

MINUTES**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON****BOARD OF COMMISSIONERS
MARCH 11, 1998**

The Henderson County Board of Commissioners met for a special called meeting at 4:00 p.m. in the Commissioners' Conference Room of the Henderson County Office Building.

Those present were: Chairman Bob Eklund, Vice-Chair Grady Hawkins, Commissioner Vollie G. Good, Commissioner Don Ward, County Manager David E. Nicholson, Assistant County Manager/Staff Attorney Angela M. Skerrett, Planning Director Matt Matteson and Clerk to the Board Elizabeth W. Corn.

Absent was: Commissioner Renee Kumor.

CALL TO ORDER/WELCOME

Chairman Eklund called the meeting to order and welcomed all in attendance. He stated that the purpose for this meeting was the request for Variance for Green River Ridges, Chestnut Ridge Section and a petition for a Quasi-Judicial Proceeding regarding for Variance by John A. Ball. Mr. Eklund recognized Bill Alexander.

Attorney Bill Alexander appeared on behalf of John A. Ball relative to this petition. The petitioner is willing to waive the quasi-judicial nature of the proceeding in order to proceed in a more expeditious fashion.

Pursuant to the request of the petitioner, Commissioner Good made the motion that the Board allow the quasi-judicial proceeding be waived.

REQUEST FOR VARIANCE FOR GREEN RIVER RIDGES, Chestnut Ridge Section

Bill Alexander called the Board's attention to the submitted petition with attachments. Mr. Ball is developing a large tract of land in Green River. He purchased 1800 acres north of Green River Road but is only developing into lots a small portion of the property. To date he has encumbered approx. 450 acres of the 1800 acre tract with a perpetual conservation easement to the Nature Conservancy which is designed to protect the natural state of those properties for perpetuity. On the top of the ridge approx. 2 miles from Green River Road, he is developing a limited number of lots. The Green River Ridges has three phases. Chestnut Ridge Section is the first phase and consists of 20 lots. Mr. Alexander showed the lots on a plat of the property.

APPROVED

4.6.98

March 11, 1998

Page 2

In constructing the road into the subdivision, Mr. Ball retained a local grading company and indicated to them that the road needed to be constructed to the state standards for maintenance or acceptance of maintenance as to issues of grade and line of sight. Depending on that, once the road was graded Mr. Ball had the road paved which the state standards do not require. Steve Waggoner, a surveyor, was sent out to do the final survey. When he shot the grades for his final plat to submit to the planning office, it was discovered that there were several very short sections that had inadvertently been constructed in excess of the 18% grade limitation. They are set out on the petition as five separate areas but actually three of the areas abut each other and the other two abut each other. Of those five sections:

39.95 feet in length has 19.5% grade

117.55 feet in length has 18.5% grade

83.97 feet in length has 20% grade

79.5 feet in length has 21% grade

55.52 feet in length has 18.5% grade

The topography of the land is very steep. This road was laid out along the course of an old logging road.

Mr. Alexander stated that he did not contend that a road could not have been constructed to an 18% grade; he believes that it could have been. He did believe though that the end result would be a road that is a poorer road than what has been constructed. There are areas of no grade at all. In order to accomplish the correction of the grade, a cut and fill would have to be done which would result in an 18% slope but a much longer 18% slope without as much ability to get a start before going up the grade.

They contend that under section 504.7 of the Land Development Ordinance that they can apply for a variance from the requirements. This matter was submitted to the Planning Board for a quasi-judicial proceeding. The Planning Board issued an unanimous recommendation to the Board of Commissioners that the application for variance be granted.

Mr. Steve Waggoner had prepared a diagram of the grades and reviewed it with the Board. To redo the road and bring it up to grade specifications would cost \$20,000.

Mr. Alexander reminded the Board that at the last Commission meeting he had submitted a bond application which would have

APPROVED

March 11, 1998

Page 3

allowed them to go ahead and post a bond to protect against any damage from this until such time as the variance could be heard or if the variance were denied and they returned and fixed the road. That issue was tabled at that time. That left them with contracts hanging that have already been delayed for over a month. That is the reason for the request for consideration of a special called meeting.

Mr. Alexander stated that this is a private road and is designated on the plat as a private road. The restrictive covenants provide that it will be maintained as a private road.

Mr. Alexander stated that they realize that health and safety is a principal concern of the ordinance and they asked Green River Fire Department to conduct an inspection of the road. They have acknowledged that the current road as constructed allows their "Class I" pumper access.

Mr. Alexander called Mr. Ball forward. Mr. Ball stated that he laid out the road himself using an old logging road. He left this in the hands of the people who built the road for him. It never crossed his mind to check the grades. He is from S.C. and they just don't have the problem with grades that we do. He realized that it was ultimately his responsibility.

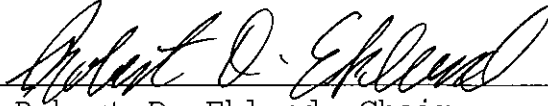
Following discussion, Commissioner Hawkins made the motion to approve the variance as presented. All voted in favor and the motion carried.

Staff will bring a proposed order to the Board for action at the next meeting.

There being no further business to come before the Board, Chairman Eklund adjourned the meeting at 4:45 p.m.

Attest:


Elizabeth W. Corn, Clerk


Robert D. Eklund, Chairman

THIS PAGE INTENTIONALLY LEFT BLANK