

MINUTES FOR THE FRANKLIN COUNTY BOARD OF ADJUSTMENT

JULY 24, 2006

The Franklin County Board of Adjustment held its regular monthly meeting on Monday, July 24, 2006 in the Franklin County Administration Building, 113 Market Street, Louisburg, North Carolina.

Members Present: Scott Lerew, Chuck Griffin, Robert Carlson, Shane Brantley and Stuart May.

Members Absent: Lemon Long and Johnnie Sledge.

Others: Scott Hammerbacher, Tammy Davis, Jason Rogers and Bryan Batton.

Chairman Scott Lerew called the meeting to order at 7:05 P.M., and welcomed everyone in attendance.

Stuart May made a motion, seconded by Shane Brantley to approve the agenda as presented. The motion passed unanimously.

Stuart May made a motion, seconded by Shane Brantley to approve the minutes from the June 26, 2006 meeting. The motion passed unanimously.

Agenda Items:

- #1. Request for a Variance from the Franklin County Unified Development Ordinance, Section 29-5, (N) Private Roads (Minimum Private Road Standards) for Desiree Bowling located on Clifton Conyers Way in the AR District in Franklinton Township.

Scott Hammerbacher stated the variance request was tabled at the June 26, 2006 meeting. At the June 26th meeting, it was discussed that there was a possibility for the petitioner to acquire an easement from an adjacent property owner. Mrs. Bowling has told staff that her family is still in discussions with adjacent property owners but due to personal time constraints she would like to proceed with the variance request. Mr. Hammerbacher stated the petitioner plans to place a mobile home on the property, which would require the creation of a new lot. He stated there are currently two homes located on the property. He stated with the creation of the proposed lot for an additional home would require a Type I private road/easement of at least 45 feet in width. He stated the UDO states that every lot shall have access to a road that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use. He stated this is not a unique situation in Franklin County and there are numerous similar situations that will not allow further division of

property in the County. He stated the owners have an option of trying to acquire additional right-of-way to meet the 45 feet requirement.

Desiree Bowling was sworn in and stated she wants to place a mobile home on the family farm to provide care for her mother who has Alzheimer. Chairman Lerew questioned if the current path was a Type I road. Mrs. Bowling stated it an approximately 25-foot wide cart path. Stuart May questioned if Mrs. Bowling would be living in the mobile home full time. Mrs. Bowling stated the purpose of the mobile home is to provide a place for her and her sister who lives in Virginia can stay when they visit. She stated the doctors have advised them that no one needs to stay with their mother full time. Mr. May questioned if she had considered adding on to her mothers home. Mrs. Bowling stated there is a well located on one side of the house and an oil tank on the other side. She stated the only place to add on is the front of the home.

Florence Crews-Richburg was affirmed in and stated her family isn't willing to give up any land to anyone. Elizabeth Homes was sworn in and questioned what the difference between a legal and an illegal road. Bryan Batton (County Attorney) stated currently there is an illegal pathway. He explained there needs to be a 45-foot access easement in order to subdivide and place a new home on the property. Mrs. Bowling stated the path is identified as a cart path in all deeds. She stated the cart path has been used as an ingress/egress for years and she wants to continue to use the driveway as her family always has. Ms. Holmes questioned if there is any way the petitioner could do any future development. Chairman Lerew stated no future development could be done without contacting and working with the adjoining Brooks and Davis families. Scott Hammerbacher explained that you could grant an easement without giving up any land. He stated you would just be designating a section of land, which grants an adjoining owner access to their property. Mrs. Richburg questioned why the road had to be 45-feet wide. Chairman Lerew stated the current ordinance states access easements must be 45 feet wide.

Van Conyers was sworn in and stated his family wants to use the existing path only. He stated his family is not asking for any additional land. He stated he would be willing to purchase the property to create the 45-foot easement but he understands this is not an option. Elizabeth Holmes stated she understands the variance is a request for a temporary need and she questioned what happens when the need is no longer necessary. Chairman Lerew stated the condition is short term but the variance is long term that goes with the property. Chairman Lerew closed the public hearing and the Board proceeded to go through the worksheet.

The following comments were made on the Board of Adjustment Worksheet for Variances:

1. (A) Due to lack of an access, the petitioner is being denied reasonable use of their property.
(B) The hardship is peculiar since the property is land locked and the inability to secure an easement.
(C) The hardship is not a result of the petitioner's own actions since the rules of the county with regard to the age of the property.
(D) The hardship does result from the application of the ordinance to the property.
(E) The petitioner suffers the hardship directly and not by others due to the proximity of this property that has no access to Montgomery Road.
2. The variance is in harmony with the general purpose and intent of the ordinance because you can have a dwelling since it is in spirit of the ordinance.
3. The public health, safety and welfare will be maintained and substantial justice will be done since the existing path is there and will be used.

Stuart May made a motion, seconded by Shane Brantley to affirm that the Findings of Fact located within Section 24-2, (B) of the UDO, have been satisfied for the variance request for the property located at Clifton Conyers Way as submitted by Desiree Bowling.

Vote on Motion:

Ayes: Carlson, Griffin, Brantley and May.

Noes: Lerew.

Stuart May made a motion. Seconded by Shane Brantley to approve a variance of Section 29-5 (N) of the UDO to allow for the property located at Clifton Conyers Way, as submitted by Desiree Bowling.

Vote on Motion:

Ayes: Carlson, Griffin, Lerew, Brantley and May.

Noes: None

- #2. Request for a Conditional Use Permit by Ann Marie DellaMorte for Duplex Rental Unit located on State Road 1701 (Otis Burrows Road) in the R-30 District in the Louisburg Township.

Scott Hammerbacher stated the petition was tabled at the June 26, 2006 meeting until a site plan could be submitted for review. He stated the petitioner submitted a site plan, which shows the location of the building along with, required landscaping and parking. He stated the UDO requires that prior to the issuance of

a Certificate of Occupancy the following improvements must be made subject to approval of the Conditional Use request:

- Section 16-1 of the UDO requires five (5) parking spaces shall be provided for the proposed duplex rental unit; and
- Section 14-6 of the UDO requires street trees to be planted along Otis Burrows Road.

Ann Marie DellaMorte was sworn in and stated she is the property manager for the property. She stated she needs the list of approved trees. She stated she added six parking spaces instead of the required five. She stated aerial lighting would be provided. She stated she would have to obtain a new building permit and would have to obtain an additional septic permit for an additional septic or a larger system. Robert Carlson questioned Mrs. DellaMorte on what she would do if the Conditional Use Permit were not granted since the duplex is already in place on the property. Mrs. DellaMorte stated she would start over and convert the duplex into a single-family dwelling. Chairman Lerew closed the public hearing and the Board proceeded to go through the Conditional Use Permit worksheet. Stuart May made a motion, seconded by Shane Brantley to approve the Conditional Use Permit.

Vote on Motion:

Ayes: Carlson, Griffin, Lerew, Brantley and May.

Noes: None

#3. Text Amendments: Off-Premise Directional Signs & Front Setbacks/Corner Lots

Scott Hammerbacher stated staff feels it is appropriate to obtain input from the Board of Adjustment before the amendments were presented to the Planning Board since the amendments were created at the direction of the Board of Adjustment. Mr. Hammerbacher stated there were concerns that the current standards were not explicit enough for a Conditional Use Permit for an off-premise sign to be denied. He stated the most notable change being that subject to the applicant meeting all requirements, the sign would be “by-right” instead of requiring a Conditional Use Permit. He stated staff has attempted to incorporate additional regulations, which would allow these signs to be utilized without the need of a Conditional Use Permit. He stated if an application weren’t able to meet said requirements, a variance would be required.

Mr. Hammerbacher stated staff investigated the need for an amendment related to front setback regulations for corner lots. He stated many County zoning ordinances within the state have provisions for reduction in front setback regulations for corner lots. He stated staff has determined that regulations for accessory structures are consistent with other zoning ordinances utilized by other Counties throughout the state. He stated staff is suggesting that a reduction for the secondary front setback for corner lots be allowed to be reduced by one third

(1/3) of the required front setback. He stated the reduction would not be permitted for corner lots within cluster subdivisions.

Chairman Lerew made a motion, seconded by Shane Brantley to accept the text amendments.

Vote on Motion:

Ayes: Carlson, Griffin, Lerew, Brantley and May.

Noes: None

- #4. Other Business Reports/Discussion
 - A.) Departmental Report
 - B.) Other Business/Reports/Discussion

With there being no further business before the Board, Chairman Lerew adjourned the meeting at 8:55 P.M.

Scott Lerew, Chairman
Franklin County Board of Adjustment

Tammy Davis, Clerk
Franklin County Board of Adjustment