

MINUTES OF THE  
SUMMERFIELD ZONING BOARD  
SUMMERFIELD COMMUNITY CENTER  
November 22, 2010

**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 7:06 by Nancy Hess.

**INTRODUCTIONS:**

Nancy Hess, Chair  
Dick Feulner, Vice-Chair  
Trudy Whitacre  
Rich Lovett

Kathy Rooney  
Will Rozelle, for Town Attorney  
Chris Anderson, Town Planner  
Carrie Spencer, Clerk to the Board

**CONSENT AGENDA:**

Nancy requested staff add regular agenda items for updates on the Ordinance Re-write, Summerfield Road Special area Pan, and Guilford County Open Space committee since there are members of all committees on the zoning board.

Feulner made a motion to approve the agenda, Lovett seconded, and the motion passed unanimously. Feulner made a motion to approve the minutes, Lovett seconded, and the motion passed 4 to 0 (Kathy Rooney abstained as she did not attend the meeting).

**NEW BUSINESS:**

**A. Watershed Modification Case #01-10 WM.**

Anderson presented the case. He presented a plat that showed the lot with a proposed drainage easement relocation to open up a site for a house. He added that there have been other water rerouting issues in the area. He pointed out that a section of the A&Y Greenway trail is located at the back of the property, with the water traveling underneath. Anderson stated that he first understood the applicant was just requesting the relocation of a drainage easement, and would later apply to make any improvements to the property. The relocation of the easement was approved on an exclusion plat, assuming the pipe construction would be requested later. The applicant assumed the pipe installation was approved with the exclusion plat, and installed the pipe without first requesting a variance. Anderson stated that the property is steeply sloped away from the road, and in order to site a house toward the rear of the property some modification would have to be made. He added that the proposal to locate a house toward the rear of the property is in keeping with other properties in the area. There was concern that drainage easements could be changed when they represent the natural flow of water. Anderson stated that grading would have been done to divert water flow to a different location. There was a question about why the easement was just now requested since the subdivision has been platted for several years. Anderson stated that there have been other modifications to drainage flow in the subdivision over time.

Anderson responded to several questions about how water is drained in the general area of the property. It was clarified that about 50 ft of 18" pipe will be discharging water. It was pointed out that the slope of the pipe as well its tendency to reduce friction causes the speed of the water to increase. It was clarified that the pipe discharges to a 30ft easement. The applicant has proposed a 10 ft drainage easement where the pipe has been installed.

It was clarified that the watershed restrictions in the ordinance were in place before the lot was platted and it was pointed out that there should be no hardship since the situation existed before the lot was platted and sold.

Anderson responded to a question by saying that the applicant came forward with the requested watershed modification application about a month ago.

It was stated that the property owner would be responsible for maintaining the pipe. There was a question about the covenants and Mr. Rozelle pointed out that the board can't consider them.

Mr. Rozelle clarified that the board had to decide if there is a hardship, and then go through the factors that contribute.

Hess opened the public hearing.

Mr. Rozelle swore in Carol Martin, 4400 Highway 220 N. She stated that the back side of her property joins the property in question. She expressed concern about the water emptying onto her property, which has always had streams but when it rains heavily the Vineyards drainage creates a pond on her property. She stated that once the water passes under the walking trail, it all empties onto her property. She added that water also drains from Hwy 220 onto her property. She passed around (the location map from the notice of public hearing) to show the board where her property is.

When asked if a pond would be acceptable on her property, she stated that she would be concerned about the upkeep. When asked if there was an increase in the ponding since Lot 111 was worked on, she stated that she could not say.

Anderson stated that the county and city did not respond to the letter, but that he had discussed the issue with Shea Bullock and Virginia Spillman.

In answer to a question about how property owners are to know not to disturb drainage easements, it was pointed out that there should be notes on the plats. Hess asked staff to look into requiring notes on plats regarding protected channels and open space.

Rooney asked about the requirement for the town to have 4 BMPs and it was pointed out that the rule applies to town owned property. Rooney wondered if a town maintained drainage pond could mitigate the drainage effects of the development.

When asked if the lot is buildable without the modification, Anderson stated that it would be difficult but possible to move the house and cross the drainage easement. It was pointed out that water was already draining onto the property from under the road. When asked about the location of the septic field, Anderson stated that many of the lots in The Vineyards have offsite septic.

There was concern that the engineer did not request specifications that detailed the effect of the pipe and flow of the water.

Mr. Rozelle reminded the board to only consider evidence presented by Anderson and witnesses.

Mr. Rozelle was asked to clarify the process for the hearing and he read Ordinance Section 7-11.1: Findings of Fact. He added that they need to state facts that back up their findings. He stated that this quasi-judicial proceeding requires a 4/5 majority to pass.

Hess led the board through the findings of fact, offering the board the opportunity for questions and comments. It was agreed that the topography of the property makes it different from surrounding properties. It was agreed that the whole area has problems with drainage. Hess pointed out that the lot was approved as buildable, and it was pointed out that it is still a buildable lot. It was pointed out that there is nothing to indicate that the request is the same or an improvement over what was originally there.

Anderson was asked how the applicant could have perceived the approval of the pipe, and he stated that he had signed off on the preliminary plat and the engineer did not have disapproving comments. It was pointed out that the applicant was not given approval to construct, but approval to go on to the next step of the platting application. He added that the applicant had approval to move forward with a final plat, and would not have needed a permit to construct the pipe. It was pointed out that there was a misunderstanding between staff and the applicant as to what was approved. It was pointed out that the board should be very clear in their decision, to ensure Town Council understands their position.

There was an opinion from the board that public safety and welfare was not made worse, and that Ms. Martin's testimony was not clear enough to prove the point. The board agreed that there was not enough

information to determine if public safety was negatively affected. There was a lack of design information and expert testimony for the design. It was pointed out that the engineer looking at the plat made an error, and should have asked for drawings. It was conversely pointed out that the engineer could have been answering a specific question and did not necessarily make an error.

There was concern that if the board approves the modification, they could be approving the design. It was suggested that the town engineer and applicant be invited to address the board.

Feulner made a motion to continue the case until such time as the town engineer and applicant can come before the board with more information. In answer to concerns about damage that could be caused by delaying the decision, Feulner pointed out that the pipe is not currently in use because the soil around the catch basin has been eroded to the point that surface water is by-passing the drain. The motion was seconded by Lovett and passed unanimously.

Rozelle pointed out that the ordinance allows the board to require conditions along with their decision.

#### **OTHER BUSINESS:**

Anderson stated that he had looked over the Steeple Ridge plats regarding power lines on the property and pointed out that the plat did include a note about relocating power lines.

Anderson informed the board that both the sign ordinance amendment and the stream buffer ordinance were approved by the Town Council.

Anderson informed the board that two rezoning requests will be on the December zoning board agenda, and that both applications were for specific uses.

Whitacre and Rooney will not be present for a December 27 meeting and Hess has to recuse herself from one of the cases. Anderson stated that there is an applicant for an alternate that could potentially be appointed by the town council in December but it was agreed that it would be too soon to have an alternate sit on a December board. Feulner made a motion to move the December zoning board meeting to January 3, 2011 to ensure a quorum is present, Lovett seconded, and the motion passed unanimously. Whitacre suggested a checklist of items that the board should consider for each of the types of cases they may hear, to reduce errors and oversights. She stated that the board would have realized Steeple Ridge was going to have utility poles if they had a checklist. It was pointed out that there will always be things that the board does not think of as part of a checklist. It was suggested that the comprehensive plan be used to create checklists. It was suggested that the board work on checklists during a work session rather than a regular meeting, or do one at a time during regular meetings.

It was suggested that Anderson review drainage at Southern States as it seems that the storage tanks are storing water rather than draining as they were supposed to.

Anderson reiterated the idea of adding updates on the Ordinance Re-write and Summerfield Rd plan to the agenda.

Anderson stated that he has been tasked to work with the Parks and Recreation Committee on planning for trails, and that there is a June 15 or 16 trail appreciation day that would be a good target for completing a section of the trail. Anderson added that staff will continue to look into properties offered for dedication.

Anderson presented a submission calendar for 2011, suggesting the board review it and approve it at the January 3 meeting.

Feulner made a motion to adjourn, Rooney seconded, the motion passed unanimously and the meeting adjourned at 9:10.