

Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting

Maggie Valley Town Hall

February 19, 2009 5:30pm

MINUTES

Members Present: Chairman Ron DeSimone, Lyndia Massey, Candice Way, Catherine Young, Bill Banks, and Caroline Edwards

Staff Present: Manager Tim Barth, Planning Director Nathan Clark, and Town Clerk Vickie Best

Others Present: Dan Crawford and Ben Glover representing Jimmy Fisher

Chairman DeSimone called the meeting to order at 5:30 p.m.

1) Approval of Minutes: January 8, 2009

MS. WAY MADE A MOTION TO APPROVE THE MINUTES OF JANUARY 8, 2009 AS PRESENTED. MS. YOUNG SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Director Clark presented the Findings of Fact for the James Harden, Quest Services issue.

**TOWN OF MAGGIE VALLEY
STATE OF NORTH CAROLINA
ZONING BOARD OF ADJUSTMENT HEARING
Thursday January, 8 2009**

Applicant: James Harden, Quest Services

Owner: James Harden, Quest Services

Location: 37 Bennett Drive

Zoning: C-1 General Business

Request: The applicant is seeking four separate use special exceptions (Automobile Repair Facility, Recreational Vehicle Repair, Moving Company and Residential Use in C-1).

Findings of fact:

The applicant/owner James Harden of Quest Services is required to seek use special exceptions because the C-1 General Business Zoning District requires him to do so because all four uses are not explicitly mentioned in the allowed use list.

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Request 1: Automobile service and repair area is a defined special exception inside the ordinance (154.039 C(1)). Required criteria to be met before a special exception can be granted are as follows:

- (a) Must be in compliance with all federal, state, and local environmental regulations;
- (b) Parking regulations must adhere to those set forth in § [154.091](#);
- (c) No more than 90% of the allowable parking spaces may be occupied by vehicles awaiting repair. In no case shall a vehicle remain on the premises for more than 30 days;
- (d) No open storage of new or used parts including tires, sheet metal, batteries, cans, boxes, and the like shall be allowed.

Mr. Harden was able to satisfy the board's requirement for a c and d. However Mr. Harden was unable to a produce a parking plan that would satisfy the board's requirement for b. Based upon his inability to produce a satisfactory parking plan to the ZBOA, the board voted unanimously to reject this use special exception request.

Request 2: Recreational Vehicle Repair, Moving Company, Multi-family Residential. This special exception request must follow a different approval criteria than the automobile repair and service request. It uses criteria outlined in 154.172 B (3)b. Mr. Harden was able to satisfy the ZBOA's approval criteria except criteria 3 which states: *Off-street parking and loading areas where required with particular attention to the items in division (B)(3)(b)1. above and to the economic, noise, glare, or odor effects of the special exception on adjoining properties and generally in the district*; Mr. Harden failed to provide the board an adequate parking plan. The ZBOA voted unanimously to reject the Recreational Vehicle Use and Moving Company Use based upon the fact that an adequate parking plan was never submitted to the board. However the ZBOA did approve the multifamily residential use based upon the evidence that was submitted. The multifamily use is comprised of 3 dwelling units contained in one single building. The parking requirement for this use is 6 spaces (2 per each dwelling unit). The ZBOA surmised that 6 spaces could be placed on the property considering its size of almost 0.64 acres. However the ZBOA did stipulate that these spaces needed to meet minimum town parking guidelines.

MR. BANKS MADE A MOTION TO APPROVE THE FINDINGS OF FACT AS PRESENTED.

MS. WAY SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

2) Special Exception Request: Dan Crawford

Mr. Crawford came before the Zoning Board in January with a formal design that included landscaping, structures, open space, etc. The Zoning Board forwarded the plan to the planning board to determine the impact of allowing Mr. Crawford to construct the mini-storage units and

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the Land Use Plan. A special exception would be required as the zoning ordinance is currently written due to the property being zoned Commercial 1. With the implementation of the Land Use Plan (LUP), Mr. Crawford's property is located within the Open Air Commercial District.

The Planning Board reviewed the plan January 15, 2009 and answered the two required questions on the impact of allowing the business vs. the LUP.

1. Relation of the special exception to applicable elements of the planning program.

The LUP allows for open air businesses within the area. The adjacent property has mini-storage units.

2. Appearance of Special Exception relative to location, structure, and design.

The Planning Board liked the overall site plan and was pleased to see the wide vehicle aisles and the number of units. The Planning Board would have liked to have seen more detailed landscaping plans. The Planning Board suggested removing the trees from the rear yard and placing them 30-feet apart along the entire front of the property to include the U-Haul and Pawn Shop business. The Planning Board asked that the caliper of the trees be increased to 2-inches.

The Zoning Board members reviewed the landscaping/site plan. The trees on the right side of the property will remain as proposed. The side yard and rear yard trees will be relocated to the front of the property to have a more unified appearance. Ms. Way expressed her apprehension on the expense of requiring so many trees.

Mr. Crawford stated that he liked the idea of being buffered from Soco Road because he also lives on the property. **See Attachment 1**

MR. BANKS MADE A MOTION TO APPROVE THE SPECIAL EXCEPTION WITH THE STIPULATIONS TO THE PLANTING DESIGN; PLANT 2-INCH CALIPER TREES, 30-FEET APART, ALONG THE ENTIRE FRONT OF THE PROPERTY, AND ELIMINATE THE TREES BETWEEN THE PROPERTIES.

MS. MASSEY SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

3) Variance Request: James Fisher

Mr. Fisher is seeking a minimum lot size variance for two proposed lots within the Campbell Creek Meadows Subdivision located off Campbell Creek Road. The two lots measure 0.359 and 0.466 acres. Both lots have a greater gross area than the minimum .32 acres required by the Residential 1 zoning district, but falls short when excluding the road right-of-way.

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The subdivision started in Haywood County and was annexed by Maggie Valley. During the zoning process, the planning board approved a more dense subdivision, but later reneged due to the board members feeling they were pressured into the more dense designation. Regardless of the Planning Board's recommendation, the Board of Aldermen voted by 4/5 vote to zone the area Residential 1. There are two large homes built on adjacent properties that almost cover the entire lot. The sewer taps were installed in 2004.

The Board reviewed the rules for granting variances and then asked Mr. Glover if he had anything to add. Mr. Glover stated that he felt the request was reasonable and that the lot sizes would be consistent with the neighborhood. Being required to

have larger lots would look out of place among the smaller lots.

Ms. Massey agreed.

See Attachment 2

MR. BANKS MADE A MOTION TO GRANT THE VARIANCE ON THE LOTS PRESENTED.

MS. EDWARDS SECONDED THE MOTION.

MOTION CARRIED UNANIMOUSLY.

4) Adjournment

CHAIRMAN DESIMONE MADE A MOTION TO ADJOURN AT 6:14 P.M

MR. BANKS SECONDED THE MOTION.

MOTION CARRIED.

Chairman Ron DeSimone

Vickie Best, CMC, Town Clerk