

MINUTES OF THE
SUMMERFIELD ZONING BOARD
SUMMERFIELD COMMUNITY CENTER
February 28, 2011

NOTE: The official minutes are a CD recording of the meeting. The following is a summary of the events of the meeting.

The meeting was called to order at 7:00pm by Nancy Hess.

2. INTRODUCTIONS:

Nancy Hess, Chair
Dick Feulner
Trudy Whitacre
Kathy Rooney

Jeff Davis (seated alternate)
William Hill, Town Attorney
Chris Anderson, Town Planner
Carrie Spencer, Clerk to the Board

Alternate Present: Scott Henson

Mr. Hill explained that the watershed modification case requires a quasi-judicial hearing, which includes sworn evidence. He pointed out the Findings of Fact Worksheet that the board had been given, adding that the applicant will have to address the 3 general findings on the worksheet, with the board making a finding of each of the 3.

3. CONSENT AGENDA:

Mr. Feulner made a motion to approve the agenda as corrected, Mr. Davis seconded, and the motion passed unanimously. Ms. Whitacre asked for the record to reflect the fact that at the January meeting, the Zoning Board passed a request for a small riding school and not an Equestrian Facility. Ms. Whitacre asked that the Town Planner write a letter to the NW Observer to clarify the incorrect heading of the Jan 28, 2011 issue in which the headline read: "Property Rezoned for Equestrian Facility". Ms. Whitacre made a motion to approve the minutes from the January 3, 2011 meeting, Ms. Rooney seconded, and the motion passed unanimously with Ms. Hess and Mr. Davis abstaining from the vote as they had not attended the meeting.

4. OLD BUSINESS

A. Watershed Modification Case #01-10 WM

Mr. Anderson presented the case, pointing out details on a map. He added that the plat had been reviewed by the town's engineer, and approved by staff. He stated that, upon request by the applicant to inspect a pipe that had been installed on the property, staff realized that the pipe had been installed out of compliance with our ordinance, which requires open sheet flow of drainage. Mr. Hill reminded the board that watershed review departments of both City of Greensboro and Guilford County were mailed a notice of the case and did not respond, adding that they will only respond if they have an objection.

Jason Long, R&K Investments, PO Box 909, Summerfield 27358, spoke on behalf of the applicant. He was sworn in by Mr. Hill. He went through the findings of fact:

1(a) They would have had problems locating a house on the property due to the location and direction of drainage. Placing the house without moving the drainage easement would cause it to be so low you would almost be looking at the roof of the house from the road, not the norm for the area.

1(b) There are no deed restrictions or other hardships from changing the location of the house

1(c) The drainage easement is unique to this particular lot, as they do not know of any other lots with an easement running through the proposed house site

1(d) They did not knowingly violate any ordinance as they had approval of the drainage easement from staff and town engineer

1(e) The slope of the property together with the easement is unique to this property.

2. The general purpose and intent of the ordinance: The pipe is an extension of one that is coming out under the road and onto the property. They did not think they were violating the ordinance by installing an extension of what was already there.

3. There were some erosion issues and the site was a mess before erosion control measures were installed and the house built with grass established. Where the pipe terminates on the property is a good way from where any erosion problem might be.

Mr. Long passed out photographs of the site, showing the condition of the pipe and dissipater. When asked, Mr. Long answered that the home owner will be responsible for maintenance of the drainage site after the house is sold. Mr. Feulner suggested that the deed for the property include a note that included maintenance responsibility. Hess suggested the plat be re-recorded to include a note about maintenance responsibility and Mr. Long agreed.

Rich Stafford, 609 Stafford Point Ct, Oak Ridge NC, engineer who designed the pipe system, was sworn in by Mr. Hill. Mr. Stafford offered to answer any technical questions. He stated that the pipe is a smooth walled pipe, with an energy dissipater to slow the flow of the water. He added that the property needs to be re-platted anyway as the drainage ditch does not line up with the pipe as installed. When asked, he stated that the amount of disturbance would be much greater if the pipe were to be removed. If the house were to be located in the back of the property with out this drainage system, it would require a lot more disturbance.

With no further comments in favor or against the request, Ms. Hess closed the public hearing. Mr. Hill added that if the board were to approve, they can refer to the findings as a group. If they do not approve, they have to identify those findings that are not satisfied. Mr. Feulner asked why the findings they were given tonight did not match those from the last hearing, and Hill stated that he redrew them for clarity, together with Mr. Anderson.

In answer to a question from Ms. Hess, Mr. Anderson stated that the applicant thought they had approval to install the pipe.

Mr. Feulner made a motion to approve (stating that he was doing this reluctantly, as this is the second time the Zoning Board had been asked to approve a watershed modification after the fact for the Vineyard and hopes that it does not set a precedent of asking for forgiveness and instead of permission). Ms. Rooney seconded, and the motion passed unanimously.

B. Rezoning Case #06-10 CU-AG to CU-LB

Mr. Anderson explained that there were some elements in the proposed use and structures that seemed to be deviating from the original proposal (to include a comment to include a building large enough to seat 300 people for recitals a couple times a year) that prompted the council to remand the case back to the Zoning Board.

Mr. Feulner asked if the property was posted with a notice about the current hearings and Mr. Anderson confirmed that it is.

Public Hearing:

In Favor:

Donny Wright, 6812 River Hills Dr, Greensboro, NC spoke on behalf of the application. He stated that the main concern during the council meeting had to do with a road curve near the property, and assumed the board had received his letter. Mr. Hill added that parking had also been a concern at the council meeting. Mr. Anderson stated that he had emailed the letter to the board last Thursday, but there were some changes: the sixth paragraph now states that the small conference event center is now called a recital room. He presented a study that addresses the curve in the road near the property, showing that the site distance exceeds that required by law. He submitted a picture of an existing building in the area that has been approved, stating that he plans to construct the same thing. He submitted a rendering of the building he proposes, as well as an aerial photograph and site plan of the proposal.

Mr. Feulner asked if DOT would need to approve a driveway permit for the site and staff did not know. Mr. Wright stated that the size of the building is now planned to accommodate 70 people. Mr. Anderson added that the required parking for that number would be 15 spaces. Mr. Feulner stated that he did not want the applicant to think that the board is approving a site plan and that parking would be addressed if and when a site plan is submitted. Ms. Hess clarified that the rezoning is not conditioned on the site plan. Mr. Davis asked if a building size limit would be included in any approval as it was during the last hearing.

In answer to a question from Ms. Rooney, Mr. Anderson clarified that the board is still voting on the original proposal. Mr. Hill asked the applicant if he was requesting a condition that limited the building size to 6,000 sf as detailed in his letter and he stated that he did not want to limit himself in case he found he needed additional storage in the future. Ms. Hess pointed out that the ordinance includes a maximum building size of 15,000 sf per lot in the LB district. She asked if the intent of the ordinance refers to all buildings on the property and Mr. Anderson stated that the maximum does refer to the cumulative total of all buildings. Mr. Feulner reminded the board that the condition for a maximum building size of 10,000sf did not include the home to be built on the property. Mr. Hill pointed out with the applicant's request to include a home and a business on the same property, and that the ordinance limits accessory buildings to no more than 25% of the primary structure. He stated that the business is the primary use, so the house would be limited to 25% of the commercial building, although the location of the house at the front of the property does make it seem more of a primary structure. When asked by the board, Mr. Anderson listed the conditions that had been approved at the last meeting:

- Private Music Studio
- Photography Studio
- Small Event Hall
- Residential Dwelling

Development conditions:

- Proposed structure limited to a maximum of 10,000sf
- Proposed business would be located on the back 2 acres of the property

In Opposition:

Beth Kaplan, 7979 Highfill Rd, Summerfield NC, spoke against the request. She supports the proposed uses, but is against the location of an LB district in a residential area. She read the description of the LB

district from the ordinance. She read Comprehensive Plan references to commercial businesses being located near residential areas. She expressed concern over opening the door to other businesses.

Jane Doggett, 7986 Highfill Rd, Summerfield NC, agrees with Ms. Kaplan. She stated that the proposal is in the middle (not close to) a residential area. She stated that the nearby industrial area has been there for 60 years and it would not be approved today, and that this situation would be spot zoning. She does not have issue with the use, but feels it could be accomplished without rezoning.

Darby and Chris Pickert, 7914 Highfill Rd, Summerfield NC, spoke against the rezoning. Ms. Pickert stated that they moved to Summerfield to grow their family in a rural area with a neighborhood feel. She added that rezoning this small chunk of land near where they live would cause a “snowball effect”. She supports the opportunity to have music lessons for residents, but not in their back yard. She produced a small map of where they live in relation to the requested property.

Mr. Pickert expressed concern that a business will intrude upon their private home. He read letters from neighbors Debbie and Tom Joyce (copy attached) and Betty Barry. He expressed concern with uses normally permitted in the LB district, and the board reminded him that the request includes specific conditions. He expressed concern that the conditions might change over time, and the board reassured him that any change of conditions would require another public hearing. Ms. Pickert read the common objectives of the commercial section of the Comprehensive Plan.

Tommy Lawrence, 7923 Highfill Rd, Summerfield NC, spoke against the request. He stated that Scalesville Rd is not a business corridor. When he developed his property, he wanted to give young families a place to raise their children without the influence of commercial properties. He added that a lot of businesses are run out of private homes. He pointed out that an apartment above the business would create 2 residences on a single lot, which is not allowed by ordinance.

Rebuttal:

Mr. Wright spoke in rebuttal. He read from his letter a statement that he had no desire to change the zoning but was only complying with what the Town of Summerfield required. He had intended to operate a home based business, and did not originally think they would have to rezone. He referred again to Federal guidelines that state the road curve would be safe at 40MPH. He added that the 30 foot landscape buffer required by ordinance would be met. He added that a recital twice a year with 15-20 cars is not as intrusive as a lot of private parties that people hold in their homes. He added that the building would be 50-60 feet away from the property line and match the aesthetics that exist now in Summerfield. He pointed out that the fire chief has built the same type of building that he is proposing, right beside his house.

Ms. Pickert asked to see expert documentation that addresses the road curve. She asked how the town can provide peace of mind that the building is not going to decrease the value of their home. She read from the Comprehensive Plan, a statement that large scale commercial development be located away from residential areas to protect and enhance home values.

Beth Kaplan reiterated the fact that she is not against business, just the change of zoning to Limited Business.

Mr. Hill asked that the board should clarify which uses apply (to include residential uses) before the case goes to council, adding that an apartment over the business would have to be classified as a caretaker dwelling. Ms. Hess suggested that the case would likely have to go before the Board of Adjustment, or subdivided, to address the residential aspect. It was pointed out that a subdivision would not be possible with the current zoning as it could not create a large enough lot for AG zoning.

Ms. Rooney asked about the possibility of a Rural Family Occupation and Mr. Hill stated that it refers to a business with 5 or fewer employees that typically manufacture or repair items, and Mr. Anderson referred the board to the ordinance.

With no further comments in favor or against the rezoning, Ms. Hess closed the public hearing.

In answer to a question from the board, Mr. Hill clarified that the uses included in the conditions could only be changed by a future rezoning.

The board discussed the potential for Rural Family Occupation. Mr. Hill stated that the business proposed by the applicant would not normally be considered a Rural Family Occupation. He added that the applicant could build a home and give lessons from their home. In answer to a question from the board, it was agreed that they could basically build a 12,000sf home and give lessons in the basement with the current zoning.

Mr. Feulner stated that what the applicant is currently proposing would not work with current regulations. Mr. Feulner made a motion to deny the request. Ms. Hess seconded the motion (adding that, having served on the Comprehensive Plan committee, she feels that the request does not comply with the Comp Plan as proposed). The motion to deny passed unanimously.

5. OTHER BUSINESS

The board opened discussion about the ordinance as it applies to the situation at hand. Ms. Hess asked if in a Rural Family Occupation the 25% rule would apply to the home as an accessory building and Mr. Anderson stated that with a Home Occupation, you can only devote 25% of the structure to the business. He added that the standard for a Rural Family Occupation does not include figures that say how big the home can be. Ms. Hess asked again if the home would be considered an accessory building. Mr. Anderson stated that a dwelling unit and business would be allowed, neither to be considered an accessory, but the building for the business is limited to 5,000sf and a minimum lot size of 40,000sf would need to be devoted to the residential portion. Mr. Feulner asked if the lot could be subdivided into two 2-acre lots. Mr. Hill stated that the applicant would like to discuss his property further with Mr. Anderson rather than moving the request forward to Town Council.

Ms. Whitacre asked for clarification on what the applicant can accomplish on the property. Mr. Hill stated that he still feels that the use does not qualify for Rural Family Occupation, adding that the uses proposed by the applicant are otherwise defined in the ordinance. Mr. Feulner suggested that he could rezone to RS-40, and operate a business out of his home although smaller than he wanted it to be.

Ms. Whitacre reiterated her concern for smart growth development with a walkable community. Mr. Feulner expressed appreciation for the council remanding the case back to the zoning board. Ms. Hess suggested that the ordinance use the word "footprint" in lieu of gross square footage in referring to maximum building sizes. Ms. Whitacre felt that the first meeting would have a different outcome if there had been public input against the case. Mr. Hill stated that the town goes far beyond notice required by law, and Mr. Anderson stated that he encourages people to come to the hearings when he gets calls about requests. There was a question about why the applicant couldn't just build a barn and conduct music lessons out of it.

Ms. Whitacre nominated Ms. Hess for Chair and Mr. Feulner for Vice Chair, Ms. Rooney seconded, and the motion passed unanimously.

Mr. Anderson stated that the Development Ordinance Advisory Group has started to look at ordinance language for Chapters 1, 2 and the start of 8. There will be a new format proposed. Ms. Hess stated that

she had not received a read ahead package before the last meeting. The next meeting is scheduled for March 15.

(Mr Hill left the meeting at 9:10.)

Mr. Rooney stated that the SRSAP held a community meeting with 50 people in attendance (through snow and ice). She stated that the format was like that of the Comp Plan. Glen has started organizing the comments from that meeting, and she read the resultant list of objectives. She expressed concern that the 50 people that attended the meeting are going to dictate the whole plan and Ms. Whitacre agreed. Ms. Whitacre felt that the Planner needs to help educate people, and there is a Smart Growth education element missing in the community.

Ms. Rooney expressed that the A&Y walking trail through the town is going to make it much better.

Ms. Hess suggested that the Summerfield Rd committee needs large maps of the area to see the big picture with property ownership etc. Ms. Whitacre stated that the Open Space Committee orders GIS maps from the county.

Ms. Hess announced that there is a meeting on March 10 about the Armfield Park, and a Rails to Trails meeting in April.

Mr. Feulner had asked if Southern States roof storm water storage tanks were in compliance and suggested the board read the minutes from the meeting when the site plan was approved (April 28, 2008). Mr. Feulner asked for an agenda item at the next meeting to discuss it. He asked for copies of the April 28, 2008 minutes to be distributed to the board. Mr. Anderson stated that he has asked for records from Southern States and has not yet received them.

Mr. Anderson introduced two new members of the Zoning Board: Jeff Davis and Scott Henson.

Feulner made a motion to adjourn, Rooney seconded, and the meeting adjourned at 9:30pm.

Nancy Hess, Chair

Carrie Spencer, Clerk to the Board