

REGULAR BOARD MEETING of May 2, 2007, with Mayor Don Mullen and Commissioners Alan Marsh, Amy Patterson, Hank Ross, H. N. James, and Dennis DeWolf present.

Also present were Richard Betz, Lamar Nix, Bill Harrell, Josh Ward, Sonjia Stewart, Selwyn Chalker, Kim Lewicki, Jim Lewicki, Linsey Wisdom, Billy Clarke, Henry Lyngos, Lee Hodges, Harold Neely, Larry Rogers, and others.

A. PUBLIC HEARING - Setback variance and road grade variance, Riverwalk Subdivision.

The Mayor called the public hearing to order at 7:00 p.m. Billy Clarke and Henry Lyngos were both sworn by the Mayor, and Mr. Clarke presented conceptual plans showing the proposed setback variance; the application had been distributed with the agenda. He said that the setback would involve one house along Cullasaja Drive, which according to the new proposed plan would be setback only 50 feet from Cullasaja Drive rather than the required 100-foot setback for clustered homes. He said that the purpose was to preserve 17 large trees, and he felt this proposed a reasonable use of the property and preserved a substantial property right; conditions were peculiar to the parcel and it would not be detrimental to public health, safety, or welfare or injurious to other properties, but in fact would be an improvement due to the improved visual barrier. The Planning Board had reviewed the application in December and recommended no action be taken until the \$400,000 in civil penalties had been paid, which Mr. Clarke felt was not an appropriate condition. Comm. Patterson asked how many trees would have been removed with the first plan, and pointed out that trees had also been removed to build the roads in the subdivision; Mr. Clarke said that the second plan disturbed less land.

There were no comments from the public.

Mr. Clarke then presented a plan showing the proposed road grade variance, which involved a 300-foot section of Hawks Ledge Road that would have a grade of 16.9% rather than the 14% required by the Town; the road served five houses and would be paved. Town Engineer Lamar Nix reminded the Board that the State requirement was 18%; he also said he had driven the road earlier in the day and thought it would not present a problem. Mr. Clarke also reported that the final soil erosion plan had been submitted to Josh Ward for approval and that a re-design of the large concrete structure in the western drainage channel would be complete in a few days, which would place the subdivision into compliance with the soil erosion ordinance; paving, which was scheduled for mid-May, would greatly improve soil erosion control. It was reported that this variance had not been reviewed by the Planning Board at its April 23 meeting due to an administrative error in leaving it off the agenda, however, and Mr. Clarke asked that the Board consider giving some sort of green light so they could proceed with the paving, since the Planning Board would not meet until May 21.

There were no comments from the public, and the Mayor closed the hearings.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the meeting to order at 7:20. p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk requested a closed session to review applications for employment, and also reported that an item under New Business would be deferred to the next meeting.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO

APPROVE THE AGENDA AS AMENDED.

III. Approval of Minutes.

Copies of the minutes of the April 18 Regular Board Meeting had been distributed by mail. Comm. Patterson noted an error, which the Clerk said would be corrected.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS CORRECTED.

IV. Public Comment Period.

The Mayor stated that this was the public comment period required by law.

Lee Hodges was present and thanked Comms. Patterson and Ross for the ETJ Liaison Committee meetings they had organized the previous year. She said she felt that the decision of the Planning Board the previous week not to extend zoning into Horse Cove and Clear Creek was a good one.

V. Reports.

1. The Mayor reported that Reuben Moore, NCDOT Division Operations Engineer, had indicated that funds were available for a bicycle path along NC-106; the DOT would be pursuing that before the paving scheduled for this year. He also reported that Town officials and employees had been invited by Highlands Country Club to lunch on May 21. He also read a proclamation for National Child Care Provider Appreciation Day on May 11, 2007.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE PROCLAMATION.

2. Comm. Marsh reported that the Public Works Committee had met with Ted McGavran on May 1 to discuss the report he had submitted at the previous meeting; he had suggested that his references be checked. Comm. James said that the Committee was only interested in the first two parts of the proposal, an inventory of poles and a negotiating of contracts with Verizon and Northland. Comm. Ross said he had met with Town officials and understood that the Town had already gathered the lion's share of information and seemed to be willing to go forward with the inventory; he thought it would be better to have the Town proceed with its inventory, and perhaps consider McGavran only for the contract negotiation. Comm. James said his concern was that the Town no longer pay 100% of the cost of pole replacements; the cost should be split evenly between the Town, Verizon, and Northland.

MOVED BY COMM. JAMES TO TAKE THIS MATTER UNDER ADVISEMENT WHILE REFERENCES ARE CHECKED. Comm. DeWolf asked if the Town could keep up with the estimated cost of the labor of doing the inventory itself, and Mr. Nix said this could be done.

Comm. Ross reported that the Christmas Decorations Committee had suggested putting up some of the old decorations in conjunction with the new ones; it was agreed that this would be done in November.

Comm. Ross also announced that the Pine Street Park Committee would be holding public meetings on May 7 and June 7 to receive input on the park; all were invited to attend.

Comm. DeWolf reported that work on both the Community Building and the Civic Center was nearing completion.

3. Each Board member had received a copy of the Town Engineer/ Public Service Administrator's report for the month; Lamar Nix was present to review the report.

4. Each Board member had received a copy of the Police Chief's report for the month; Bill Harrell was present to review the report.

5. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was present, and reported in some detail on extensive damage that had recently occurred to the swimming pool. He said that the fiber-tech liner had peeled off, pulling off some of the marcite as well, and thus the pool could not be used this summer unless repaired. He had received a preliminary cost estimate of \$47,000 from Sun Stuff of Asheville to remove the rest of the marcite, clean, and re-surface the pool; work could begin on May 21 and be completed in time to open the pool this summer. The Treasurer reported that the \$100,000 in investment in the Recreation Department was available for capital expenses like this.

MOVED BY COMM. DEWOLF, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE REPAIR.

6. Each Board member had received a copy of the Interim Zoning Administrator's written report for the month, accompanied by minutes of the Planning Board minutes of April 23. It was reported that the Planning Board, as mentioned earlier in the meeting, had voted 5-2 not to extend zoning into Horse Cove and Clear Creek.

7. Each Board member had received a copy of the Treasurer's Report for the month.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ACCEPT THE TREASURER'S REPORT.

VI. Old Business.

1. The Board again considered proposed amendments of the Zoning and Subdivision Ordinance to clarify clustering. Comm. Patterson asked about the proposed wording in Section 409.3(A)(3), naming the goals of clustering, "to preserve trees." After some discussion it was agreed that the phrase should be changed to "to preserve natural vegetation and ecosystems." She also asked about the definition of "common open space" in the same paragraph and the words, "the space between buildings of a cluster in a conservation subdivision or planned unit development." After some discussion, it was agreed that the phrase should be changed to "the space between buildings." The Town Administrator agreed to forward these changes to the Town Attorney for review.

VII. New Business.

1. The Board considered the two variances for Riverwalk, subject of a public hearing preceding the meeting. Comm. Patterson did not think the applicant should be delayed on the Road Grade Variance simply because it had been omitted from the Planning Board agenda; Comm. Ross agreed, and said he felt it was important to proceed with the paving as soon as possible. Billy Clarke recommended that the Board approve the variance subject to Planning Board review.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO APPROVE THE ROAD GRADE VARIANCE SUBJECT TO PLANNING BOARD REVIEW.

Comm. Patterson felt that the setback variance was a different matter; variances should be tough to get, and she was not sure that there was evidence that not granting this variance would deprive the applicant of the reasonable use of property, nor that a substantial property right was not being preserved.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO DENY THE SETBACK VARIANCE.

- Two bids had been received on paving and were publicly opened by the Mayor:

Rhodes Brothers Paving Inc. \$62,974.80
Harrison Construction Division of APAC 40,675.74

It was noted at the meeting that there appeared to be a computational error in the APAC bid, which would make the bid \$81,351.18.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO ACCEPT THE LOW BID SUBJECT TO APPROVAL BY THE TOWN ENGINEER.

- The Rural Center has requested that the Town adopt a proposed resolution of support for the Clean Water Act of 2007; copies had been distributed at the previous meeting.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. JAMES, AND UNANIMOUSLY CARRIED TO ADOPT THE RESOLUTION.

- Each Board member had received a nomination form, copy of appointment policy, list of members whose terms were due to expire, report on terms served, and list of citizens who had expressed an interest in serving on various Boards and Committees of the Town; the Town Administration asked that the nominations be returned to him for tabulation before the May 16 meeting. He also reported that Linda Clark (in-Town resident), Thomas Craig (ETJ resident), and Hillrie Quin (outside Town and ETJ) had all asked that their names be added to the list of those wishing to serve on the Planning Board.

- MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G. S. §143-318.11(A)(6) TO CONSIDER AN APPLICATION FOR EMPLOYMENT. All present left the room except the Town Administrator.

The Board considered an application for employment.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

VIII. MOVED BY COMM. PATTERSON AND UNANIMOUSLY CARRIED TO ADJOURN.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 8:30 p.m.

Richard Betz, Town Clerk