

**PLANNING COMMISSION
MINUTES
MARCH 4, 2008
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Tuesday, March 4, 2008, at 6:00 p.m. with Madame Chair Janet Stockton presiding.

The following members were present: Madame Chair Janet Stockton, Vice Chairman John Speidel; Planning Commission Members Derwin Hall, John Tiggle, Milton Arrington, Ina Clements, and Jerry W. Greer, Sr. Staff members present included: Town Manager C. James Ervin, Assistant Town Manager Matthew C. Hankins, Town Attorney John Boitnott, Planning and Zoning Administrator (PZA) Paul D. Stockwell, and Deputy Clerk Stacey B. Sink

APPROVAL OF AGENDA

- Motion was made by Planning Commission Member Clements to approve the agenda as presented, with motion on the floor being seconded by Planning Commission Member Arrington. There being no discussion, let the record show that the motion on the floor passed unanimously.

APPROVAL OF MINUTES

Prior to the meeting, the Planning Commission members received the following draft minutes for review and consideration of approval:

- February 5, 2008

Madame Chair Stockton read a note from the Deputy Clerk, indicating that an error had been found and corrected in the draft minutes.

- Motion was made by Planning Commission Member Tiggle to approve the draft minutes with the noted correction, with the motion on the floor being seconded by Planning Commission Member Clements. There being no discussion, let the record show that the motion on the floor passed unanimously.

PUBLIC HEARING

Madame Chair Stockton recessed the meeting to hold the following public hearing:

A) Request of Ronald B. and Rebecca T. Wilson for a waiver of Article 3-2(H) of the Town of Rocky Mount Subdivision Ordinance

After being duly advertised, Ronald B. and Rebecca T. Wilson requested a waiver from the Town of Rocky Mount Subdivision Ordinance Article 3-2(H) which states , “no lot created by the family division may be transferred, except by devise or operation of law, to a person other than a member of the immediate family of the subdivider, for a period of three years...” in regards to their property identified as Franklin County Tax Map and Parcel Numbers 213-95 and 213-95.2, located off of Glenwood Drive along the Pigg River. The requested waivers would create a three lot minor subdivision from the existing two lot family subdivision.

Madame Chair Stockton asked if Mr. and Mrs. Wilson would like to speak in regards to their request.

Ronald Wilson, of 325 Glenwood Drive, came forward to speak, stating that the reason he is asking for the waiver is that several years ago his wife had breast cancer and had to take some strong medications which has caused her to have other medical problems now. It has affected her joints and basically she now has arthritis. She has reduced her time at work to three days per week and she needs to quit. They would like to sell some of their property so that she can retire.

Madame Chair Stockton confirmed with Mr. Wilson that he wishes to divide his property into three lots: the front lot will have a little over 24 acres, the house lot will have 11 acres (where he lives now) and the back lot will have 17 acres.

Discussion ensued between Mr. Wilson and the Planning Commission members regarding his request.

- Mr. Wilson advised the Planning Commission that he did have a potential buyer for the property until the buyer found out that he had agreed to the trail.
- There is a 50 feet right-of-way easement along the existing road from Glenwood, past his house, to the back line of the back parcel.
- There is approximately 120 feet of frontage along Glenwood Drive.
- Mr. Wilson has no plans to hard top the road at this time. The road is steep and hard topping it would cost a lot of money. The road was built with a 14 feet wide gravel base, but it hasn't been there long enough to settle yet.
- Mr. Wilson has owned the property for five years. He and his wife moved onto the property in November 2007. He plans to sell the front lot and hold onto the back lot with the idea that if something happens to him, and his wife needs the money, she could then sell the back lot (17 acre tract).

Madame Chair Stockton opened the floor to anyone wishing to speak regarding the request.

John L. Smith (Johnny) of 15 Holly Knoll came forward to speak. Mr. Smith indicated that he is here tonight with several members of the community, including Jack and Betty Dillon, Posey and Ann Dillon, Barry Smith, Bobby Moyer, Liz Corallo and Vaughan Webb. They did not know what was going on until they saw the sign (announcing the public hearing), and they called the PZA. What they found out concerned them, so they wrote a letter. He feels that the second paragraph of the letter tells their position about abiding by the rules and regulations of the subdivision ordinance.

Madame Chair Stockton confirmed with Mr. Smith that she was in receipt of his letter and that all members of the Planning Commission did not receive the letter. She then read the second paragraph of Mr. Smith's letter for the record. (See copy of letter attached.)

Mr. Smith further stated that he thinks it is important that everyone understands what is going on. He doesn't understand completely but he understands more now than what he did then. Mr. Wilson bought the land in 2003 and he thought that Mr. Wilson was a surveyor at the time. In 2006, Mr. Wilson was allowed to divide the big tract of land, and under the family subdivision ordinance, he understands that Mr. Wilson can only divide the land one time, with the PZA confirming that a single division is allowed under the family provision. Mr. Smith referenced a map of the property showing the entrance to the property from Glenwood Drive and the previous division that divided the tract into two lots, stating that now Mr. Wilson is requesting not to be held responsible for what he did previously because he wants to sell some property, and he wants to make his property larger. Mr. Smith wants to make sure that Mr. Wilson follows the same rules that everyone else has to follow. Jack and Betty Dillon have had to put up with a lot of dust because this entrance is across from their home. Mr. Wilson has been given the benefit of every doubt. He asked for a family subdivision and he got it. There has been no maintenance on the road since it was graveled. Mr. Smith further understands, based on the current map, that if Mr. Wilson sells the lot near the entrance, he must also sell the proposed lot three, because those two lots are connected. When he subdivided it, he divided it into two parts, the lot with his house on it and the big pieces of land on each side. What he is asking for now is to draw new lines, to give him more acreage and to make three lots. The road does not go as far as it is shown on the map. Maybe they plan to do that later. A right-of-way and a road are two different things. There is more to this than meets the eye. This was done before Paul Stockwell (the PZA) and James Ervin (the Town Manager) came on board. Mr. Smith was told, along with Betty and Jack Dillon that this action in 2006, which allowed him to develop a family subdivision, was approved by administrative action, which means Planning Commission and Town Council never saw it, because the decision was made in this building. Some things need to be cleaned up.

Madame Chair Stockton questioned Mr. Smith about what disturbs him the most regarding Mr. Wilson's proposal, with Mr. Smith stating there are two things. The first is the proposed 20 feet easement around the school. This is one of the safest schools in the County with only one way in and one way out. He doesn't like this and he doesn't think that anyone else does. They have 150 children there and 25 staff members, and any person could come on that easement and they couldn't make them leave, and they might do some harm. The other concern is that Mr. Wilson has gotten his way every time he has asked and one of those times was by administrative action and that's not right.

John Lester of 325 Cromwell Drive came forward to speak, identifying that he is a member of Town Council. He is familiar with Mr. and Mrs. Wilson and he is familiar with the property. His is concerned and extremely upset over the transaction and method of the transaction. It was no fault of Mr. and Mrs. Wilson. It was something that was overlooked and should have been addressed by the Town of Rocky Mount. He also has a problem with the illegal advice that Mr. Wilson *may* have received. The family exemption is not made to circumvent the subdivision ordinance but to allow a parcel of land to be given to a member of the family for the purpose of building or having a piece of land. In this case, the family exemption went directly to Mr. Wilson. Mr. Lester feels that this must be and should be cleaned up before any other transactions are done on it. He understands Mr. and Mrs. Wilson's peril. He feels that this is something the Planning Commission, the Planning Department, and the Town Manager should clean up before it goes any further, for the benefit of the Town, the citizens, and Mr. and Mrs. Wilson. All parties deserve it.

Mr. Smith further commented that the entrance that Mr. and Mrs. Wilson use across from his home is a private driveway, and if Mr. Wilson is allowed to sell property, he hopes that the subdivision ordinance will be enforced and they will be required to put in state maintained roads, and curbs and guttering. He has seen water run completely around the culvert into Ms. Corallo's yard and back out into the road, and that is not the way it should be, regardless of what decision is made.

Madame Chair Stockton questioned the PZA as to what would be required for the road to become a state maintained road. The PZA informed the Planning Commission that it would require a site plan, engineering, pavement, curb and guttering, drainage, and storm water requirements. This would not be economically feasible for a three lot subdivision. It may be feasible for a 30 or 50 lot subdivision, but he is not sure about that due to the topography of the land and the area of the land that is in the flood plain.

Mr. Smith again addressed the Planning Commission to point out that Mr. Wilson knew these things when the lot was purchased.

Madame Chair Stockton questioned the PZA as to what could be done with the land if the request is granted and two people are allowed to purchase lots. The

PZA advised that the purchasers could build single family homes, but they could not further subdivide the property. Any new subdivision request would have to meet the subdivision ordinance. Any waivers granted by Planning Commission or Town Council would only apply to the three lots that Mr. Wilson has proposed.

Vice Chair Speidel questioned the PZA about what could be done with the lots now, if for instance, lot number one that is split is sold. The PZA explained that when the three year time frame expires he could keep the front property line and vacate the back property line, causing the back to become part of the property he lives on, and then he could sell the front property. Technically, there are two lots that can be sold, including the lot he lives on. A single family home could be built on the remaining lot.

Mr. Wilson addressed Planning Commission again, stating that the house lot has been deeded to him alone, and is no longer in his and his wife's name. He also advised the Planning Commission that if his waiver requests are passed, he wouldn't mind making a proffer that he will use some to the proceeds from the sale of the property to pave the road up to his gate, which is about 200 feet, and should help with some of the dust.

Mr. Lester addressed Planning Commission again, stating that he is not sure if the grade of the road will allow it to be built to state specifications. He also reiterated that when you get a family exemption, it is for a family member, not for one's self. This is his opinion. He is not an attorney, but he has dealt with subdivision ordinances in the past. The reason for the family provision is to allow a family member to construct a dwelling on an adjoining property, but at the same time, it is not to circumvent the ordinance. For instance, you can subdivide a parcel of land using the family exemption of the subdivision ordinance, which exempts you from the subdivision ordinance, and you can establish new boundaries and then sell the properties with the boundaries as they are. Even other towns and counties have limitations on the amount of time in which this can be done. This is something that needs to be considered and cleaned up for the Town, potential landowners, and Mr. and Mrs. Wilson. In his opinion, this should not have been allowed and it needs to be cleaned up before any additional future land owners are involved.

Madame Chair Stockton questioned the Town Attorney about how this issue can be cleaned up from a legal standpoint, with the Town Attorney stating that the issue before the Planning Commission tonight is Mr. Wilson's request for a waiver of the provisions of the subdivision. He is not prepared to offer legal advice on behalf of Town Council as part of this hearing.

Madame Chair Stockton confirmed with the PZA that the notes provided to Planning Commission indicate that the existing grade of the road would not permit a Virginia Department of Transportation (VDOT) standard road.

Vice Chair Speidel commented that he thinks the possibility of the public trail easement should be taken out of consideration because it is confusing the matter and is not the issue at hand. Planning Commission Member Greer and Madame Chair Stockton agreed with his comment.

The Assistant Town Manager addressed Planning Commission regarding the trail easement, stating that it is not attached to the request and is no quid pro quo. Mr. Wilson has not been promised anything in exchange for the trail easement and he isn't expecting anything. It is a separate issue.

Madame Chair Stockton asked for any additional questions or comments. She further stated that Planning Commission's charge is to look at what is best for the Town of Rocky Mount. In making a recommendation to Town Council, Planning Commission needs to consider the neighborhood, the citizens at large, and the tax payers when making this decision.

Let the record show that Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Greer to recommend denial of the waiver request. Discussion ensued. The Town Attorney clarified with Mr. Greer that Mr. Wilson has two waiver requests before the Planning Commission tonight. The first request is for a waiver regarding the sale of the subdivided property to someone other than a family member within the three year period, and Mr. Greer is recommending denial of this particular request. Mr. Greer confirmed that he is recommending denial. The motion on the floor was seconded by Planning Commission Member Clements, and a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Hall, Tiggle, Arrington, Clements, and Greer, Vice Chair Speidel, and Madame Chair Stockton. Let the record show that the motion on the floor passed unanimously to recommend denial of the waiver request.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

B) Request of Ronald B. and Rebecca T. Wilson for a waiver of Article 8 of the Town of Rocky Mount Subdivision Ordinance

After being duly advertised, Ronald B. and Rebecca T. Wilson requested a waiver from the Town of Rocky Mount Subdivision Ordinance Article 8 relating to required public improvements for a subdivision, including water, sewer, and road improvements for Franklin County Tax Map and Parcel Numbers 213-95 and 213-95.2. The proposed subdivision will consist of three lots accessed by a 50 feet private access easement. The property owner has also proposed a minimum 20

feet Public Trail Easement along the Pigg River. The property is located off of Glenwood Drive along the Pigg River.

Mr. Wilson came forward and stated that he has no further comments regarding his request.

Madame Chair Stockton asked if there was anyone from the public who wished to come forward to speak. No one came forward.

Let the record show that Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Greer to recommend denial of the waiver request, with motion on the floor being seconded by Planning Commission Member Clements. There being no discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Hall, Tiggle, Arrington, Clements, and Greer, Vice Chair Speidel, and Madame Chair Stockton. Let the record show that the motion on the floor passed unanimously to recommend denial of the waiver request.

OLD/NEW BUSINESS

A) Old Business

1. Request for Approval Regarding the Central Business District (CBD) Parking Regulation Changes

The Town Attorney addressed the Planning Commission stating that at the last meeting, some questions were raised about the proposed amendment to the CBD parking regulations. As a result of those questions and tabling of the matter by the Planning Commission, he and Town staff have met and researched the proposal and developed a recommended amendment regarding the parking regulations. No action is requested at this time; however, it is staff's request that Planning Commission consider re-advertising the proposed amendment for public hearing and consideration at the next regularly scheduled meeting. Staff looked at the CBD zone and looked at off-street parking and is recommending an ordinance that requires off-street parking to conform to the general parking regulations of the zoning ordinance, except as to the minimum number of parking spaces. The minimum number of parking spaces in the CBD shall be determined administratively by the zoning administrator. This is the broadest parking regulation that could be put before Planning Commission. Planning

Commission could add language to the proposed regulation to make it subject to Planning Commission review and approval. Planning Commission could also make the required number of parking spaces something that could be reviewed by Planning Commission upon request. It is staff's belief that the Town's requirements would be better satisfied if the minimum number of parking spaces required in the CBD is left to the determination of the PZA. The Town Attorney further stated that the purpose in bringing this before Planning Commission tonight is to address any questions or concerns and to ask that Planning Commission proceed with a public hearing at the next meeting.

Planning Commission Member Hall questioned if the PZA will use any kind of formula in making a determination. The Town Attorney addressed the question, stating that there will be no standards that are made a part of the ordinance. However, the PZA is expected to use objective criteria, such as location of business, and available alternative public and private parking, with the overall intent to enhance development in the CBD. The PZA further added that for any specific request, he would look at the location of the building, the available onsite parking, available offsite parking, and any public parking and use this as objective determinants as to what kind of parking would be required for a specific business. As a professional planner, he always uses objective criteria.

Vice Chair Speidel questioned if the objective criteria would be included in the ordinance, with the Town Attorney stating that it will not and despite his previous protestations, he is satisfied with the language as it is presented.

Madame Chair Stockton questioned how the PZA will show that he made a fair decision, with the PZA stating that any determination made would be documented and the reasons for the specific amount of parking chosen would be indicated.

Vice Chair Speidel stated that he recognizes the need for flexibility in the CBD; however, this proposal seems a little grandiose and he wonders if there is a way to add more restrictions.

The Town Attorney commented that in downtown Roanoke, there are no minimum parking regulations, with the Assistant Town Manager adding that this is primarily due to the fact that Roanoke has made a significant investment in developing public parking, as the Town of Rocky Mount is interested in doing in the CBD. The Town should be able to consider available public parking. He assured the Planning Commission that the Town has a professional staff and this is in no way a power grab or any sort of way of eliminating the Planning Commission's role in determining adequate parking. This will just give the Town some flexibility if a developer comes in and wants to move quickly.

The Town Attorney pointed out that Planning Commission could add phrasing to make any determination subject to Planning Commission review and approval. The PZA's decision could also be appealed to the Board of Zoning Appeals and if the applicant is still aggrieved by the decision, the applicant could apply for a writ with the Circuit Court.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Clements to authorize staff to proceed with advertising for a public hearing regarding parking regulations in the Central Business District at the April 2008 regular meeting, with motion on the floor being seconded by Planning Commission Member Greer. There being no further discussion, let the record show that the motion passed unanimously.

2. Discussion Regarding Sign Regulations in the Central Business District (CBD)

The Town Attorney advised the Planning Commission that staff is currently reviewing the sign ordinance in the CBD. The collective thinking is to liberalize the sign ordinance so as to place businesses with smaller lot frontage on an equal playing field with those of larger lot frontage. Staff is looking at reducing the lot width required but there are no draft documents available at this time for review.

B) New Business

- Discussion Regarding Pell Avenue Residential Business District

(Let the record show that Madame Chair Stockton excused herself from the meeting at 7:00 p.m., as she had another public hearing to attend. Vice Chair Speidel presided over the remainder of the meeting.)

The PZA opened the discussion, stating that Pell Avenue is an interesting part of Town. One side of the street is zoned General Business (G-B) and the other side of the street is mostly zoned single-family residential (R-1). On the G-B side, there are several single-family homes and that makes them a nonconforming use. So, if any thing happens to those homes, they wouldn't be able to rebuild since it is zoned for a business use. In addition, potential buyers may not be able get home loans on the properties because they are zoned G-B instead of residential. What is presented before Planning Commission now is a proposal to rezone Pell Avenue as a Residential Business (R-B) district, which would allow for single-family homes, as well as small office uses, such as accountants, or attorneys, or caterers. Therefore, Planning Commission would be rezoning one side of the street from G-B to

R-B and the other side of the street from single family to R-B to create a cohesive R-B district along Pell Avenue. The PZA further explained that he has had several concerns regarding Pell Avenue and one of the contractors is in attendance and would like to say a few words.

Willis Bruggemann, of 90 Campbellwood Road, Boones Mill, Virginia, came forward to speak. He stated that he is a Class B builder and that most of his work has been in the County until now. He has been approached by someone who wants to buy a house and put an addition on it, and this is what has brought him to the Pell Avenue issue. He can't even get a permit and if the house was to burn down, because it is zoned G-B, he wouldn't be able to rebuild it.

The PZA confirmed to Planning Commission Member Greer that if the house is destroyed by more than 75 percent of its value, then it can't be rebuilt. It could be brought before the Board of Zoning Appeals and would have to be deemed a hardship.

Mr. Bruggemann reiterated that it doesn't just pertain to rebuilding, as these homes can't even have additions built onto them.

Planning Commission Member Greer questioned if it was on the right side of the road as one travels down Pell toward Tanyard, with Planning Commission Member Clements advising it is actually the left side of the road from Stacy Belcher's on down to Tanyard.

The PZA advised the Planning Commission that one way to fix the issue is to rezone the area to Residential Business (R-B), which will allow both residences and business to make additions if necessary. A portion of the parcels are already zoned R-B.

Vice Chair Speidel stated that he agrees with this change, but at the same time, he hates to see the area of R-1 zoning reduced in Town.

There being no further discussion, Vice Chair Speidel entertained a motion.

- Motion was made by Planning Commission Member Greer to proceed with a public hearing for the purpose of rezoning Pell Avenue to a Residential Business (R-B) district, with motion on the floor being seconded by Planning Commission Member Hall. Discussion ensued. Mr. Bruggemann interjected that he thinks people who own properties that are currently zoned Residential may have an issue with going to Residential Business because a business could just move in next door. The PZA advised Planning Commission and Mr. Bruggemann that only limited businesses would be allowed. Planning Commission Member Arrington confirmed that both sides of Pell would be rezoned. The Deputy Clerk

requested to clarify the motion, which is to proceed with a public hearing, at the next regularly scheduled meeting, for the purpose of rezoning Pell Avenue to a Residential Business district, as presented on the proposed map. There being no further discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Hall, Tiggle, Arrington, Clements, and Greer, and Vice Chair Speidel. Let the record show that the motion passed unanimously by those present.

ADJOURNMENT

There being no further business to discuss, motion was made by Planning Commission Member Clements at 7:13 p.m. to adjourn, seconded by Planning Commission Member Arrington and carried unanimously.

Janet Stockton, Chair

John Speidel, Vice Chair

ATTEST:

Stacey B. Sink, Deputy Clerk

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