch Strickland and approved unanimously.

Adjournment

With no further business, a motion was made by Neal Ensley and seconded by Stephanie Welch Strickland to adjourn the meeting at 6:16 p.m. The motion was approved unanimously.

Chairman

Eddie Ward, Administrative Assistant