

MINUTES FOR THE FRANKLIN COUNTY BOARD OF ADJUSTMENT

MAY 22, 2006

The Franklin County Board of Adjustment held its regular monthly meeting on Monday, May 22, 2006 in the Franklin County Administration Building, 113 Market Street, Louisburg, North Carolina.

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

Members Absent: Lemon Long and Johnny Sledge

Others: Also present were Planning Staff members, Scott Hammerbacher, Donna Wood, and Patrick Young.

Chairman Scott Lerew called the meeting to order at 7:00 P.M., and welcomed everyone in attendance.

Upon motion by Scott Lerew, seconded by Stuart May, to amend the agenda as presented to move item # 2. to be considered first. The motion passed unanimously.

Upon motion by Stuart May, seconded by Shane Brantley to approve the minutes of the April 24, 2006 meeting. The motion passed unanimously.

Agenda Items:

- #1. Request for a Variance from the Minimum Front Yard Setback Requirement by Anthony & Sharon Cash located at 14 Outback Lane (off Jackson Road-State Road 1137) in the R-40 District in Youngsville Township.

Planning Director Patrick Young stated that Anthony & Sharon Cash are petitioning the board for a variance from the minimum front yard setback requirement of the R-40 District. The property is located at 14 Outback Lane, off of Jackson Road (State Road 1127), in Youngsville Township. He explained that the petitioners are requesting a variance from the 50 foot R-40 front yard setback requirement along Outback Lane in order to add two (2) attached (2) car garages to their existing home. The property is zoned R-40 which has a residential 50 foot minimum front yard setback requirement. The Franklin County Unified Development Ordinance (UDO) defines front lot line as a boundary line of a lot running along a street right-of-way line. This front lot line definition was an amendment included in the 2001 Unified Development Ordinance revision. Mr. Cash's property is a corner lot; therefore, a 50-foot setback is required along Outback Lane and Jackson Road (SR 1137). The petitioner states that the existing house was built in 1995, and the house was designed to add a garage off of the

kitchen to the side of the house. He states that since 1995, setback rules have changed, and the septic tank prohibits putting the garage anywhere else. For every day practical use, setback requirements are placed into the zoning ordinance for a number of reasons such as, protection of property value through predictability of development, safety for fire and rescue, and regulating density. The rationale for each reason should be discussed and considered when making a decision on setback variances.

Mr. Cash distributed copies of drawings of the leach field on the property. He stated that he built his home in 1995 and this setback issue was not in effect. He explained he now has two (2) front yards since a dirt path with gravel was put in place. He stated he wishes to build two garages, and wants to be able to attach them to the house for safety reasons because his wife works a second shift job and gets home late at night. He explained that he moved the leach field in 2001 in order to be able to construct the garages. Mr. Cash stated there would be no further lots developed along the private easement "Outback Lane" because there is a swamp located at the end of the easement.

There was no opposition to the variance request. Chairman Lerew closed the public hearing, and the board reviewed a variance worksheet. Shane Brantley moved, seconded by Stuart May, to approve the variance request.

Vote on Motion:

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

Noes: None.

- #2. Request for a Variance and a Conditional Use Permit by Capitol Broadcasting Company/WCMC-FM for a 500' FM Broadcast Tower located on 10.81 acres on Bert Winston Road (State Road 1133) in the Heavy Industrial (HI) District in Youngsville Township.

Planning Director Patrick Young stated that Capitol Broadcasting Company / WCMC-FM are petitioning the board for a conditional use permit and a variance for the installation of a 500' tall FM broadcast tower at a proposed 10.81 acres site (currently a portion of a 93.36 acre site, Franklin County Parcel I.D. #1854-01-7953) currently owned by William and Margaret Finch on Bert Winston Road (SR 1133) in Youngsville Township.

The petitioner is seeking a Variance from the requirements of Article 15, Sections 15-4 (Height of Telecommunications Tower(s)), 15-5(D) (Restriction on Guyed Towers), and 15-8 (Setback Requirements for Towers). The petitioner has provided justification for these variance requests.

The petitioner is also seeking a Conditional Use Permit for the broadcast tower, as required by Article 15 of the County's Unified Development Ordinance (UDO).

The petitioner has prepared an “item-by-item” response to the requirements of Article 15 of the UDO.

Mr. Young stated that the Planning and Inspections Department staff recommends that the variance request be held first, followed by the Conditional Use Permit request.

According to Article 8, Section 1, Note 5 of the County’s Unified Development Ordinance (UDO), the Board of Adjustment may consider granting a variance from the aforementioned height requirement (Section 15-4), as part of the Conditional Use Permit request. Therefore, staff is recommending that the height variance request be considered as part of the Conditional Use Permit petition.

County staff directed its telecommunications consultant, Atlantic Technology Consultants, Inc. (ATC) to conduct a preliminary review of the petitioner’s Conditional Use and Variance applications in January 2006. ATC’s final technical review provides substantial findings of fact.

Staff recommends that the following conditions of approval be considered as part of the considered Conditional Use Permit, in addition to those conditions imposed under Article 15 of the UDO, which should be incorporated into any Conditional Use Permit issued by reference:

- 1) Provision of a landscape plan depicting the location and specifications of all landscaping, fencing and buffer yards on the site prior to obtaining a zoning permit for the tower site. At a minimum, the foundation of the tower and of each guy wire point must be fenced and landscaped with a continuous evergreen buffer; and
- 2) Provision of a Determination of No Hazard by the Federal Aviation Administration (FAA), specifying tower lighting requirements. Tower lighting requirements shall be approved by the Planning and Inspections Director based on FAA requirements; and
- 3) Submission of a bond or renewable letter of credit as required by Article 15-13 of the UDO prior to issuance of a zoning permit for the tower; and
- 4) Submission of a Nonionizing Electromagnetic Radiation (“NIER”) report annually, along with a certification that NIER levels at the site are within the threshold levels adopted by the Federal Communications Commission (FCC); and
- 5) Submission of a full interference study performed by a licensed professional and certification that the proposed antenna(s) will not cause interference with other telecommunication devices prior to issuance of a zoning permit; and
- 6) Submission of an operation license and all relevant approvals and permits issued by the Federal Communications Commission (FCC) prior to issuance of a zoning permit; and

- 7) Documentation of the applicant's ownership of the subject site identified in its Variance and Conditional Use Application prior to issuance of a zoning permit; and
- 8) Submission of an Engineering Statement supporting compliance with all FCC requirements that is *sealed* by a licensed, professional engineering, not just signed as the letter from du Treil, Lundin & Rackley, Inc. provided as Exhibit Two of the petitioner's Variance and Conditional Use Application currently is. This must be completed prior to issuance of a zoning permit; and
- 9) Approval of the design of the access road to the site by the North Carolina Department of Transportation (NCDOT) must be received and provided to the County prior to issuance of a zoning permit and conformance with the UDO requirements regarding access roads.

Mr. Young stated a variance is required for the setback or fall zone. He explained that the FCC provides a narrow range of locations to serve the intended market, and the height has to be exceeded due to technical reasons. He stated that the tower is designed to be collapsible to fall down rather than over.

Walter A. Sanders, Jr. & Jerome R. Eatmon, representing Capital Broadcasting Company, were sworn in.

Mr. Sanders explained that the broadcasting business is unique as opposed to cellular. He explained that they have one shot to reach the licensed coverage area. He stated that 500 feet is short, and that normal broadcast towers are 900 to 1,200 feet in height. He explained that guy wires are required due to the height and equipment on the towers. Mr. Sanders stated this is the best location with the surrounding uses and Heavy Industrial zoning, and is on the northern ten (10) acres of the property. He stated the tower would be designed to crumple within 250 feet.

Mr. Eatmon explained that the technology of a broadcast tower would not allow a short tower. He addressed health and safety stating that they will provide EMS coverage and public service for the county by allowing the Sheriff's Department to locate on the tower at no cost to the county.

Kristy Shearin, with the Franklin County Sheriff's Department, was sworn in and stated this tower is a prime location in the western portion of the county and will provide coverage that would normally take two (2) towers.

There was no opposition to the request.

The board stated that the variance needs to be approved prior to approval of a conditional use permit.

Chairman Lerew closed the public hearing, and the board reviewed a variance worksheet.

Stuart May moved, seconded by Chuck Griffin, to approve the variance request for the 500' broadcast tower.

Vote on Motion:

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

Noes: None

Pat Young reviewed the nine (9) recommended conditions that should be required prior to issuance of a zoning permit. He stated that some of the items have already been supplied since the communiqué was prepared.

Mr. Eatmon addressed several findings concerning the conditional use permit. He stated that all applicable regulations can be met, and the location is as good as you can get and is in harmony with the heavy industrial district.

Mr. Sanders stated that all the information presented was a true and accurate presentation.

Several family members of the owners were present at the meeting to show support for the proposed tower.

Mr. Eatmon stated that Capital Broadcasting is liable and responsible for the tower.

There was no opposition to the conditional use permit request.

Scott Lerew moved, seconded by Stuart May, to approve the conditional use permit for the 500' broadcast tower as submitted with the nine (9) recommended conditions.

Vote on Motion:

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

Noes: None

- #3. 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 8:00 P.M.

Scott Lerew, Chairman
Franklin County Board of Adjustment

Donna Wood, Clerk
Franklin Co. Board of Adjustment