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Camden County Board of Adjustment
Minutes

Record of Proceedings
November 13, 2006

6:00pm
Historical Courtroom
Camden County Courthouse

Chairman Roger Lambertson
Vice Chairman Morris Kight
Members William McPherson, Emory Upton,
Patrick Duckwall, and Douglas Lane

Also Present: Dan Porter, Director of Planning/ Flood Administrator, Dave Parks, Permit Officer/ Flood Administrator, and Lori Tuss, Clerk to the Board of Adjustment

Regular voting member Patrick Duckwall was unable to attend the meeting. Alternate Douglas Lane will vote in Mr. Duckwall's place.

Call to Order & Welcome:

Chairman Roger Lambertson called to order the November 13, 2006 Board of Adjustment Regular meeting. Chairman Lambertson gave a welcome and a brief introduction for the benefit of the public explaining the purpose of the Board of Adjustment.

Consideration of Agenda

Chairman Lambertson called for consideration of the November 13, 2006 agenda. Hearing no comments, the meeting proceeded.

Consideration of July 24, 2006 minutes

Chairman Lambertson asked the Board for any comments concerning the July 24, 2006 minutes. Hearing none, he asked for a motion. Douglas Lane made a motion to approve the July 24, 2006 minutes. Member William McPherson seconded the motion. The motion passed with Chairman Roger Lambertson, Vice Chairman Morris Kight, members Emory Upton, William McPherson, Douglas Lane voting aye; none voting no; one absent; and none not voting.

Comments from the Public

Chairman Lambertson asked if there were any comments from the public other than

the business scheduled for the meeting. Hearing none and seeing none, the meeting proceeded.

New Business:

Item# 1 UDO 2006-10-33 Variance Application- South Mills Water Association

Staff stated that the South Mills Water Association is looking into purchasing property for the utility facility which is currently zoned in an R3-2 zone. The current minimum square footage is 2 acres for any subdivision. The use itself only requires a 50 by 50 lot subdivision for the proposed utility. Our County's current ordinance does not really address utility facilities as far as the minimum lot size. Staff has included the finding of facts for your review. Staff recommends approval of the proposed Variance.

Chairman Lambertson addressed the applicant, Mr. Lloyd McCoy, and asked that he be sworn in and please state his name and address for the record.

Lloyd McCoy at 355 Old Swamp Road was sworn in under oath by the Clerk to the Board of Adjustment.

Chairman Lambertson stated that it is somewhat clear as to the intent and purpose of the Variance request; however, for the record, questions and comments will be forthcoming.

Chairman Lambertson asked the applicant, Mr. McCoy, if the proposed site location is the best suited for the proposed use. Mr. McCoy stated that it is the best location. He further stated that the property is on the main water line, and that he intends to install a 12 inch main from Burnt Mills Tower to a pumping station on Hwy 343 North and River Bridge Rd. The purpose is to put a water tower on Wharfs Landing, and with the use of a pumping station, fill the tank.

With no further comments or questions, Mr McCoy was excused to sit for the remainder of the proceedings.

Chairman Lambertson read the following finding of facts for the purpose of comments and, or questions from the Board or Applicant:

1. If the applicant complies strictly with provisions of the Ordinance, he can make no reasonable use of his property.

Applicant response: No.

Staff response: If applicant complies strictly complies with provisions of the Ordinance, staff feels he can not make reasonable use of the property as the proposed utility facility (pump station) only requires a 50 X 50 area not two acres. There are no provisions in the ordinance that address lot sizes for infrastructure.

2. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.

Applicant response: The hardship is suffered by the applicant as to provide the needed infrastructure to the county, there should be something in the ordinance that relates to the minimum size of a parcel for facilities.

Staff response: The hardship the applicant complains of is one that could

affect other utility facilities (i.e. electric, cable) when looking for property to locate equipment. It is staffs interpretation of the ordinance that the minimum lot sizes apply to residential/commercial uses and not to infrastructure/utility uses.

3. Does the hardship relate to the applicant's land, rather than personal circumstances?

Applicant response: The hardship relates to the land.

Staff response: The hardship could relate to the citizens of the county that are connected to South Mills Waters as it could affect water rates if the Association would have to purchase the two acres of land that current zoning requires.

4. The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

Applicant response: The hardship is unique.

Staff response: This hardship is unique as current ordinances do not allow for any flexibility on subdivision of land when addressing infrastructure. Land Use Plan states that the county supports extension of infrastructure for economic growth.

5. The hardship is not the result of the applicant's own actions.

Applicant response: The hardship is not the result of my actions.

Staff response: The hardship is not the result of the applicant's actions.

6. The Variance will not result in the initiation of a nonconforming use of land.

Staff response: The Variance will not result in the initiation of a nonconforming use of land as utility facilities are permissible in the R3-2 residential district.

Hearing no questions or comments, the following Conditions to the Variance were read by Chairman Lambertson:

(Staff recommends approval of Variance to Article 151.060 (minimum lot size) with the following conditions)

1. The applicant must strictly abide by all other requirements of the Unified Development Ordinance of Camden County, North Carolina, and must also strictly comply with all other local, state, and federal ordinances, laws, rules and regulations as one or more ordinances, laws, rules and regulations may apply to his development.
2. The applicant shall have 180 days from approval to survey and record plat in the Camden County Registry of Deeds.
3. The applicant must sign before a notary public the Variance agreeing to the conditions by November 30, 2006 or the Variance shall become null and void.

Chairman Lambertson stated that the Board must vote to accept the Staff's Finding of Facts. Chairman Lambertson made a motion to accept the Staff's Finding of Facts as read by the Chairman in regards to questions 1-6 recorded in these minutes. Douglas Lane seconded the motion. The motion passed with Chairman Roger Lambertson, Vice Chairman Morris Kight, Members Emory Upton, William McPherson, Douglas Lane voting aye; none voting no; one absent; and none not voting.

Chairman Lambertson asked for a motion in regards to the Variance.

Douglas Lane made a motion to grant the Variance with the conditions presented by the staff in the Finding of Facts. Vice Chairman Morris Kight seconded the motion. The motion passed with Chairman Roger Lambertson, Vice Chairman Morris Kight, members Emory Upton, William McPherson, Douglas Lane voting aye; none voting no; one absent; and none not voting.

Information from Board and Staff

Staff presented the Board with information that they and the Planning Board have been considering in regards to combining the Planning Board and the Board of Adjustments into one entity. Staff stated that other counties in the state of North Carolina have a Planning Board of Adjustment, and that it is not unusual to have one body representing two separate Boards. The idea was fostered due to the low volume of cases presented to the Board of Adjustment each year and the fact that the Planning Board uses the UDO more regularly in making decisions.

The matter is set to be presented at the November 20, 2006 meeting on Monday during the Board of Commissioner meeting.

Chairman Lambertson asked if the matter would be addressed at a public hearing as it is a change to the UDO. Staff stated he is correct.

Chairman Lambertson wished to clarify that the intension of the Board is to eliminate the members of the current Board of Adjustment and to establish the Planning Board as the governing body of both the Board of Adjustment and the Planning Board. Staff stated the Chairman is correct.

Chairman Lambertson stated that he is against this decision based on the fact that more citizens are needed to participate in government decisions, and that less citizen participation is not good for the County. Furthermore, the Chairman stated that two boards serving as one in this case would cause a conflict of interest. This statement was further supported by Douglas Lane and Vice Chairman Morris Kight. Vice Chairman Kight stated that a citizen bringing a controversial issue would not get a fair hearing if the same board just denied their initial request.

Staff stated that the Planning Board would make decisions based on the UDO during the planning process, and that the members would then have to act as a Quasi Judicial Board in making decisions based on separate criteria during the process as Planning Board of Adjustment members.

Chairman Lambertson stated that his experience has shown that perception is reality no matter how impartial and fair the combined Board acts. The public may not feel that the decision is fair. Morris Kight stated that the public will be forced to go from one board to next and this does not give them a fair decision.

Staff stated that these are valid arguments.

Chairman Lambertson asked what would be the benefit of making this change.

Staff stated that meetings would occur after the regular Planning Board Meeting eliminating additional meeting dates for the staff. Staff also felt that the Planning

Board was very knowledgeable about the UDO as they are so active on decisions.

Chairman Lambertson stated that he felt more citizen representation was vital and necessary for the citizens and the interests of the public. Furthermore, he stated that if he came only three times a year, he felt he was making a contribution to Camden County.

Morris Kight asked where the idea originated. Staff stated it was the staff's idea.

Chairman Lambertson stated that he will voice his feelings against the staff's recommendation when and if it is brought to the Board of Commissioners. Douglas Lane stated he felt people needed a separate panel of citizens sitting on the Board of Adjustment in order for the public to get a fair day in court. Morris Kight confirmed this statement as well. He stated that people deserve a last ditch effort to present their case. Morris Kight stated that the Board should not be cut.

On a final note, Chairman Lambertson wished to make a recommendation. Chairman Lambertson stated that a better effort to solicit members for the various Boards needed be in place. Chairman Lambertson stated that he knew it was advertised on the cable channel but he and many others don't use cable television. Staff stated that additional advertising is done on the County Web site. In fact, staff stated an application form is available online.

Consider Date of Next Meeting- December 11, 2006

Chairman Lambertson stated he has a separate meeting scheduled at that time in December and is unable to make the Board of Adjustment Meeting as scheduled. Staff stated that the next issue in December is time sensitive, and that a meeting will be necessary. Chairman Lambertson stated his meeting will be at 7:00 PM on December 11, 2006, and that he can make the Board of Adjustment meeting at 6:00 PM if the issue does not require lengthy deliberations and does not conflict with other Board of Adjustment members. Staff stated the matter is minor and will take little time.

The meeting is rescheduled for December 11, 2006 at 6:00PM in the Camden County Historical Courtroom.

Adjournment

With no further business, Vice Chairman Morris Kight made a motion to adjourn the November 13, 2006 meeting. Douglas Lane seconded the motion. The motion passed with Chairman Roger Lambertson, Vice Chairman Morris Kight, members Emory Upton, William McPherson, Douglas Lane voting aye; none voting no; one absent; and none not voting.

Approved: _____
Date

Chairman Roger Lambertson

ATTEST:

Lori Tuss
Clerk to the Board