

PUBLIC HEARINGS and REGULAR BOARD MEETING of June 6, 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, Todd Ensley, Josh Ward, Sonjia Stewart, Selwyn Chalker, Kim Lewicki, Jim Lewicki, Linsey Wisdom, Larry Rogers, John Cleaveland, Ricky Bryson, John Dotson, Luba Barnhardt, Craig Orange, Bobby Haynes, Kate Messer, Barry Messer, Rick Siegel, and others.

A. PUBLIC HEARINGS.

The Mayor called the Public Hearings to order at 7:00 p.m.

1. John & Luba Barnhardt - subdivision variance.

Luba Barnhardt was present and asked the Board to consider a written application for variance from the road width requirement of the Subdivision Ordinance, creating one additional 0.76-acre lot, at 165 Valentine lane. The area was in the ETJ and the Board had previously approved an additional water connection. It was reported that the Planning Board had recommended approval of the variance and the subdivision.

There were no further comments from the public.

2. Richard Oliver - South Slope Subdivision - variances.

Bobby Haynes was present on behalf of several adjoining property owners, shown on a map he submitted, in opposition to the variances and the subdivision; he was concerned over the aggressive clear-cutting, soil erosion, removal of trees on adjoining property, and proximity of septic systems to the creek.

It was reported that a letter had been received for the record in opposition from William Stiefel, on behalf of the Highlands-Cashiers Land Trust.

Kate Messer was present and spoke in opposition to the variances and the subdivision. She was concerned about views and the cutting of trees, and she encouraged the Board to adopt regulations controlling cutting of trees on residential property.

Craig Orange, P.E., representing Mr. Oliver, deferred his comments to the New Business portion of the meeting.

There were no further comments from the public.

3. Amendment of Zoning Ordinance regulating Home Occupations.

Leonard Baer spoke in favor of the amendment. He said that home offices and virtual offices were already here and would become much more prevalent, and the amendment would permit the Town to control them; many home occupations were probably operating without permission now and the amendment would confirm that they could continue.

There were no further comments from the public.

4. Amendment of Zoning Ordinance and Highlands Code in regard to proportional representation in the ETJ.

There were no comments from the public.

The Mayor closed the public hearings at 7:10 p.m.

B. REGULAR BOARD MEETING.

I. Call to Order.

The Mayor called the meeting to order at 7:10 p.m.

II. Approval of Agenda.

Copies of the agenda had been distributed by mail. The Clerk requested that two personnel matters and consultation with the Town Attorney be added to the closed session already scheduled.

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

III. Approval of Minutes.

Copies of the minutes of the May 9 Special Board Meeting had been distributed by mail.

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

Copies of the minutes of the May 16 Regular Board Meeting had been distributed by mail.

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

Copies of the minutes of the May 30 Special Board Meeting had been distributed by mail.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO APPROVE THE MINUTES AS DISTRIBUTED.

IV. Public Comment Period.

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

John Cleaveland was present and commented on the possible closing of Pine Street; he said the street adjoined his property and was used every day for parking and traffic circulation, and he thought the Town should stop the proposal before it went any farther. He also said he was concerned over funds proposed to be spent on a Greenways Trail while the Town adjoined 100,000 acres of Forest Service land that available to all; the proposed trail would benefit few. He also spoke in opposition to the proposed 1% tax on real estate and urged the Board to contact its representatives in Raleigh and oppose it; he said it was pretty plain that the Highlands Plateau would pay the \$4 million in revenue expected from the tax, said that the real estate market was not healthy now, and described it as a tax on people who can't vote.

Larry Rogers was present and commented that he did not believe the Board should appoint members to serve on two

different Boards at the same time.

V. Reports.

1. The Mayor reported that the D.O.T. had agreed to evaluate the need for a traffic signal at the corner of Main and Third Street.

He also said that many citizens had spoken to him about curbside recycling, an issue that Jim Hickman would be addressing at the June 20 meeting. He said that he would like to appoint, with the Board's permission, a task force to look into the issue, consisting of the following: Robert E. Smith, Ellen Crow Young, Katy Calloway, Robin Armstrong, Breta Stroud, David Bales, and Julie Schott.

2. Comm. Marsh reported that there would be a meeting on June 12 at the new Macon County Public Library on steep slope development, and a Region A workshop on June 28 at the Macon County Bank headquarters; he urged all Commissioners to attend.

Comm. Ross reminded the Board that the Pine Street Park Committee was holding a public meeting at 5:30 p.m. on June 7 at the Conference Center to gather information on the proposed park.

The Public Works Committee had met on June 4, identified some specific stormwater projects, and asked the Town Engineer and Town Administrator to meet with McGill to discuss funding and possible drafting of ordinances.

3. The Town Attorney was present but deferred his report to closed session items.

4. 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.

5. Each Board member had received a copy of the Police Chief's report for the month; Captain Todd Ensley was present to review the report.

6. Each Board member had received a copy of the Recreation Director's written report for the month; Selwyn Chalker was present to review the report. He said that the repairs to the swimming pool had been completed, and he also provided a list of summer employees and salary ranges.

MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO APPROVE THE EMPLOYEES AND SALARIES.

7. Each Board member had received a copy of the Interim Zoning Administrator's written report for the month, accompanied by minutes of the Appearance Commission minutes of May 7 and the Planning Board minutes of May 21. He also reported that Code Enforcement Official Josh Ward had begun enforcing sign regulations, and would also begin to enforce regulations prohibiting the outdoor display of merchandise.

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

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

9. The Town Administrator reported that William Hawkins had submitted an application for a subdivision variance and requested that a public hearing be set for July 11; the Board agreed by consensus.

VI. Old Business.

1. The Board considered an amendment of the Zoning Ordinance regulating curb cuts, which had been reviewed by the Planning Board at its previous meeting.

MOVED BY COMM. JAMES, SECONDED BY COMM. ROSS, AND UNANIMOUSLY CARRIED TO SET A PUBLIC HEARING FOR JULY 11 FOR THE AMENDMENT.

VII. New Business.

1. The Board considered the variance and subdivision plat submitted by John & Luba Barnhardt, subject of a public hearing earlier in the meeting. Comm. Patterson commended that this seemed to be a minimum subdivision, with only one lot being created.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO APPROVE THE SUBDIVISION ROAD WIDTH VARIANCE AND THE SUBDIVISION PLAT.

2. The Board considered the Richard Oliver South Slope Subdivision, subject of a public hearing earlier in the meeting. Craig Orange, P.E., from Pesterfield Engineering, was present and said that he appreciated the concerns expressed at the public hearing. The property was zoned R-1 and he felt that he had designed a subdivision that complied with the Town's subdivision regulations, with the exception of the three variances. The narrower road width harmonized with the other roads in the area, and only five additional houses were being created. The 18% grade complied with D.O.T. standards for hilly and mountainous terrain. The 90-foot, rather than 150-foot, road radius also complied with D.O.T. standards. He felt that incorporating these variances into the plan would create a subdivision with the lowest impact. He also said that the owner planned to implement proactive soil erosion control, and the right-of-way would be delineated so no further trees would be cut along the road. Septic tanks would be installed per recommendation of a licensed soil scientist.

The Board also considered a letter from Town Engineer Lamar Nix, P.E., concerning the lack of 6" water lines and fire hydrants; Mr. Nix pointed out that a precedent had been set in the past for providing fire protection, but he felt this was a policy issue for the Board to address. Mr. Orange said that installing 6" water lines would make the project economically unfeasible, but they would be happy to provide them within the subdivision to eventually connect to a Town line in the future. He also said they were prepared to install wells and a community water system.

The Board discussed the subdivision and the variance requests at some length. Comm. James pointed out that the Board had granted road grade and radius variances in the past. Comm. Patterson was concerned with the road width. Comm. Ross pointed out that these variances were not incidental; without them, the subdivision could not be completed. After some discussion, the Board agreed to take the matter under advisement until each Commissioner had had the opportunity to look at the property.

Barry Messer reiterated earlier comments opposed to the subdivision; he said it seemed like aggressive development.

3. The Board discussed the proposed Zoning amendment for home occupations at some length, subject of a public hearing earlier in the meeting. The Town Administrator explained that the Planning Board had initially looked at home occupations in the ETJ but had felt that a more comprehensive approach was necessary and had decided to recommend the amendment for all residential areas. Leonard Baer reiterated his earlier comments. Comm. Patterson said that she did not think "one size fit all;" Comm. James agreed, and said that he thought the regulations should only apply in the ETJ. Ricky Bryson was present and pointed out that deed restrictions would prohibit many home occupations, and he also asked if the Town wanted more relaxed regulations in the ETJ than in Town. Comm. Marsh was concerned about lack of size requirements for accessory buildings, off-street parking, enforcement of the "excessive noise" provision, and the question of what a "primary residence" was. The consensus was that the amendment should be re-drafted so that it applied only to residential areas in the ETJ, then brought back for further discussion.

4. Two technical amendments, one in Section 601.1 of the Zoning Ordinance and one in Section 2-67 of the Code, had been the subject of a public hearing earlier in the meeting. Town Attorney Bill Coward explained that the amendments set forth the formula for proportional representation used since ETJ had been enacted. It also stated that ETJ members could consider matters both inside Town and in the ETJ, which they had been doing since appointed; without the amendment, they could legally not do so. The amendment did not address appointment of the members - in some jurisdictions Counties made the appointments, and in some municipalities did - it merely said they were appointed pursuant to law.

Ricky Bryson said that he believed the law said the County was entitled to appoint ETJ members. He also did not think Doug Campbell should have been removed from the Planning Board recently.

MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND CARRIED TO ADOPT THE FOLLOWING AMENDMENT OF THE ZONING ORDINANCE. Comms. Patterson, Marsh, James, and DeWolf voted "aye;" and Comm. Ross voted "nay."

* * *

1. Delete Section 601.1.

2. Replace Section 601.1 with the following:

"Establishment.

"(A) The establishment of the Zoning Board of Adjustment created by the Ordinance entitled The Zoning Ordinance of the Town of Highlands, 1970, is hereby re-affirmed.

"(B) The Zoning Board of Adjustment shall consist of five (5) members, appointed for three-year terms. All members appointed as representatives of any extra-territorial area, either for regular terms or to fill the vacancies of any unexpired term, shall be appointed pursuant to N.C.G.S. 160A-362.

"(C) The Board of Commissioners may, in its discretion, appoint alternate members to serve on the Zoning Board of Adjustment in the absence of any regular member.á Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Zoning Board of Adjustment and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

"(D) Members of the Zoning Board of Adjustment shall serve without pay, but shall be reimbursed for any expenses incurred in pursuit of the BoardÆs activities."

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MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND CARRIED TO ADOPT THE FOLLOWING AMENDMENT OF THE CODE. Comms. Patterson, DeWolf, and James voted "aye;" Comms. Ross and Marsh voted "nay."

* * *

Delete paragraphs (b) and (c) of Section 2-67, and replace with the following paragraphs (b), (c), and (d):

"(b) All members of the planning board appointed as representatives of any extra-territorial area, either for regular terms or to fill vacancies of any unexpired term, shall be appointed pursuant to N.C.G.S. 160A-362. The regular term for all members of the planning board shall be three years. Planning board members shall serve without compensation.

"(c) Areas regulated by extraterritorial jurisdiction shall have proportional representation on the planning board and the zoning board of adjustment established by Section 601.1 of the Town Code. In compliance with N.C.G.S. 160A-362, which requires the Town to provide a "means of proportional representation based on population for residents of the extraterritorial area to be regulated," the Town shall proceed as follows:

(1) The Town shall determine the number of residential dwellings within the extraterritorial area to be regulated based upon Macon County's 911 emergency management data ("X") and the average number of residents per dwelling within the extraterritorial area to be regulated based upon the latest federal decennial census ("A").

(2) The Town shall determine the number of residential dwellings within the corporate limits of the Town based upon Macon County's 911 emergency management data ("Y") and the average number of residents per dwelling within the corporate limits of the Town based upon the latest federal decennial census ("B").

(3) The appropriate percentage of representation on the planning board and the zoning board shall be determined by the following formula: $XA/(XA + YB)$.

(4) The percentage thus determined shall be multiplied by the total number of members on each board to determine proportional representation respectively for each board.

"(d) Members appointed as representatives of any extra-territorial area, either for regular terms or to fill the vacancies of any unexpired term, shall have equal rights, privileges, and duties with the other members of the board to which they are appointed, regardless of whether the matters at issue arise within the Town or within the extra-territorial area."

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5. Only two bids had been received on a rescue vehicle for the Fire Department; the Town Administrator advised re-advertising because the bids would likely exceed the informal bid limit.

6. Hillrie Quin presented a report on the public meeting the Greenways Committee had recently held to receive comments from the public.

7. Comm. James felt that John Cleaveland had made some important comments on Pine Street Park that needed to be answered at a future Board meeting. Comm. Ross said that he hoped the Pine Street Park Committee could complete the public input process before a decision was made on the street. Comm. James said he also thought the real estate tax and funding for the Greenways Trail should be addressed by the Board.

8. MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION PURSUANT TO G.S. §143-318.11(A)(6) TO CONSIDER APPLICATIONS FOR EMPLOYMENT, PURSUANT TO G.S. §143-318.11(A)(3) TO CONSULT WITH THE TOWN ATTORNEY, AND PURSUANT TO G.S. §143-318.11(A)(2) TO AWARD SCHOLARSHIPS. The Board adjourned to the adjoining room with the Town Attorney, the Town Administrator, the Code Enforcement Official, and the Recreation Director.

1. The Board discussed the janitorial contract at the Highlands Civic Center with the Recreation Director and reviewed an application for employment; Mr. Chalker then left the room.

2. The Board consulted with the Town Attorney on the Riverwalk and ETJ lawsuits; Mr. Ward then left the room.

3. The Board discussed applications for the Planning Director position.

4. The Board reviewed recommendations of the Scholarship Committee.

MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO OPEN SESSION.

9. MOVED BY COMM. PATTERSON, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO EMPLOY DALE MCCALL AS RECREATION MAINTENANCE WORKER UPON TERMINATION OF THE CONTRACT TO CLEAN THE CIVIC CENTER ON JUNE 30, 2007, AT A SALARY TO BE REVIEWED BY THE TOWN ADMINISTRATOR AND REPORTED AT THE NEXT MEETING.

10. MOVED BY COMM. PATTERSON, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ACCEPT THE RECOMMENDATION OF THE SCHOLARSHIP COMMITTEE.

VIII. MOVED BY COMM. JAMES, SECONDED BY COMM. MARSH, 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 9:20 p.m.

Richard Betz, Town Clerk