

**BOARD OF ZONING APPEALS  
MINUTES  
MARCH 1, 2007  
6:00 P.M.**

The Board of Zoning Appeals of the Town of Rocky Mount, Virginia met at the Municipal Building on Tuesday, March 1, 2007, at 6:00 p.m. with Chairman Charles L. Hutto, Jr. presiding.

The following members were present:

Chair Charles L. Hutto, Jr., Vice Chair Susan P. Hapgood, Board of Zoning Appeals (BZA) Members Sanford "Lyn" Robertson, John Speidel, Lucas Tuning, Interim Town Manager Jack Gross, Planning & Zoning Administrator Paul Stockwell, Town Attorney John Boitnott, Town Clerk Patricia Keatts, and Community Development Department Temporary Secretary Deborrah Skarbek

**APPROVAL OF AGENDA**

Motion was made by BZA Member Speidel to approve the agenda, seconded by Vice Chair Hapgood and carried unanimously.

**APPROVAL OF MINUTES**

Motion was made by BZA Member Tuning to approve the December 7, 2006 draft minutes, seconded by BZA Member Robertson and carried unanimously.

**PUBLIC HEARING**

Chair Hutto recessed the meeting to hold the following three public hearings:

A) Variance Request of Bonbrook, LLC and Ruby Lynch

After being duly advertised, Bonbrook, LLC and Ruby Lynch presented a request for a variance for Tax Map 204 and Parcel Numbers 379 and 201-75.1. The variance request is regarding Article 3-6-3/5-7-3 of the Town of Rocky Mount Zoning & Development Ordinance to allow creation of an irregular pipe stem lot. The property is located southeast of Trail Drive and State Street intersection.

Chair Hutto opened the floor to anyone wishing to come before the BZA to speak for or against the variance request.

- Sheldon Bower, representing Bonbrook, LLC and Ruby Lynch, came before the BZA, handing out to the BZA members a site plan that showed where the proposed units would be located, and also where the proposed new entrance into the site would be located. Mr. Bower gave a brief synopsis regarding the original rezoning request that had been presented to the Rocky Mount Town Council in December 2006, with Town Council approving the rezoning, but at that time, Mrs. Ruby Lynch had requested that the entrance be shifted down Trail Drive. By moving the entrance, this created an irregular pipe stem. It was also pointed out by Mr. Bower that the concern Town Council had voiced about the second entrance meeting the Virginia Department of Transportation (VDOT) sight distances had been addressed by VDOT and the sight distances were met. Questions rose from BZA members regarding the school traffic on Trail Drive and what impact it would make on the proposed new entrance, with Mr. Bower stating that the proposed entrance was still a better option. Mr. Bower also confirmed to the BZA that there would be 41 units on the property.

Let the record show that no one else came forward to speak for or against the variance request.

There being no further discussion, Chair Hutto entertained a motion.

- Motion was made by BZA Member Robertson to approve the variance request of Tax ID 204-379 and 201-75.1 to allow the creation of an irregular or pipe stem lot on the basis that: (a) the strict application of the ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of such variance will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. Let the record show that the motion on the floor was seconded by BZA Member Speidel. There being no discussion, let the record show that the motion on the floor passed unanimously.

B) Phillip W. & Jodi Scott Root

After being duly advertised, Phillip W. & Jodi Scott Root requested to come before the BZA requesting a reduction to the minimum side yard requirement for Tax Map and Parcel Number 207-281. The reduction request is regarding Article 4-8-1 of the Town of Rocky Mount Zoning & Development Ordinance to reduce minimum side yard requirement. The property is located northeast of Diamond Avenue and Windsor Drive intersection.

Chair Hutto opened the floor to anyone wishing to come before the BZA to speak for or against the request.

- Patrick Leary, surveyor representing Phillip W. & Jodi Scott Root, came before the BZA stating that Mr. and Mrs. Root basically wanted to take the apartments located on this property and divide them for financial tax purposes, which would create two separate properties instead of one. Mr. Leary also relayed to the BZA that this would only affect one adjoining property, as the other sides of the property faced the railroad and street. Mr. Leary also confirmed to the BZA that the property owner does not plan any future development, but did state that the property in the future could be sold as two separate lots.
- The Town Attorney relayed to the BZA that the variance would only apply to the existing improvements and if the apartments were ever demolished and the buildings rebuilt, the existing side setbacks would apply and be required that is stated in the Town of Rocky Mount Planning & Zoning Ordinance that currently applies to existing buildings.

Let the record show that no one else came forward to speak for or against the variance request.

There being no further discussion, Chair Hutto entertained a motion.

- Motion was made by Vice Chair Hapgood to approve the variance request of Tax ID 207-281 to allow subdivision of the parcel of the land into two separate lots with the condition that it only applies to the subdivision and recordation of the lots as indicated on the survey by Patrick Leary dated January 10, 2007 and that it does not carry to any further development on said parcels on the basis that: (a) the strict application of the ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of such variance will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. Let the record show that the motion on the floor was seconded by BZA Member Tuning. There being no discussion, let the record show that the motion on the floor passed unanimously.

C) Request for Change in Non-Conforming Use Request of Jerry W. Greer and Robert L. Jones

After being duly advertised, Jerry W. Greer and Robert L. Jones requested to come before the BZA to request a change in non-conforming use for business storage to an art, dance, or music studio with associated retail as a non-conforming use for Tax Map and Parcel Number 210-172. The property is located northwest of Scuffling Hill Road and Glenwood Drive intersection.

Chair Hutto opened the floor to anyone wishing to come before the BZA to speak for or against the variance request.

- Catherine Sulzman, perspective buyer of the building, came before the BZA stating that her and her husband would like to purchase the building for a small art gallery to show her art work. Mrs. Sulzman confirmed that the change to the building would be mostly inside, but she would do some nice landscaping on the outside. She further confirmed that they are planning on purchasing both buildings on the property, and that parking should not be a problem.
- BZA Member Speidel voiced concerns of the building being used for the purposes of a dance or music studio. Mrs. Sulzman relayed to the BZA that she only wanted the building for an art studio and to possibly do some quilting. BZA Member Speidel questioned Mrs. Sulzman if it would be a problem if the BZA restricted the use for only an art studio.
- Bob Sulzman came before the BZA stating that if the property was restricted to an art studio only and not for dance and music, it would make it harder to sell in the future. BZA Member Speidel stated that he did not think the BZA would want to open the property up to allow a dance or music studio.
- BZA Member Robertson stated that one thing that needed to be considered is the adjoining property owners, and how their property would be affected if a dance and music studio was allowed on the property. Mr. Sulzman commented that if the BZA restricted the use, they would have to re-think about buying the property.
- Audrey Agee, real estate agent with Century 21 and involved with the sale of the property, came before the BZA stating that the square footage of the building that would be used is only 1,000 square foot and not big enough for a dance studio. BZA Member Speidel and Chair Hutto disagreed. Chair Hutto voiced concerns that if the building was used for a dance or music studio, children's safety may be in question due to how busy Scuffling Hill Road is and the restrictive sight distance due to the curve in the road where the building is located.
- Ron Lemons, came before the BZA on behalf of his daughter, Dena Matherly, who is an adjacent property owner. Mr. Lemons advised the BZA that his daughter's property is only about a couple of feet from the building. Mr. Lemons voiced concerns that if the property was used for a dance or music studio, there would not be enough room for parking, and as of right now, there is only parking enough for eight to ten vehicles. Also voiced concerns about the sight distance pulling out from the property due to the curve in the road on Scuffling Hill Road. He commented that since his daughter has lived there for the past ten years, she has had to replace her mailbox nine times due to

vehicles hitting it. Mr. Lemons did relay that he thinks an art studio would be fine, but a dance or music studio would create more vehicular traffic pulling out onto Scuffling Hill Road. He also stated that if a dance or music studio was allowed, the children or people may go onto his daughter's property without realizing it since it is located so close to the building, and since she is a single mother, she would not want strangers on her property. Also stated that if the building is allowed to have a dance or music studio and if it is sold in the future, you would not be aware of what might go in if no restrictions are put in.

- Jerry Greer came before the BZA stating that they did not want a dance or music studio, with them only wanting an art studio and they would proffer that in. Chair Hutto so noted.

Let the record show that no one else came forward to speak for or against the variance request.

There being no further discussion, Chair Hutto entertained a motion.

- Motion was made by BZA Member Tuning to approve the change in nonconforming use request of Tax ID 210-172 to allow an art studio with associated retail as nonconforming use on the basis that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Let the record show that the motion on the floor was seconded by Vice Chair Hapgood. There being no discussion, let the record show that the motion on the floor passed unanimously.

### **OLD/NEW BUSINESS**

Let the record show there was no old or new business to discuss at this time.

### **ADJOURNMENT**

There being no further business to discuss, Chair Hutto entertained a motion to adjourn. At 6:40 p.m., motion was made by BZA Member Robertson to adjourn, seconded by BZA Member Speidel and carried unanimously.

---

Charles L. Hutto, Jr., Chair

ATTEST :

---

Patricia Keatts, Town Clerk

(this page left blank)