

July 28, 2002
4:00 PM

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held a regularly scheduled meeting on Wednesday, July 28, 2002, at 4:00 PM in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Diane Grant, Dean Bonessi, John Davis, Anthony Engel, Robert Fleming, Secretary Joyce Karpowski, and Planning Director Karen Smith.

Chairman Grant called the meeting to order at 4:03 PM and introduced the members of the Board. Chairman Grant presented the minutes of the meeting held on July 9, 2002. There were 2 corrections. The Chairman said that the minutes stand approved as presented with the 2 corrections.

Planning Director Karen Smith said that the Board has a letter in front of them from the Hollises stating that they had to be out of town unexpectedly today, and requesting that Gib Campbell serve as their representative. The Board had no objections.

Chairman Grant called forward people who would testify in cases today. Sworn in were: James Ellis, Gib Campbell, and Karen Smith. Chairman Grant explained the procedures that would be followed today.

Case TU-02-11, C. Daryl and Judy T. Hollis

Chairman Grant called Case TU-02-11, C. Daryl & Judy T. Hollis, requesting a Temporary Use Permit to temporarily place a Recreational Vehicle to live in while constructing a single-family residence. The property is located on Brannon Road and zoned R-40.

Karen Smith gave a summary of the issues and said that she is filling in for Dan Gurley today. The applicant is seeking a Temporary Use permit to live in a 38 foot Recreational Vehicle on property in an R-40 district during the construction of a residence from August 1, 2002 to July 30, 2004, which Ms. Smith noted was incorrectly shown as 2002 on the Zoning Official's report. The approximate size of the property in question is 11.84 acres, 12.05 acres on the survey in the packets with the Right of Way included. The parcel is zoned R-40. Section 200-69D charges the Board with the ability to grant a temporary use permit to allow uses not ordinarily permitted in districts, provided that such permit has a fixed expiration date, and the applicant satisfy any conditions placed on the permit by the Board. Section 200-13, the R-40 district, does not list recreational vehicles as an allowed type of dwelling structure. The applicant wants to place a recreational vehicle on the property located at Brannon Road for the purposes of residential use during the construction of a residence on said property. Section 200-57 defines the procedure for Temporary Use permits. Section 200-47 addresses Recreational Vehicles and says they "may be used as a temporary single-family dwelling only in those districts that permit recreational vehicle parks and then only within such parks. In no case shall a recreational vehicle be used as a single-family dwelling on an individual lot or in conjunction with a primary residence on an individual lot, except as provided in Section 200-69D", which is the Temporary Use section. According to Section 200-13, the recreational vehicle would still have to conform to the dimensional requirements of the district and the Board could make that a condition. Mrs. Smith showed maps and photographs of the subject property and described them.

Chairman Grant asked if there was other road frontage than Brannon and Mrs. Smith said no. Chairman Grant asked if the RV would be visible from Brannon Road and Mrs. Smith said that it would.

Mrs. Smith presented a letter of support from Helen Clark to the Board and said it was up to the Board as to whether it should become part of the record. Mr. Davis asked if she was an adjoining property owner. It was determined that the Clarks were adjoining property owners. There was no objection from the Board members or Mr. Campbell to the letter being introduced as evidence.

Chairman Grant called Mr. Campbell to come forward. Mr. Campbell explained why the Hollis' were unable to attend the meeting. He gave a history of the Hollis' purchase of the property. They have sold their home and live in their RV in an RV park. They are finalizing plans for their home with a builder and expect to begin construction about November 1 of this year and expect completion about late summer of next year. The septic system has been installed and approved on a preliminary basis. A well will be drilled this week, and temporary power will then be brought in. The Recreational Vehicle is a white 38-foot Avion fifth wheel with 3 slide out rooms. The RV would be moved to the property in September and used until the home is completed. Mr. Campbell said that he believes there are 3 houses in the Killarney Subdivision that could see the RV, 2 houses to the east that could see the site and 1 house on the same side of the street west of the site that could see the RV. Mr. Campbell said that the property across the street is in a flood plain and not buildable.

Chairman Grant asked where the home would be constructed. Mr. Campbell said that the home would be built behind where the RV is being placed as close to the back property line as setbacks allow. Mr. Campbell described a pond being built and filled in the front yard. He said that the house will be visible from Brannon Road.

Chairman Grant asked if the cabin would remain or be torn down. Mr. Campbell said that the cabin would be torn down.

Chairman Grant asked if there were any questions. Mr. Engel questioned asking for the permit for 2 years, since it usually doesn't take 2 years to build a house. Mr. Engel asked if there would be any objection to the permit ending about 3 weeks or so after the Certificate of Occupancy (CO) is issued or 2 years at the latest. Mr. Campbell said that he didn't think that would be a problem. Chairman Grant agreed that could be a condition on the permit.

Chairman Grant asked if there were any other questions or concerns. There were none. Chairman Grant asked if there was anyone in opposition to the permit. There was no one.

Chairman Grant asked for discussion. Chairman Grant said that Mr. Engel's point was well taken that the permit expire after the CO is issued for the house and perhaps 30 days would be a reasonable amount of time. Chairman Grant suggested a condition that all setbacks in the Ordinance be met under R-40. Mr. Davis asked Mrs. Smith if that would be a problem. Mrs. Smith said that it did not appear to be a problem. Chairman Grant asked if there was anything else the Board should consider. Mrs. Smith asked if the Board wanted the condition to be 30 days after the CO is issued or 2 years maximum. It was decided to say 30 days after the CO is issued or July 30, 2004, whichever comes first. Mrs. Smith pointed out that only one dwelling is allowed on a lot, but since they will be tearing the cabin down, that should not be a problem. And there should be no problem with the Temporary Permit for the RV. Chairman Grant asked if there were any other conditions or considerations the Board wanted to address.

Chairman Grant asked for a motion. Mr. Fleming said that with regard to the application of TU-02-11, C. Daryl & Judy T. Hollis, 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 with the prestated conditions. Mr. Davis seconded the motion. There was no further discussion.

The Chairman called for the vote on the petition with the conditions. The following vote was taken
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by a show of hands:

Mr. Engel	Yes
Mrs. Grant	Yes
Mr. Bonessi	Yes
Mr. Davis	Yes
Mr. Fleming	Yes

Motion carried and the temporary use permit was approved with conditions.

Case V-02-12, Deborah Ellis

Chairman Grant called Case V-02-12, Deborah Ellis, requesting a Variance of twenty-nine (29) feet from the centerline setback to construct a dwelling. The property is located on Terry's Gap Loop Road and is zoned Rural Conservation (RC).

Mrs. Smith gave a summary of the issues. The applicant is seeking a variance of 29 feet from the 75 foot centerline setback in an RC district. The approximate size of the property in question is 2.55 (per survey) acres. The parcel is zoned RC. Section 200-32.D requires a 75-foot setback from the centerline of right of ways. The applicant wants to place a manufactured home 46 feet from the centerline of Terry's Gap Loop Road. There is a manufactured home that already resides on the property. Section 200-32.A(a) allows the placement of one principal dwelling and one accessory dwelling on a lot in the RC zoning district with each dwelling requiring 43,560 sq. ft. (1 acre). According to the application, there are natural springs on the property. There also is a low-lying area between where the two homes (the existing one and the proposed home) would be on the lot. Mrs. Smith presented the site maps and photographs of the property and described them. Mrs. Smith described an area of the property that dropped down quite a way with a wet area and springs at the bottom of the low area.

Chairman Grant said that there is unit there now. Mrs. Smith said yes a doublewide unit or modular.

Chairman Grant called the applicant forward and asked the size of the proposed unit. Mr. Ellis said that it would be a singlewide unit between the size of 14'x 60' or 14' x 80'. The unit would be new and for his daughter. Mr. Ellis pointed out on the map where there is a wet weather spring and 2 other springs. Mr. Ellis said that they don't want to place the dwelling next to the bank because of the instability. Mr. Ellis also pointed out where their neighbor's well was, so the dwelling can't be too close to the well. Mr. Ellis said that the Health Department suggested that this location would work the best. Mr. Engel asked where the septic system would be placed. Mr. Ellis pointed it out on the site map and has had the site perked. They have come for the Variance first and then the septic system will be laid out. Mr. Ellis pointed out where the septic systems will be and are for both houses. Mr. Engel asked why the dwelling wasn't being placed on the large vacant area on the site map. Mr. Ellis explained that there is large drop-off with a storm drain under the road in that area. Mr. Ellis estimated the drop in elevation to be 25 – 30 feet.

Mr. Davis asked if the variance requested is the minimum to make it workable. Mr. Ellis said yes, and it actually places the home in the middle of that piece of property.

Chairman Grant asked if there were any more questions or concerns. There was none. Chairman Grant asked if there was anyone to speak in opposition. There was no one.

Chairman Grant asked for discussion and findings of facts. Chairman Grant said that it is clear from the testimony that the topography of the area limits what can be done with the 2.5 acres. Given the springs, location of the septic system and the drop-off in elevation, it severely limits the use and placement of improvements. Chairman Grant asked if the placement of the driveway would create any hazard near the curve of the road. Mrs. Smith said that it didn't appear to be any problem,

although the further from the curve, the better. Mr. Davis said that it is definitely a hardship, not the result of the applicant. Chairman Grant said that it would appear that the use proposed is in harmony with the use of the surrounding properties and would do no damage to the public in terms of value and safety.

Chairman Grant asked for a motion on the variance. Mr. Davis said with regard to the application of V-02-12, Deborah Ellis, for a variance from the minimum yard setback, I move the Board to make the following findings of facts: strict enforcement of the regulations would result in practical difficulties or unnecessary hardship to the applicant; the variance is in harmony with the general purpose and intent of the ordinance and will preserve its spirit; and in the granting of the variance the public safety and welfare have been secured and substantial justice has been done. Accordingly, I further move the Board to grant the requested variance in accordance with and only to the extent represented in the application. Mr. Bonessi seconded the motion. There was no further discussion.

The following vote was taken by a show of hands:

Mr. Engel	Yes
Mrs. Grant	Yes
Mr. Bonessi	Yes
Mr. Davis	Yes
Mr. Fleming	Yes

Motion carried and the Variance was granted.

This concluded the hearing of cases.

COMMITTEE AND STAFF REPORTS: None

OLD BUSINESS: None

NEW BUSINESS: None

Chairman Grant said that the next regular meeting would be on Wednesday, August 28, 2002. There being no further business, Tony Engel made a motion to adjourn, Robert Fleming seconded the motion, and all members voted in favor. The meeting was adjourned at 4:45 PM.

Diane Grant, Chairman

Joyce Karpowski, Secretary