

June 28, 2006
4:00 PM

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled June meeting on Wednesday, June 28, 2006, at 4:00 p.m. in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Dean Bonessi, Jim Phelps, Ann Pouch, Alternate Members Dale Caldwell and Eric Goodman, Zoning Administrator Natalie Berry, and Secretary to the Board Joyce Karpowski.

Chairman Dean Bonessi called the meeting to order at 4:00 PM. Chairman Bonessi said there were 2 proceedings today, one for a Conditional Use Permit requesting a continuance, the other a Temporary Use Permit. Chairman Bonessi explained the quasi-judicial procedure. He presented the minutes of the meeting from May 31, 2006. There were no corrections or changes. Mr. Goodman moved to approve the minutes as written, Mrs. Pouch seconded, and all members voted to approve the minutes as presented.

Case CU-06-06, Dennis and Cindy Dorn, continued

Chairman Bonessi called case CU-06-06, Dennis and Cindy Dorn, requesting a Conditional Use Permit to construct a storage facility. The proposed site is located at corner of Hwy 191 (Haywood Road) and Mountain Road and is zoned C-2. Chairman Bonessi opened the continuation of the hearing.

Ms. Berry said that on June 6 she received a letter from Mr. Dorn requesting a continuance until August 30. Each member should have a copy of the letter in their packet. Mr. Dorn needs the time to be able to prepare new site plans so he can meet all the requirements the Board asked him to meet. Ms. Berry added some pictures of the site so the board can see what it looks like now. Ms. Berry described the pictures. She said that she received a fax yesterday from Attorney Angela Beeker and read the fax basically saying she and her clients had no objection to the continuation of the meeting. The Board needs to vote whether or not the Board will grant the continuance. Ms. Berry said that Mr. Dorn is in attendance if there are any questions.

Chairman Bonessi said if he is working on the information the Board requested, he doesn't personally see an issue with it. Mr. Phelps made a motion to continue the hearing to the August meeting. Mr. Goodman seconded the motion. All the members voted in favor. Mrs. Karpowski asked if all the members would be able to attend. Ms. Berry said that it had to be the same members in attendance. Mr. Bonessi said as far as he knows. Ms. Berry said that if something happens, we would have to continue it again until all members could be in attendance.

Case TU-06-08, Boulder Subdivision

Chairman Bonessi called Case TU-06-08, Boulder Subdivision, petitioner, requesting a Temporary Permit to temporarily construct two log buildings. The proposed site is located off Randy Drive and is zoned R-15.

Ms. Berry gave a summary of the issues. These will be 2 modulars that will be log sided, one for the sales of lots and the other a construction trailer during the construction of the neighborhood. The subdivision is currently under review by Matt Card (Subdivision Administrator) and has not been approved. So if the subdivision is not approved, this permit would go away. The modular offices would be placed at the entrance to the proposed subdivision for sales and construction. The parcel is zoned R-15. Ms. Berry said that she corrected the parcel zone on the application. The parcel is located near

291 Randy Drive. She will show a site plan shortly. Section 200-69.D – Temporary uses states the following:

“Except as otherwise provided in this chapter, the Zoning Board of Adjustment may grant a temporary use permit to allow a use not ordinarily permitted in the district, provided that such permit has a fixed expiration date, and the applicant satisfies any conditions imposed by the Zoning Board of Adjustment. [Amended 05-16-2001]”

The two (2) proposed structures will be log sided modular. The two (2) proposed structures are to be used for sale of lots and as construction office during site development. The applicant requests an expiration date of 2 years from the date of the Temporary Use Permit being granted. The proposed offices will be located on the parcel to the right of the entrance. The notices were published in the paper using the variance procedures (there aren't any procedures for Temporary Use) on June 19 and June 26, 2006. Using a power point presentation, Ms. Berry showed a site map of the property and described where it was. She also had a map showing the zoning in the area. Mr. Goodman asked where the subdivision was going. Ms. Berry pointed out the parcels. Mr. Servais said all the parcels were under County zoning. The next map showed the placement of the modulares near the entrance to the property.

Ms. Berry introduced Mr. Servais, project manager for the subdivision and he came forward. Mr. Caldwell asked if this was a multi-phase project. He said they were still getting plans and bids, and it would probably be done in phases. Mr. Caldwell asked if 2 years would cover the entire multi-phase project. Mr. Servais said at this point yes. Mr. Caldwell asked what the total was and if there was a site plan. Mr. Servais said he thought it was 42 lots total. Mr. Caldwell asked if it was the Tatham property and Mr. Servais said yes. Ms. Berry showed the Board on the proposed site plan. Mr. Servais said there will be multiple trucks entering and retaining walls to build and bathrooms for workers to check in. They took the first 2 lots at the entrance to stage equipment and materials and have a sales office and construction office.

Mrs. Pouch asked if there was city water and sewer. Mr. Servais said they would have wells and septic right now. Mr. Servais said city water was within 1800 feet but it would entail a pumping station and tower and would be a major expense. Mr. Caldwell asked if the major expense was in the pumping facility. Mr. Servais said that the property is pretty rocky and their concern is the disturbance of ground with the rocks in the ground. Mr. Caldwell said septic could be a problem. Mr. Servais said they had a soil scientist go through and tell them that it seems to be good at this point in time.

Mr. Caldwell asked the zoning. Mr. Servais said R-15 so they could have built 80 units but are only doing half of that.

Chairman Bonessi asked what type of homes would be built – modular or what kind. Mr. Servais said they plan on probably stick-built and there would be deed restrictions along with the County zoning. Chairman Bonessi asked about visibility of the temporary units from the road. Mr. Servais said you may be able to see them from Randy Drive. Mr. Caldwell asked how large the units will be. Mr. Servais said you've probably seen them. Ms. Berry said they're park models about 480 square feet. Ms. Berry said she went to take a picture, but there was nothing to see. Mr. Servais said there is an old logging road there and they haven't started doing any construction yet.

Chairman Bonessi asked if Mr. Servais was confident with the time frame and if it was from the time the Board issues the permit or when it gets approved. Ms. Berry said it's when the Board approves it. And if the 2 years runs out, they would be required to pay another fee and come back before the Board for an extension. Mr. Servais said they did not plan on putting in the units until the project was approved. Ms. Berry said there could be a condition that the temporary use permit not start until the subdivision is approved. The time was discussed.

Mr. Caldwell asked what the total area was. Mr. Servais said 39.9 acres. Mr. Caldwell said with 42 sites, that's slightly under an acre per site. Mr. Servais said some lots were under 1 acre and some

were closer to 2 acres. Ms. Berry said zoning requires 15,000 square feet per lot. Mr. Servais said they were not asking for any zoning changes in their plan. Mr. Caldwell said he was concerned about the time lapse if this was issued today and the clock starts running today. Ms. Berry said that a condition could be added. Mr. Servais said he would appreciate that.

Chairman Bonessi said his only concern was the visibility since he didn't know the area. Mr. Caldwell said that it is not a problem. Mr. Goodman said you would have to go to it to see it. Ms. Berry said she had some calls and people looked at the plans but didn't make any comments. Ms. Berry said that the people were approving of the subdivision.

Mr. Phelps asked the price range. Mr. Servais said the lots would probably start at \$80,000 - \$100,000 and go up from there. A lot would have to do with construction costs. Mr. Servais said there are some people that put reservations in for some of the lots. It is a beautiful piece of property. Mr. Servais said there were 2 parcels and when they brought the third parcel in, and he pointed out the third parcel, that brought it all together.

Chairman Bonessi said to talk about contingencies. Mr. Caldwell said subject to approval. Chairman Bonessi agreed and said the temporary use permit would only be good if the subdivision is approved by the Planning Board and then from the time of that approval. Ms. Berry suggested from the time the Zoning Permit is issued. The Board discussed this and the 2 year time limit.

Mrs. Pouch said with regard to the application of TU-06-08, the Boulder Subdivision, for a Temporary Use Permit, I move the Board to make the following findings of facts: That a satisfactory expiration date has been decided which will allow the applicant sufficient time in which to accomplish their goals. Accordingly, I further move the Board to grant the requested Temporary Use Permit in accordance with and only to the extent represented in the application. This permit will begin when the applicant receives their Zoning Permit and go for 2 years from that date. The permit is approved subject to the approval of the Planning Board. Mr. Goodman seconded the motion.

Chairman Bonessi called for a vote by show of hands.

Jim Phelps	Yes
Mr. Bonessi	Yes
Mrs. Pouch	Yes
Mr. Caldwell	Yes
Mr. Goodman	Yes

Chairman Bonessi said the Temporary Use Permit was granted with the stated conditions.

COMMITTEE AND STAFF REPORTS:

Ms. Berry presented a Power Point presentation of the cases the Board has acted on since November 2004. She showed pictures of the properties as they are today.

OLD BUSINESS:

Mr. Goodman asked if, on the Dorn case, the Board would have to listen to all the same information they heard at the last hearing. Chairman Bonessi said he would limit speakers to 5 minutes and this was discussed and also who should be allowed to speak. Ms. Berry reminded the Board that they were not to discuss this case itself among themselves or with anyone. She also suggested that they all visit the site, and said they all have to visit the site, but are not allowed to talk to anyone. The Board discussed the conduct of the next meeting.

NEW BUSINESS:

Ms. Berry explained that the Planning Board approves subdivisions and then the Board of Commissioners would be their appeals Board. The Board of Commissioners changed this particular Special Use Permit (SP-93-13) to make this Board the appeals Board. She said we have an appeal on SP-93-13. First the Board needs to set a meeting date. She had several dates that the Commissioners meeting room was available. The Board decided to keep it on the regular meeting date of July 26 at 4 PM. Ms. Berry had information for the Board and said the Planning Board believes that all sections in Carriage Park have to be accessed off a direct main road. This particular section is being accessed through another section. That is why the Planning Board turned it down. Carriage Park is saying that is not how they interpret the Special Use Permit. Ms. Berry said she felt the decision would be appealed, whether yes or no, someone would appeal the decision. Ms. Berry said that the information includes minutes from the Planning Board meetings. She showed a picture of the Carriage Park site plan. She said the Board should read the whole packet, that is why she is giving it to them early. Again, she reminded the Board to not discuss the Appeal with anyone. Chairman Bonessi asked where an appeal from our decision went. Ms. Berry said the Superior Court. Chairman Bonessi asked what presents a conflict with regard to attorneys. Ms. Berry said if they are just your attorney for private business, that's not a conflict of interest. Ms. Berry said that it should be brought up at the beginning of the meeting, just so everyone knows.

There being no further business, Mr. Phelps made a motion to adjourn, Mrs. Pouch seconded, and all approved. Chairman Bonessi adjourned the meeting at 5:45 PM. The next meeting is Wednesday, July 26, 2006, at 4 PM.

Dean Bonessi, Chairman

Joyce Karpowski, Secretary