



TOWN OF WAYNESVILLE Zoning Board of Adjustment

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Development Services
Director
Elizabeth Teague

Henry Kidder, **Chairman**
Stephanie Strickland, **Vice-Chairman**
Joshua Morgan
George Escaravage
Edward Moore
John Baus
Robert Hermann

MINUTES OF THE TOWN OF WAYNESVILLE ZONING BOARD OF ADJUSTMENT Regular Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 December 7, 2021

THE WAYNESVILLE ZONING BOARD OF ADJUSTMENT held a Regular Meeting December 7, 2021, at 5:30 p.m. in the Boardroom of Town Hall, 9 South Main Street, Waynesville, NC. 28786.

A. CALL TO ORDER

1. Welcome/Calendar/Announcements

The following members were present:

Henry Kidder, Chairman
George Escaravage
Robert Herman
Edward Moore
Joshua Morgan
John Baus

The following Board members were absent:

Stephanie Strickland, Vice Chair

The following staff members were present:

Byron Hickox, Land Use Administrator
Sam Cullen, Code Enforcement Official
Kathy Johnson, Deputy Clerk
Ron Sneed, Attorney

The following media were present:

No media were present

Zoning Board of Adjustment Chairman, Henry Kidder welcomed everyone and called the meeting to order at 5:30 p.m. and asked if anyone had any announcements. Alternate Board Member John Baus was present for meeting but was excused due to Quorum being present.

Zoning Board of Adjustment Minutes
Regular Meeting
December 7, 2021

Land Use Administrator Byron Hickox announced an application for a variance has been received and the next meeting will be on January 4, 2022.

2. Adoption of Minutes (as presented or amended) from September 7, 2021

Chairman Kidder asked if everyone had reviewed the minutes for September 7, 2021 meeting.

A motion was made by Board member George Escaravage, seconded by Board member Robert Herrmann to approve the September 7, 2021 meeting (as presented or amended). The motion carried unanimously. (5-0)

3. Election of Chair and Vice-Chair for a one-year term.

Chairman Kidder said at present time he is Chairman and Stephanie Strickland is Vice-Chair. He asked if anyone was interested in filling these positions.

A motion was made by Robert Herrmann and seconded by Edward Moore to nominate George Escaravage as Chairman. The motion carried unanimously. (5-0)

A motion was made by Joshua Morgan and seconded by Edward Moore to nominate Henry Kidder as Vice Chairman. The motion carried unanimously. (5-0)

4. Request for Variance at 315 Hall Top Road, PIN 8616-04-9569, within the Hall Top Low Density Residential District (HT-RL)

Chairman Kidder opened the hearing and read the protocols for a Quasi-Judicial hearing and went over the rules of conduct. Mr. Kidder then invited anyone who wanted to speak to be sworn in. Town staff and applicant Floyd Conner were sworn in.

Code Enforcement Official Sam Cullen presented the staff report for a request for a variance of Land Development Standard Section 2.4.1 (4), on the property described as 315 Hall Top Road. The subject property consists of a single-family home with a commercial garage and outbuilding.

The property is within the extra-territorial jurisdiction of Waynesville and the Hall Top Low Density Residential District (HT-RL). The applicant and his brother inherited the land from their mother Annie Rose Conner after her passing in July. She requested in her will that the land be divided, leaving the house to the applicants' brother and the commercial garage to the applicant Mr. Floyd Conner.

The subject property is surrounded by residential uses within the HT-RL District. All of the abutting properties are owned by the applicant and his immediate family with the exception of one property owned by Clatterbuck properties. This property is accessed by another road and existing dwellings on that property are located a large distance from the property.

The applicant would like to split the property into two lots to separate the home and commercial garage. The structure has stood at its present location since 1963. The requested variance would permit the applicant to split the lot with a boundary between the buildings. The split would create two new

conforming lots, but would also create a setback noncompliance where the boundary went between the existing buildings. Mr. Cullen concluded that the division of the property granted by the requested variance would not create any visual or physical change to what exists now. Only the underlying property boundary would be created and would facilitate the land being divided by heirs.

Mr. Cullen entered into evidence on behalf of the Town:

1. Staff report
2. Variance Request Application
3. Zoning Map showing lots with district
4. Ariel Maps of subject property
5. Sketch of proposed recombination subdivision and lot lines
6. Photographs of buildings and subject property
7. Town of Waynesville Land Development Standards
8. Notifications Material

Notice of this Public Hearing was mailed to owners of property within 100' of the subject property and sent to the media on November 17, 2021. Property was posted with a notification sign.

Land Use Administrator Byron Hickox answered questions from the Board and reviewed the map explaining how the lot would be changed if the variance is approved. The Chair asked if Mr. Conner wanted to speak.

Mr. Floyd Conner
359 Hall Top Road
Waynesville

Mr. Conner explained that he and his brother inherited the property. He said he was trying to rebuild the shop so he could go back to work, and his brother could have the house. Board members offered their condolences to Mr. Conner and his brother on the loss of their mother and inquired about the plans to rebuild the garage.

A motion was made by Board member Joshua Morgan, seconded by Board member Robert Herrmann to close the public hearing at 5:56pm. The motion carried unanimously. (5-0)

The Board reviewed the recommended findings from staff and, after discussion, agreed upon the following findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - Yes – An unnecessary hardship would result from the strict application of the ordinance. A strict enforcement of the zoning setback would require the structures to remain on one parcel, thus making the business forever tied to the house on a single lot that was willed by a parent to two children.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - Yes – The placement of the two structures predates the current Land Development Standards. The nonconformity of the lot’s size also predates the current Land Development Standards.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - Yes – The current placement of two structures on the existing lot was not the result of the actions of the applicant.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
 - Yes – This variance would allow the heirs to the property to reasonably use their property and will allow the home and business to continue to be used as they exist.

A motion was made by Board member Robert Herrmann, seconded by Board member Joshua Morgan to approve the variance for 315 Hall Top Road, PIN 8616-04-9569, within the Hall Top Low Density Residential District (HT-RL). The motion carried unanimously. (5-0)

A motion was made by Board member Robert Herrmann, seconded by Board member Joshua Morgan to amend the motion to include the stipulation that the subdivision should result in two lots of at least one-half acre or larger. The motion carried unanimously. (5-0)

C. ADJOURN

A motion was made by Board member George Escaravage, seconded by Joshua Morgan to adjourn the meeting at 6:02pm.

Henry Kidder, Chairman

Kathy Johnson, Deputy Clerk