Planning Board of Adjustment Action Minutes

6/4/2024

The action minutes provide an overview of the Planning Board of Adjustment agenda items and actions that occurred during the meeting, excluding the evidentiary hearing portion of the meeting. Minutes for the evidentiary hearing agenda items are at the end of the action minutes. Please refer to the video recording for more details about the meeting or the Planning Board of Adjustment webpage for meeting materials. Due to technical issues the video does not have any audio. Please reach out to the Woodfin Town Clerk for a copy of the audio recording by emailing clerk@woodfin-nc.gov.

Board Members Present: Chair Michael Bennett, Vice Chair Scott Hanson, Kennedy Young, Chris DeRonne, Larry Hopkins, and Glenda Overbeck
Board Members Absent: None
Town of Woodfin Staff Present: Ricky Hurley, Marie Biddix

Meeting Start Time: 6:00 **Meeting End Time:** 7:18

AGENDA ITEM	ACTION
Approval of Agenda	**Motion:** Approve Agenda **1ST: Member Overbeck** **2ND: Vice Chair Hanson** **Vote: 6-0 (approved)** **Notes:** (Video 0:54)
Approval of Minutes March 5, 2024 April 2, 2024	**Motion:** Approve Minutes **1ST: Member Hopkins** **2ND: Member Young** **Vote: 6-0 (approved)** **Notes:** (Video 1:10)
New Business **Evidentiary Public Hearing** 66 Lake Town Lake PIN 9730-99-4827 *Variance – Section 54214(e)3(b)i* Retaining Wall Height	**Motion:** Approve with Conditions **1ST: Vice Chair Scott Hanson** **2ND: Member Hopkins** **Vote: 5-0 (approved)** **Notes:** (Video 6:15) (Motion 48:19)

Evidentiary Public Hearing **15 Elk Mountain Rd.** PIN 9730-73-2519 *Variance - Section 54-151(c)* Sceening buffer strip	**Motion:** Approved with Conditions **1ST: Vice Chair Hanson** **2ND: Member DeRonne** **Vote: 5-0 (approved)** **Notes:** (Video 51:46) (Motion 1:13:17)
Legislative Public Hearings *Text Amendment* Sec. 54-10 Definitions Sec. 54-143(b) – Table of Uses	**Continued** **Notes:** (Video 1:15:38)
Adjourn	**Notes:** (Video 1:17:47)

Planning Board of Adjustment Minutes
Evidentiary Public Hearing

66 Lake Town Lane - PIN 9730-99-4827

Zoning and Use	Zoning Requirement	Applicant Request	Variance
R-7 Single Family	12' max retaining wall ht.	20' 6" (171%	8'6" (71%)

Ricky Hurley, Greg Cloos and Chris Burkhardt sworn in.

Ricky Hurley gave an overview of the project, a 3.37-acre parcel, containing lots 259 & 260 of Reynolds Mountain. The property is currently vacant, zoned R-7 Residential District and subject to the Town's Steep Slope standards. Access is provided at the end of publicly maintained Lake Town Lane. Surrounding properties are occupied with a mixture of detached single family and duplex residential homes on individual lots ranging from 0.13 to 3.95 acres in size. The property slopes downhill in a westward direction, with elevations ranging from 2,625 to 2,785 feet.

In reviewing the application, staff noted that the proposed site plan appears to comply with all other Steep Slope standards for land disturbance, impervious surfaces, and screening of buildings and structures. Retaining walls are defined and permitted as accessory structures under the Town's zoning ordinance. The Steep Slope section limits the maximum height of retaining walls to 12 feet and includes the use of stacked or tiered walls. Staff interprets a wall to be stacked or tiered when the horizonal distance between walls is less than the vertical height of the tallest wall. For this reason, the total wall height is determined to be 20 feet, 6 inches rather than the 18 feet height of the single tallest wall reflected on the plan.

The statutory requirements for a variance include considering what would be the minimum necessary to afford relief that would also allow for the reasonable use of the property. Staff discussed a smaller home and footprint with the applicant which could eliminate or reduce the extent of a variance request; however, a Reynolds Mountain Community restrictive covenant requires a minimum home size of 2800 square feet and the town's zoning ordinance limits the height to 35 feet.

The petitioner is planning a 3000 square foot home, just above the minimum required. Additionally, the home is proposed to be placed higher on the slope and is oriented parallel to the natural contours which helps to minimize overall land disturbance. The shape of the lot when combined with existing sewer easements, particularly the one along the southern border, further limit flexibility in design by constraining the buildable area on the eastern side of the property. The use of retaining walls helps to address existing site constraints while also meeting the property owner's goals for access into and around the home.

Chair Hayes opened the public hearing 6:26.

Greg Cloos, Landscape Architect spoke on behalf of the applicant. He explained to the PBOA that the two previous owners backed away from the parcel due to the restrictions of the site. There are several construction challenges, however they have what they believe is a good design solution on a single level with opportunities for indoor and outdoor living spaces. The proposed garage has a second story for guests and three bays. The garage building height will remain under thirty-five feet. If approved, the

retaining wall allows the building site to be level, keep the house at a single level which makes it less visible from lower elevations. This also means that no decks would be required, nor would there be any foundation walls. The owner is committed to planting evergreen trees, including holly, magnolias, and red cedars for a total of over 35 trees which will provide year-round screening. The wall is a Verti block system that can be stained. It has a natural rock appearance.

Mr. Hopkins expressed that it is fake rock.

Mr. Cloos confirmed that it is fake rock, but a very believable fake rock, especially after it's stained.

Chair Hayes stated that is was basically stackable concrete blocks but with a facade on it.

Mr. Cloos explained that it was four feet wide by two feet tall interlocking Lego type units with stone filled inside the cavity. Exhibit 2 showed the tock with evergreen trees and a small setback to help improve views for owner and breakup appearance of the wall.

The vegetation between the two walls would be a boxwood or a holly.

Member DeRonne: Ricky showed matured trees. How many can be saved.

Mr. Cloos: Identified mature deciduous trees that would be saved. One section will have vines growing up the wall due to sewer easement area. Steep slope ordinance requires 7 trees, which they exceed.The proposed retaining wall will also help with a stormwater project on Lake Town Lane. Reynolds Mountain has developed a stainability program to help with this. The cut will be at the end of the road, fill won't be hauled off.

Vice Chair Hanson: How tall will the trees be at the time of planting? Trees will be 7-8 feet at time of planting and 20' within 6-7 years. It is possibly to get larger trees but not easy to install.

Member Hopkins: What about Leland cypress.

Mr. Cloos: We could possibly get Leland Cypress, but they grow too fast, they have an issue with disease and cypress and hard to install on this slope.

Mr. Cloos: Explained that this is a better project that with a two-story house. Exhibit 3, bottom cross section is proposed, top cross section is what is proposed.

Member Hopkins: Where is the fill coming from for this project?

Mr. Cloos: Structural fill must be used for the house. The garage can use the fill from the other house. Ww are working with a surveyor to give up some of parcel acreage to make the project work.

Close public hearing 6:54

Member Overbeck stated that everyone did a good job working on the project.

Vice Chair Hanson stated that hardship exists due to the peculiar site issues. Plan B would be harder.

Chair Hayes said everyone did a nice job and wanted to add a condition that the wall should be stained, and he believes all the variance requirements have been met.

The board members discussed the evidence and agreed all found findings required had been met.

- Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

- The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

- The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

- The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

MOTION: Member Hanson made a motion to approve the variance, and the four findings required to grant a variance per section 54-69(e)(2)(a)(1-4) had been met. Member Hopkins seconded the motion which carried unanimously. Condition that the wall is stained a natural color based on exhibit 2.

15 Elk Mountain Road - PIN 9730-73-2519

Zoning and Use	Zoning Requirement	Applicant Request	Variance
CS – Office	10' buffer strip	1' (10%)	9' (90% reduction)

Ricky Hurley, Planning Director presented the variance application and exhibits and explained that the property is a 0.51-acre lot and was originally platted on March 18, 1943. The property is currently occupied by a single-story parsonage and zoned Community Shopping district. Access is provided by a shared driveway from Elk Mountain Road which is maintained by NC DOT. Surrounding properties are occupied with a mixture of detached single-family homes to the north and east, small offices along Elk Mountain Road, and a former church to the west. Adjacent zoning consists of Residential R-7 (R-7) to the north and east, and Community Shopping (CS) to the west, south, and southeast.

Commercial development within the CS zoning district must provide a 10-foot buffer strip planting area along property boundaries abutting residentially zoned land. The property owner is in the process of converting the parsonage into an office building and creating the required off-street parking. Due to the insufficient buffer strip planting width, town staff cannot issue the zoning permit unless the structure is removed, or a variance is granted.

Mr. Hurley explained the project had been in site plan review for several months. The last part of the exhibit showed the required buffer strip. The buffer strip is 10 feet, and the setback is 15 feet from the abutting residential district. Mr. Hurley identified buffer strip, exhibit 2. There is no way to comply without demolishing the building. No options other than a variance. This is a 25-foot section.

House being converted to commercial use. Both the house and shed pre-date the Town of Woodfin. The existing fence is the neighbors. If a variance is granted, no vertical expansion is allowed. Even voluntary demolition would require the installation of a buffer.

Larry Scott presented exhibit 3 to the PBOA and explained that he was a financial advisor. He explained his vision to the board including details about the exterior as well as the interior. He purchased the property three years ago and it has not been lived in for many decades, it has been a house. The shed will be renovated to match the primary structure. He does have a possible tenant, an audiologist, moving upstairs. The goal is a craftsman style which will provide a softer look than the existing red brick. Main entrance will be where the garage is now.

Spoke with the neighbors, shed only houses the lawnmower. The shed will be upgraded with new shingles and be painted. Willing to plant vines if that helps.

Chair Hayes closed the public hearing at 6:12.

Motion to approve with the conditions that the shed match the house and that the variance is null and void if shed is demolished.

The board members discussed the evidence and agreed all found findings required had been met.

- Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

- The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

- The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

- The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

MOTION: Vice Chair Hanson made a motion to approve the variance with the two conditions and that the four findings required to grant a variance per section 54-69(e)(2)(a)(1-4) had been met. Member DeRonne seconded the motion which carried unanimously.