

REGULAR BOARD MEETING of February 15, 2006, with Mayor Don Mullen and Commissioners H. N. James, Dennis DeWolf, Alan Marsh, Amy Patterson, and Hank Ross present.

Also present were Richard Betz, Lamar Nix, Larry Gantenbein, Ginger Slaughter, Pat Taylor, Clem Patton, Lewis Doggett, Kim Lewicki, Adam Thompson, Ingram Tynes, Steve Hamm, Beth Hamm, Debbie Grossman, Gary Drake, Jodie Cook, Ginnie Harris, Ken Knight, Sarah Knight, Charles Simmerson, Julian Franklin, and others.

A. PUBLIC HEARINGS - SUBDIVISION VARIANCES.

The Town Administrator reported that Old Edwards Inn had requested that the public hearing and agenda items for two subdivisions be deleted and re-scheduled for the next meeting in order to revise the plans.

The Mayor called the public hearing to order at 7:00 p.m. for three road variance requests in Crunkleton Ridge Subdivision, and stated that this was the time and place for comments from the public. There were no comments from the public and he closed the hearing at 7:02 p.m.

B. PUBLIC HEARING - BRUCE W. AND BARBARA L. WERDER - CONDITIONAL USE RE-ZONING.

The Mayor called the public hearing to order at 7:02 p.m. for the Bruce W. and Barbara L. Werder re-zoning, from R-2 and B-4 to R-3 Multifamily Conditional, and stated that this was the time and place for comments from the public.

The Town Administrator reported that written comments had been received in support of the re-zoning from Ronald French and William T. Mann.

Steve Hamm was present and stated that his adjoining property would be negatively affected; he expressed concern over the R-3 district directly on his property line and high-density housing in general.

Beth Hamm was present and expressed concern over the high-impact development. She said that her property was nestled in the middle of a single-family area and was quiet and peaceful, and she felt that her historic home would be negatively impacted due to the 18 additional dwelling units, loss of residential values, environmental impact, noise, traffic, and stormwater. She thought that enhanced profit to the sellers was the only benefit, and she asked that the Board consider leaving the current R-2 zoning adjoining her property in place and extending it to the highway. She pointed out that this was the same plan submitted in May of 2005; the only difference was that the conditional zoning would require the developer to adhere to the plans submitted. She re-submitted a petition in opposition to the re-zoning containing 65 names.

There were no other comments from the public and the Mayor closed the hearing at 7:12 p.m.

C. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the meeting to order at 7:12 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Town Administrator had already reported that Old Edwards Inn had requested that the public hearing and agenda items for two subdivisions be deleted and re-scheduled for the next meeting.

III. Approval of Minutes.

Copies of the minutes of the February 1 Regular Board Meeting had been distributed by mail.

MOVED BY COMM. MARSH, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED, AND ALSO THE AGENDA AS AMENDED.

IV. Reports.

1. The Mayor reported that he had met with officials in Sen. Elizabeth Dole's office in Washington and requested assistance for funding the removal of silt from the lakes. The funding was being sought from the U. S. Army Corps of Engineers and chances were much better than from the USDA.

He also said that the Town was trying to iron out its differences with the County over proportional representation on the Planning and Zoning Boards.

He also reported that the first of a series of ETJ meetings had taken place Monday night, and although attendance was poor he felt it was a good meeting and had provided valuable input.

2. Comm. DeWolf reported that there had been a delay in the tectum material for the roof of the Civic Center and that project was not yet underway.

Comm. Ross said that he, too, thought that the ETJ Liaison Committee's meeting Monday night had gone well, and he encouraged residents to participate in the process by attending upcoming meetings on February 16, 20, and 23.

3. The Town Administrator had distributed copies of the Planning Board's February 6 meeting and the Five-Year Capital Improvement Program for the Town.

V. Old Business.

1. The Board discussed permits issued at previous meetings for use of Town right-of-way for construction activities by Old Edwards Inn on Church Street, which had expired on this date. The Town Administrator reported that it had come to his attention that the area in front of the Dunfergot building on Fourth Street was also being used for construction activities; he said that George Mathis and Mario Gomes had requested that that area be added to the permit, and estimated that work would be completed there in two to three weeks. He also reported that he had received reports of parking problems from Bill Kruckenberger, owner of Buyers Real Estate, and others in the area; OEI had agreed for all contractors and sub-contractors to park in private parking lots. Comm. Patterson said she felt they should be doing a better job of enforcing parking by their contractors.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO EXTEND THE PERMIT UNTIL MARCH 1, INCLUDING THE ADDITIONAL AREA ON FOURTH STREET PROVIDED IT IS CLEARLY MARKED FOR PEDESTRIAN PASSAGE AND DOES NOT EXTEND BEYOND A PERIOD OF THREE WEEKS.

2. Each Board member had received a letter from Margaret Mitchell O'Donnell, as well as a copy of a resolution adopted by the Board in 1974 permanently abandoning Second Street pursuant to public hearing. Ms. O'Donnell stated that she wanted to close access to Highlands Plaza at her driveway because she felt it was dangerous, and she intended to construct a split rail fence and install boulders and plantings at the end of the driveway. The Mayor asked if there would be room for traffic to turn if they entered the street; Comm. James suggested that dead-end signs would need to be installed and perhaps the alley widened to permit turning. The Board agreed to ask the Town Engineer to install the signs and coordinate with the owner of the shopping center.

Gary Drake was present and said that a lot of people used the driveway and street; he wondered why the Town was maintaining it, and was not aware of any accidents that had occurred. The Town Administrator said that the street had been closed in 1974 and his understanding was that it could not be opened up again without permission from the owner of the property. Comm. James agreed, suggesting that Mr. Drake should contact the owners.

Clem Patton was present and also spoke in favor of keeping the driveway open. Debbie Grossman said the same, as did June Hogue, who asked that the Town investigate and see if it could legally keep the street and driveway open. The Mayor suggested that the Town Attorney be asked to determine if it could be kept open.

3. Comm. Marsh said that he understood the County could use prisoners to pick up trash in Highlands, and he proposed requesting them to do so; he understood that the Sheriff's Department would supervise the prisoners and there would be no liability to the Town.

MOVED BY COMM. MARSH, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE PROPOSAL PROVIDED THERE IS NO LIABILITY TO THE TOWN.

VI. New Business.

1. The Board reviewed in some detail the subdivision plat, variance requests, and request for a bond in lieu of improvements for the Crunkleton Ridge Subdivision. Town Engineer Lamar Nix reviewed his letter reviewing the plans, which had been distributed with the variance applications and other materials. He explained that the sewer, water, and electrical improvements were located under the road, and he felt there was adequate room in the shoulders for them to be located there. He also noted that two radiuses were less than the 150-foot radius required by the Ordinance but he did not think this was a critical problem due to their length. He said that he could not, however, recommend approval of the 12-foot-wide road for two-way traffic; he felt there was no topographical reason that would restrict the installation of an 18-foot road.

Comm. Patterson pointed out that the property could not be re-subdivided and was limited to three lots. Comm. DeWolf said that the private road almost seemed like a driveway, and he wondered if it would be more realistic to look at pull-outs in certain strategic locations rather than an 18-foot width. Comm. James saw no reason why the subdivision should not meet the standards of the Ordinance; he agreed with the Town Engineer, and noted that the Board was authorized to grant variances only under the conditions stated in the Ordinance. Comm. Ross said he hoped the Planning Board would look at roadway width and try to be more flexible; he felt that the existing standards did not allow for flexibility and that wider roads were generally less safe. He felt that with pull-offs and a full entrance at NC-106 this road should be wide enough. Comm. James said he hoped the Planning Board would look at sub-standard subdivisions like Riverlake, where narrow roads had created many problems.

Ingram Tynes was present and said that his intention had been to save the unique environment, preserving the old farm road, the stone wall, and stone spring house, an old oak tree, and several other trees. He did not feel that safety was an issue, and he submitted photographs showing the existing road. He noted that he had sold part of the property so that there were only three lots, not four, and he also said that the cul-de-sac had been changed so that no variance was necessary.

Comm. DeWolf said that he felt it would be criminal to take down so many trees. He realized that the Town put itself at risk if subdivisions did not meet standards, but he felt situations could be addressed on a case-by-case basis; he hated to lose something valuable by not bending the rules where needed.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND CARRIED TO APPROVE THE ROAD WIDTH VARIANCE, CONTINGENT ON A PULL-OFF BEING INDICATED ON THE PLAT AT A LOCATION THAT FUNCTIONS WELL WITH THE SIGHT DISTANCE. Comms. Ross, DeWolf, Marsh, and Patterson voted "aye," and Comm. James voted "nay."

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GRANT THE ROAD RADIUS VARIANCE.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO GRANT THE ROAD SHOULDER VARIANCE, PROVIDED ALL UTILITIES ARE LOCATED OUT OF THE ROAD EXCEPT WHERE ABSOLUTELY NECESSARY.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE PRELIMINARY PLAT PROVIDED IT IS AMENDED TO INCORPORATE THE CHANGES DISCUSSED.

Comm. James asked why a bond was being requested; he said that the Town had only granted such a request once in the past and had regretted it. Mr. Tynes said that he wanted to convey a lot sooner than he could complete installation of the improvements; he was willing to put up an \$80,000 bond and would agree to complete the improvements in six months.

MOVED BY COMM. JAMES, SECONDED BY COMM. DEWOLF, AND CARRIED TO DENY THE REQUEST FOR A BOND IN LIEU OF IMPROVEMENTS. Comms. James, DeWolf, Marsh, and Ross voted "aye," and Comm. Patterson voted "nay."

Ken Knight was present and expressed concern over stormwater run-off on his property, which was located across NC-106.

2. The Board then considered the re-zoning request for the Werder property, subject of a duly-advertized public hearing earlier in the meeting. It was reported that first class mail notice had been provided to all adjoining property owners and posted on the site, and that the Planning Board had recommended approval because it was consistent with the Land Use Plan. Town Planner Larry Gantenbein read the motion from the Planning Board minutes; in addition, Planning Board member Ginger Slaughter was present and stated that the Board had also considered protection of the corridors, preservation of the historic house, and multi-family housing on site-specific locations, all of which were consistent with the Land Use Plan.

The previous conditions entered into the record of the January 18 meeting were read by the Town Administrator: (1) structures to be situated as shown on drawing; (2) historic home to be preserved as shown on drawing; (3) roadway and cul de sac to be situated as shown on drawing; (4) parking as shown on drawing; and (5) project time frame confirmed. In addition, Comm. James felt that (6) assurance should be provided that there would be no driveways between the buildings and the highway. Comm. Marsh felt that (7) sidewalks should be installed on all three streets as shown on the drawing. Comm. Ross felt that (8) post-construction stormwater retention designed by an engineer for a 10-year storm should be provided; Mr. Simmerson said that he had asked Bronze Pesterfield, P.E., to provide stormwater design, and Larry Gantenbein said that he would be monitoring the stormwater on the site.

Comm. Patterson said that when the Land Use Plan had been adopted, the Board had not necessarily agreed with it item by item; she did not see how this project could be said to be consistent with the Town's general approval of the Plan. She said that she had been opposed to the project from the beginning because of the increased density and the problems it caused, but she noted that eliminating the B-4 zoning along the highway helped to mitigate it to a certain extent.

Comm. Ross felt that the project went to extraordinary lengths to provide buffers, preserve a historic house, and provide additional multi-family housing as an alternative to commercial development; he said that it preserved the corridor, and was a much better use of the property than commercial development. He felt that this was what Highlands needed, and that there should be more of this type of development if there was going to be development.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND CARRIED, TO APPROVE THE RE-ZONING PURSUANT TO ALL OF THE CONDITIONS ENUMERATED ABOVE BECAUSE IT IS CONSISTENT WITH THE LAND USE PLAN BY PROTECTING THE CORRIDORS, PRESERVING A HISTORIC HOUSE, AND

PROVIDING LIMITED MULTI-FAMILY HOUSING WITHIN WALKING DISTANCE OF THE DOWNTOWN BUSINESS DISTRICT. Comms. Ross, DeWolf, Marsh, and James voted "aye," and Comm. Patterson voted "nay."

3. Julian Franklin was present representing the Fine Art Center of the Bascom-Louise Gallery, and he presented in some detail a report on past activities and future plans for the Center. He thanked the Town for its support in the past, and he said that the organization's \$4.5 million capital campaign would be starting this spring; he hoped the Town would continue to be partners in a project that would benefit the entire community. The Mayor said he thought this was a very important project and assured him that the Town wanted to support it as much as possible.

4. Comm. Marsh said that he understood Clem Patton had asked whether the Town's Watershed Ordinance complied with State law, and he asked that the Town's attorneys answer this question before the next meeting.

VII. MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared adjourned by the Mayor at 9:00 p.m.

Richard Betz, Town Clerk