

**MINUTES OF THE
SUMMERFIELD BOARD OF ADJUSTMENT
SUMMERFIELD TOWN HALL
July 22, 2010
6:30 P.M.**

The meeting was called to order at 6:32 pm by Chair Gene Grubb

INTRODUCTIONS:

Gene Grubb, Chairman
Darrin Taylor
Mike Stewart
Ron Willis

Jim Brady
Will Rozell, Town Attorney
Chris Anderson, Town Planner

Mr. Grubb summarized the Boards' responsibilities and reviewed the process

3. CONSENT AGENDA

The agenda was approved, with additions to consider officers and request to Town Council added to Other Business. The minutes from the July 23, 2009 meeting and October 29, 2009 training session were approved as presented.

4. NEW BUSINESS

Chairman Grubb introduced the case for Stuart Smith and his variance request. He also noted for the record that he has no financial interest in the case, and he owns property near the subject property.

Mr. Stuart Smith made a presentation of the request. The developer of the subdivision did not finish the road, and a new road must be built to DOT standards to extend State maintenance. Mr. Willis asked if an estimate to extend the road had been obtained, Mr. Smith said he had not gotten a cost estimate, but that it would be prohibitively expensive. Mr. Brady asked why a turnaround cannot be provided? Mr. Grubb asked if there was only one single family house planned. Mr. Smith stated that only one was going to be built. Mr. Stewart asked if additional environmental damage would happen if the road were to be built to DOT standards.

Mr. Grubb asked if there were any additional speakers in favor, there were none. He asked if any one wished to speak in opposition. Fred Brown, who lives on Pleasant Ridge Road asked again if only one house was going to be built on the property? Mr. Smith stated that the plan was to build a house for him and his family, and that is the only plan. Mr. Brown asked if there was any affiliation with a recent development (corner of Pleasant Ridge Road and Stanley Huff Road, Mr. Bill Years), Mr. Smith assured everyone that that was not the case.

Mr. Joe Leggio, 5415 Ashbey Lane, presented aerial photos of the property, with topographic lines added. These pictures showed the nature of the property, the extreme slopes of the uplands, and the extent of the floodplain on the waterway. He noted that he would be opposed to encroaching the wetland areas, as this also contributes to the City of Greensboro water supply. He noted that he is not opposed to a single family house, asking that environmental impact be minimized. He also noted concern, there is already a culvert near the end of the pavement, the concern is that high water volume might back up onto his property. Mr. Stewart stated that the land is already zoned RS-40 and could be developed into lots currently, the question is whether to build a road to DOT standards or not. Any development would require site plan approval, the subdivision is about 30 years old.

Forest Mishoe, 5408 Ashbey Lane spoke, concerned about more development. The property is rough terrain, marshy in spots and like a canyon in others. The roadway has deteriorated in the 30 years since the

development was constructed. He hoped that there be minimal work performed on the road, and that tree cutting be kept to a minimum. Tree cutting would add to a potential of flooding. He also requested that heavy equipment be avoided to build the roadway and driveway.

Mr. Walter Harr of 5414 Ashbey Lane asked who controls the land in the dedicated right-of-way beyond the end of the pavement. Staff informed the audience that land is not within State Department of Transportation maintenance, and that the property falls within the governmental jurisdiction of the Town of Summerfield.

Richard Lipinski, 5850 Stanley Huff Road, noted concern about sight issues in his back yard. He also said that he had been concerned that there might be quite a number of homes on the property.

Staff informed the Board that there was one issue of concern, that the request for a variance was the incomplete road ending, where the Town requires a road to have a specific type of end. Mr. Stewart asked if the property was in the watershed, Staff noted that the property is located within the general watershed. Single family houses are generally not impacted by the watershed regulations.

William Rozell introduced himself as representing the Town Attorney, and noted that with the application, financial hardship cannot be used in consideration of approval of the variance request. Mr. Stewart said that the applicant could not get the proper building permit without appropriate access, thus the need for the variance request. Mr. Stewart asked the applicant if there was any access to Stanley Huff Road, Mr. Smith said that the property did not touch that road, there was no access that way.

Mr. Smith was allowed to respond to all the previous comments from the public. He showed the proposed building site, as being fairly central to the property, that the property would be preserved in its present state to the maximum extent possible. Mr. Brady asked about the cost differential between DOT standard road and gravel driveway, would Mr. Smith be able to build the gravel road? Mr. Harr was confused about the turnaround, Mr. Grubb said the request is to essentially ignore the turnaround requirement of the ordinance. Mr. Brady said that the applicant was not the current owner of the property, the applicant said he had the property under contract, contingent on the variance approval. Mr. Grubb closed the public comment period.

Mr. Grubb asked the attorney if the Board can stipulate any approval, especially as to the condition of the driveway, if gravel? Mr. Stewart stated that it appeared that a roadway built to DOT standards would probably impact the environment more than the gravel drive proposed (that building to required standards would increase the potential impact). Mr. Willis asked staff to inform the Board and the public about the Town's subdivision rules, the site development process. Mr. Grubb noted that the request seems to show that it would be beneficial to allow only one house, and that the request virtually locks the property into one home, not 5 or 10.

Mr. Grubb said they might consider a condition that any water back up (at the gully in the right-of-way) be avoided. Mr. Brady said that the application might not be valid, as the property owner was not applying. The attorney stated that any approval could be conditioned that approval only be granted upon closing on the property. Mr. Tom Lowe spoke after being sworn in, stating that he represents the property owner, and that the owner is in favor of approval. Mr. Willis noted concern over the missing turnaround, might need to consider adding a condition that a turnaround be provided, although not to DOT standards. Mr. Stewart had concerns over the environmental impact of allowing the property owner to construct the roadway to the State standards.

Mr. Grubb asked for a motion. Mr. Brady asked that the application be amended, or that the variance (if approved) would be contingent upon ownership of the property (closing on the property). Mr. Stewart made a motion to approve, with Mr. Brady's amendment/condition. Mr. Brady noted the findings of fact, that 1) the practical difference in the letter of the Ordinance, 2) that the applicant did not create the hardship, 3) the slope situations on the property, and 4) that the applicant did not create the need for the variance. Mr. Willis

seconded the motion, with all Board members voting in favor of the motion. The request is granted unanimously.

The Board then discussed officers of the Board, since this was the first meeting of the year. Mr. Stewart suggested that the officers remain the same. Mr. Taylor noted that he often faces conflicts, suggested that he not remain as Vice Chair. After additional discussion, Mr. Stewart amended his motion to read that Mr. Grubb remain as Chair, Mr. Willis as Vice Chair, seconded by Mr. Taylor, with all members voting in favor.

Mr. Grubb, and the rest of the Board, asked staff to request or petition the Town Council to appoint up to 2 alternates for the Board, especially for replacements when sitting members cannot attend. They noted that the Development Ordinance requires a 4/5 vote of approval, not a simple majority. There have been situations where an applicant had to reappear more than once due to lack of a voting membership attending. Mr. Grubb also asked that the members please respond to emails. The members noted that they had responded, they were sent to Carrie.

Mr. Stewart asked about the data included in the package on Armfield. That would be for next month's meeting. Mr. Stewart asked for the Homeowners Association rules, so that they could insure that there were no conflicts in consideration of approval. The Board suggested that staff coach the applicants in filling out the application form, that the issue is never financial, that the primary consideration would be environmentally beneficial and/or impact to public safety.

Mike Stewart made a motion to adjourn, Darrin Taylor seconded, and it passed unanimously. The meeting adjourned at 7:40 pm.

Gene Grubb, Board of Adjustment Chair

Chris Anderson, Clerk to the Board

P.S.:
Jim Brady will need a name plate, as will any new members, and it was suggested that we supply a bible to swear people in.