

SPECIAL BOARD MEETING of January 24, 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, Sonjia Stewart, Kim Lewicki, Jim Lewicki, Linsey Wisdom, Eric NeSmith, Geoff Slade, Larry Rogers, Jeff Zahner, Lee Hodges, Karen Hawk, Alice Nelson, Merlin Crowe, Dale Sticka, Mike Bryson, Mitch Gurganus, Lance Hollars, and others.

I. Call to Order.

The Mayor called the Special Board Meeting to order at 7:00 p.m.

The meeting had been set at the January 17 Regular Board meeting. By consensus, the Board agreed to add a closed session at the end of the meeting pursuant to G. S. §143-318.11(A)(6) to discuss personnel matters concerning the Zoning Administrator position. Comm. Marsh asked that construction of a sidewalk along Fifth Street also be added to the agenda.

II. Business.

1. The Town Administrator/Interim Zoning Administrator reviewed the status of a proposed ETJ map, subject of a January 17 public hearing. He reminded the Board that the Woodland Ridge, Rembert, Bilbo, Zeller, Milford, and Jones property had not been adopted on October 25, but had instead been re-advertized as R-1 and were shown on the proposed ETJ map. He also reviewed the errors which had been made on the map, as documented in the minutes of the January 17 hearing, involving the Lynn, Anthony, Skyline Lodge, and Mountain Moorings Homeowners Association properties. He also reviewed written comments received from Nass, Sticka, Rawlins & Bronk, Creswell, View, Zahner, and Coffeen which had been entered into the record of the January 17 hearing, and oral comments made at the hearing by Rogers, Sticka, Gillfillan, and Orazi.

Since then, written comments had been received from Barry & Paula Jones, McClure Properties, John S. Crowe and Merlin Crowe, and Zeke Sossomon on behalf of Highgate Subdivision. The letters had been included in the agenda package.

In addition, he reminded the Board that, as stated at the January 17 hearing, the Planning Board was still working on possible changes to the R-1 area outside of Town with respect to home-based businesses. At the suggestion of Comm. Patterson, he had contacted Rich Ducker at the Institute of Government since the previous meeting and confirmed that there would be legal impediment to identifying this area as "R-1-ETJ," since it had been noticed as "R-1," to distinguish it from the R-1 district inside Town; that would make future changes already being discussed possible with a text amendment rather than the notice requirements incumbent when creating a new zoning district.

The Board then discussed the proposed ETJ map and the comments received in some detail. Comm. Marsh reviewed the lots in the vicinity of Skyline Lodge, some of which he understood were being used for receptions and rental cottages, some of which were vacant lots. A list of all of the lots identified by tax ID number had been submitted with a letter from Robert Nass, owner of the property; staff had prepared a map showing the lots in the area and whether or not they contained cottages, but had not had time to correlate it with the list provided. The Board agreed by consensus for such a map to be prepared.

The Board also discussed Dale Sticka's letter. It was reported that the property would be eligible for an agriculture exemption from the County Tax Appraiser regardless of its zoning district. However, it was not clear if R-1 zoning would permit construction of a building to store equipment unless it was accessory to a residence. The Town Administrator suggested that a text amendment could be drafted for a proposed R-1-ETJ district that would permit such a use and perhaps be included in the home-based-business discussion; the Board agreed by consensus for it to be drafted and sent to the Planning Board for review at their next meeting.

Planning Board member Mike Bryson commented that a similar problem existed in R-2 and R-4; he thought the issue of home-based businesses should be settled before voting on the map.

Lee Hodges said she understood there was a legal "window" of six months within which amendments could be made; she was told that this was not true, the Ordinance could be amended at any time.

Lance Hollars had submitted a letter, but he said that clarification of home-based businesses would resolve his concern.

Merlin Crowe re-iterated comments at previous meetings, requesting B-5 zoning for his property; if deemed non-conforming, he could neither re-build it if it was destroyed nor expand it.

Larry Rogers felt his property had the same problem, and he felt that it was not being fairly treated since others similar to his had been zoned B-5.

The Town Administrator said that he had been discussing with Planning Board members the possibility of amending Section 110 to clarify the status of non-conforming uses. Section 110(E) provided for "re-construction" in Watershed Overlay Districts if initiated within twelve months and completed within two years, but Section 110(A) said that non-conforming uses could not be re-established if "discontinued" for a period of twelve consecutive months, could not be expanded, and could not be changed to another non-conforming use. He said some jurisdictions permitted expansion or re-construction of non-conforming uses upon issuance of a Special Use Permit. Comm. Ross thought that was a good idea; Comm. James felt that a non-conforming use should be permitted to re-build if destroyed. The Board agreed by consensus for a text amendment to be drafted and sent to the Planning Board for review at their next meeting. Such an amendment could resolve many of the concerns expressed by property owners in the area.

The Board also discussed the Barry Jones, Rick Rawlins, William Creswell, Liz View, Jack Gillfillan, McClure, Highgate, and Hollars properties. Comm. James expressed concern over the large B-5 areas for the Chambers property and the R-4 area for the Crowe property. The Board discussed appropriate action at some length.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT ALL OF THE PROPOSED AREAS IDENTIFIED AS R-1 ON THE MAP, AND ALTHOUGH IDENTICAL TO THE R-1 DISTRICT INSIDE TOWN TO TERM IT "R-1-ETJ."

Several Board members realized that the motion had included the Skyline Lodge property, which had been recommended for B-5 zoning.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO RESCIND THE PREVIOUS MOTION.

MOVED BY COMM. MARSH, SECONDED BY COMM. PATTERSON, AND UNANIMOUSLY CARRIED TO ADOPT ALL OF THE PROPOSED AREAS IDENTIFIED AS R-1 ON THE MAP, AND ALTHOUGH IDENTICAL TO THE R-1 DISTRICT INSIDE TOWN TO TERM IT "R-1-ETJ," WITH THE EXCEPTION OF THE SKYLINE LODGE LOTS AND THE JONES PROPERTY ON NC-106.

2. Comm. Marsh said that he had asked the Town Engineer to prepare an estimate for extending a sidewalk and curb & gutter along one side of Fifth Street to Chestnut Street, and he understood the cost would be \$47,350; he made a motion that the Board proceed with the project, as well as a sidewalk along Sixth Street. There was no second to the motion. Comm. Ross said he thought funds in the budget under Capital Outlay for sidewalks had also been intended for tree planters. After some discussion, the Board agreed to place the expenditure of funds under this item in the budget on the agenda of the February 7 meeting.

3. **MOVED BY COMM. DEWOLF, SECONDED BY COMM. MARSH, AND UNANIMOUSLY CARRIED TO GO INTO CLOSED SESSION TO DISCUSS PERSONNEL MATTERS CONCERNING THE ZONING ADMINISTRATOR POSITION.**

The Board adjourned to the adjoining conference room with the Town Administrator.

The Board discussed the Zoning Administrator position, organizational structure relating to personnel, and a proposal for conducting soil erosion inspections by contract.

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

7. MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO ADVERTISE FOR TWO POSITIONS, A TOWN PLANNER/ZONING ADMINISTRATOR AND A CODE ENFORCEMENT OFFICER.

8. MOVED BY COMM. ROSS, SECONDED BY COMM. DEWOLF, AND UNANIMOUSLY CARRIED TO CONTRACT WITH ENVIRONMENTAL LOGIC INC. TO CONDUCT SOIL EROSION INSPECTIONS.

VI. The Board agreed by consensus to adjourn.

There being no further business to come before the Board, the meeting was declared by the Mayor to be adjourned at 9:15 p.m.

Richard Betz, Town Clerk