



MEETING MINUTES

Board Members Present

Chairperson Susannah Carver
Member Stephanie Gosnell
Member Patrizia Hoffman

Member Michael Bennett
Member Scott Hanson

Board Members Absent

None

Town Staff Present

Adrienne Isenhower, Planning Director
Penny Sams, Zoning Administrator

Sheri Powers, Interim Town Administrator
Ryan Vinson, Town Clerk / HR Analyst

Chairperson Carver called the meeting to order at 6:31 p.m.

A. Approval of the Agenda

Chairperson Carver had one addition to the agenda: adoption of rules and procedures for the Board

Planning Director Isenhower had one addition to the agenda: swearing in of new Board members.

Member Hoffman made a motion to approve the agenda. Member Gosnell seconded the motion, which passed unanimously, 5-0.

B. Approval of the Minutes: 11/08/2021

Member Hoffman made a motion to approve the minutes. Member Bennett seconded the motion, which passed unanimously, 5-0.

C. Public Comment

Everyone wishing to address the Board must sign up with the Town Clerk 15 minutes prior to the meeting. Each speaker will be recognized by the Chair when it is their time to be heard. Comments are limited to three minutes per speaker and the time allotted to public comment will be at the discretion of the Chair.

No public comment

D. Old Business

No Old Business

E. New Business

1. Adoption of Rules and Procedures for Board of Adjustment

- i. Planning Director Isenhower: All members have had the opportunity to look over the BOA By-Laws and are there any questions? I wanted to mention the attendance policy and that it

is expected for you be here every meeting, however, the requirement is 75% of the meetings.

- ii. Planning Director Isenhower: Does the meeting date/time work – the 4th Thursday of the month at 6:30?
- iii. Member Hanson made a motion to adopt the BOA By-Laws. Member Hoffman seconded the motion, which passed unanimously, 5-0.

2. Election of a Vice Chairperson

Member Hanson nominated Member Bennett for Vice Chairperson. Member Hoffman seconded the motion, which passed unanimously, 5-0. Member Bennett accepted the nomination and thanked the Board members.

3. **Item 1: Public Hearing - Variance**: The property is zoned R-21 and is located at 31 Bent Branch Lane, further identified by Buncombe County Parcel Identification Number 9741-23-5245. The variance request is for encroachment upon the required 30' front yard setback for construction of a single-family dwelling.

Planning Director Isenhower: The applicant is requesting a variance to encroach upon the front yard setback approximately 20', creating a 10' setback rather than the required 30' setback, in order to construct a single-family dwelling in the Ventana subdivision. The applicant notes the topography of the lot as the reason necessitating the request for a variance.

Chairperson Carver: We will now open the hearing for a variance request. The Board must base its decision upon competent, relevant, and substantial evidence in the record. Witnesses must swear or affirm their testimony. All persons who wish to speak and testify must be sworn in. Please stand if you plan to give testimony.

Chairperson Carver: In order to act as a party in the case, an individual must have legal standing. The applicant, property owner, and local government all have legal standing. Other individuals maybe have standing if they will suffer special damages. If you wish to act as a party, please provide evidence to establish that you will suffer special damages from the requested development.

- Chairperson Carver opened the public hearing at 6:41 pm.
- Chairperson Carver swore in Planning Director Isenhower and Ryan Blau.
- Chairperson Carver asked the Board Members if any of them had any information or special knowledge about the case that would come out during the hearing. All said no.

Ryan Blau (landscape architect): There is no frontage from street, property is accessed through easement on neighboring property. The topography is steep and limits the ability to access the site. This variance would allow closer access to road with limiting the disturbance to surrounding lands and area.

Member Hoffman: Does the variance and the requested change have anything to do with access to utilities?

Ryan Blau: No.

The Board discussed the application, set back requirements, potential impacts of proposal, current right of ways, and easement.

Chairperson Carver closed the public hearing at 6:51 pm.

Chairperson Carver asked for the following motion:

To approve the variance request because:

1. Unnecessary hardship would result from the strict application of the regulation. Yes.
2. The hardship results from condition that are peculiar to the property, such as location, size, or topography. Yes.
3. The hardship did not result from actions taken by the applicant or the property owner. Yes.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Member Hanson was so moved by the motion. Vice Chair Bennett seconded the motion, which passed unanimously, 5-0.

4. **Item 2: Public Hearing – Variance:** The property is zoned R-21 and is located at 33 Bent Branch Lane, further identified by Buncombe County Parcel Identification Number 9741-22-6939. The variance request is for encroachment upon the required 30' front yard setback for construction of a single-family dwelling.

Planning Director Isenhower: The applicant is requesting a variance to encroach upon the front yard setback approximately 15', creating a 15' setback rather than the required 30' setback, in order to construct a single-family dwelling in the Ventana subdivision. The applicant notes the topography of the lot as the reason necessitating the request for a variance.

Chairperson Carver: We will now open the hearing for a variance request. The Board must base its decision upon competent, relevant, and substantial evidence in the record. Witnesses must swear or affirm their testimony. All persons who wish to speak and testify must be sworn in. Please stand if you plan to give testimony.

Chairperson Carver: In order to act as a party in the case, an individual must have legal standing. The applicant, property owner, and local government all have legal standing. Other individuals maybe have standing if they will suffer special damages. If you wish to act as a party, please provide evidence to establish that you will suffer special damages from the requested development.

- Chairperson Carver opened the public hearing at 6:54 pm.
- Chairperson Carver swore in Planning Director Isenhower and Michael Barton.
- Chairperson Carver asked the Board Members if any of them had any information or special knowledge about the case that would come out during the hearing. All said no.

Michael Barton (property owner): Looking over this again with my architect, we could do 15' setback instead of 10' setback. We need to put garage for adverse weather and we would be forced to build bridge with 30' setback. We also want to keep home within the same quality of neighborhood too.

The Board discussed the application, set back requirements, potential impacts of proposal, current right of ways, and easement.

Chairperson Carver closed the public hearing at 6:58 pm.

Member Hoffman made a motion to approve the variance request because:

5. Unnecessary hardship would result from the strict application of the regulation. Yes.
6. The hardship results from condition that are peculiar to the property, such as location, size, or topography. Yes.
7. The hardship did not result from actions taken by the applicant or the property owner. Yes.
8. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

Member Gosnell seconded the motion, which passed unanimously, 5-0.

5. **Item 3: Public Hearing – Variance:** The property is zoned R-7 and is located at 99999 Apple Lane, further identified by Buncombe County Parcel Identification Number 9730-80-8269. The variance request is for encroachment upon the required 20’ side yard setback for construction of a two-family dwelling.

Applicant was not present, so the hearing could not be held. Chairperson Carver made a motion to continue the hearing to the February 24th meeting. Member Hanson seconded the motion, which passed unanimously, 5-0.

6. **Item 4: Public Hearing – Variance:** The property is zoned R-7 and is located at 6 Apple Lane, further identified by Buncombe County Parcel Identification Number 9730-80-7390. The variance request is for encroachment upon the required 20’ side yard setback for construction of a two-family dwelling.

Applicant was not present, so the hearing could not be held. Chairperson Carver made a motion to continue the hearing to the February 24th meeting. Member Hanson seconded the motion, which passed unanimously, 5-0.

7. **Item 5: Special Use Permit:** The property is zoned Community Shopping and is located at 99999 N Merrimon Avenue, further identified by Buncombe County Parcel Identification Number 9730-88-0404 and 9730-88-5712. The special use permit request is for a townhome development.

Planning Director Isenhower: A special use permit is requested for property located at 99999 N Merrimon Avenue/Senator Reynolds Road for a townhome development. The developer also completed the Terraces at Reynolds Mountain, directly adjacent to the parcel for this request. The property is zoned Community Shopping which allows for multi-family development approval through a special use permit. The property is 9.54 acres, and the master plan consists of 42 single-family town homes. The density proposed is approximately 4.4 units per acre and the construction of the homes will be similar to the existing, neighboring town homes.

Chairperson Carver: We will now open the hearing for a special use permit. The Board must base its decision upon competent, relevant, and substantial evidence in the record. Witnesses must swear or affirm their testimony. All persons who wish to speak and testify must be sworn in. Please stand if you plan to give testimony.

Chairperson Carver: In order to act as a party in the case, an individual must have legal standing. The applicant, property owner, and local government all have legal standing. Other individuals

maybe have standing if they will suffer special damages. If you wish to act as a party, please provide evidence to establish that you will suffer special damages from the requested development.

- Chairperson Carver opened the public hearing at 7:04 pm.
- Chairperson Carver swore in Planning Director Isenhower and Harold Kessler (Skyfin Developers LLC), Gary Wald, Jim McAllister, Philip Cohen, and Wilson Sims Jr.
- Chairperson Carver asked the Board Members if any of them had any information or special knowledge about the case that would come out during the hearing. All said no.

Harold Kessler (managing member of Skyfin Developers): YMCA and HOA own adjacent properties, borders Senator Reynolds [Mountain] Road. He then talked about surrounding buildings and usages. The property is surrounded by Community Shopping zoning and what surrounds it are aforementioned commercial usage. Townhome community will be similar to what was recently finished, mountain modern. He also mentioned the following:

- 42-unit single family townhome project on 9.54 acres
 - 20 duplex townhomes and 2 single family residences
- YMCA & HOA have agreed to sell property they own to Skyfin Developers
- Serviced by its road and buildings are build to maximize views and preservation of open areas.
 - Only 11.2% of the 9.54 acres is being covered by buildings and over 75% of the site remains open area.

Member Hoffman: Why can't develop the rest of the acreage? Steep?

Harold Kessler: That and there is a valley, natural drainage channel. Once completed, the HOA will control maintenance, parking, garbage, etc. and prohibit develop on remaining portions of the property.

Harold Kessler: We are good to go with water and sewer, stormwater approved through County.

Attorney Sneed: Will need copies of initial approval of water/sewer capacity letters.

Member Hoffman: Do you have a rendering of what the completed buildings will look like?

Harold Kessler: We have not gotten there yet

Chairperson Carver: Do you have a price point?

Harold Kessler: We are targeting between \$600K – \$800K and looking at about 1600-1800 square feet.

Chairperson Carver: Do you have the building location, driveways, parking areas, street design, covered?

Harold Kessler: Yes

Member Hanson: Do you have any dedicated recreation areas?

Harold Kessler: No, and it was done intentionally. Possibly a paved path toward village center. The YMCA is already there and there is already so much available in the village.

Chairperson Carver: No on street parking?

Harold Kessler: Correct, no on street parking.

Vice Chari Bennett: The residents have garage? What about guests?

Harold Kessler: The residents will have garages and there will be a driveway for their guests.

Gary Cohen (115 Summit Tower Circle): Treasure for HOA. We are not opposed to the project if done well, and we bring up the following issues to explore:

1. 2 property lots on steep slope, erosion, and stormwater issues in Reynolds Village
 - a. Study using civil engineer to assess stability of site and manage erosion
 - b. A good system for minimal tree removal
2. Plan needed for mud, debris, and stormwater runoff during storms
3. Traffic study
4. Provisions to make Senator Reynold Mountain Road safer
5. Map of development shows 2 new roads. Delay approval to study traffic and manage erosion, and stormwater.

Jim McAllister (162 Summit Tower Circle): I am not against the project, but there are some issues to be addressed. The development is partially on a steep slope and currently the Town does not have a steep slope ordinance. There needs to be engineering and hydrology reports, “natural valley” is a pit formed over time as it is at the bottom of steep slope. Better use of silt fences. Reynolds Mountain is narrow and 2 lanes, concerns about construction traffic. Concerned not hearing from Fire Chief tonight. You do not have to make final decision tonight and in the meantime the developer can have talks with HOA’s, etc.

Wilson Sims Jr (303 Ava Lane): I support plans of the development; I would encourage as part of project that sidewalks and speedbumps be included appropriately. Residents currently all walk in the middle of the roadway as there are no sidewalks. These are major safety concerns, former Administrator Hardy had met with us said was a priority, some Commissioner said 18 months ago there was a process in the works. Have a chance to make this right and put safety first.

Gary Wald (58 Points West Drive): The slope stability (NC Bureau of Land Management) has mapped Senator Reynolds [Mountain] Road and it has been identified as a high flood area, stormwater flow as it appears that none goes into Woodfin sewers, go through piping and funnels down the mountain, traffic congestion, verticalness of site – is it too vertical to build? What is elevation gain?

John Webb (76 Midland Drive): Broker with Beverly Hanks: We fully support project.

Harold Kessler: I will let the professionals answer some of those questions and concerns.

Brad Howell (Advantage Civil Engineering): With regards to slope stability, we will have a geo technical engineer to come to the site to do tests on the parcel to understand the stability and soils where we plan to build. Stormwater controls have been designed per Buncombe County standards to handle additional impervious surface runoff. Sewer has been reviewed by the Metropolitan Sewerage District and we have received allocation from them. Stormwater contained with ponds, etc. not in the sewer. Designed to contain stormwater runoff to predevelopment level. Abiding by all necessary rules and regulations. We met with Fire Chief/Marshall, and it was approved by them (road access), no concerns with either access point on Senator Reynolds Mountain Road. We also tried to minimize the levels of disturbance to acceptable levels. No construction staging plans.

Member Gosnell: Intending to repave when completed due to construction traffic?

Harold Kessler: We have not yet damaged any roads, but, if we damage it, we will fix it. Road was never completed in the first place, never got final laying of asphalt.

Jason Gillen (10D S Main St Weaverville): Yes, there are steep slopes, we did slope analysis, identified pockets of developments which is the proposed area of development, avoiding slopes over 30%.

Member Hoffman: What type of road is Cobblers?

Jason Gillen: 2 lane road

Harold Kessler: It is also the access road to assisted living area.

Jason Gillen: There is currently no stormwater but piped to location at bottom of mountain. Stormwater ordinance not in place when the homes were originally built. Underground system is based on a formula of what would be necessary and what devices necessary.

Landon Robinson: The stormwater is low impact decision, underground infiltration systems, like bio retention cells, most stormwater will go into ground, low flow releases.

Vice Chair Bennett: Who maintains it?

Landon Robinson: The HOA would maintain it.

The Board discussed the application, special use, erosion control measures, ingress and egress, safety, and the development itself.

Member Hanson made a motion to approve the Special Use Permit for 99999 N Merrimon Avenue having established that:

1. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
2. The special uses will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;
3. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and
4. The exterior architectural appeal and functional plan of any proposed structure will conform with the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or with the character of the applicable district and to cause substantial depreciation in the property values within the neighborhood;
5. Adequate utilities, access roads, drainage, or other necessary facilities have been or are being provided;
 - i. The Board has seen approval letters from the Woodfin Water District and Metropolitan Sewerage District stating there is capacity for service to the property
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
 - i. The Applicant will provide a written letter from the Fire Marshall or Fire Chief confirming there are no safety issue with plan and it is not dangerous entry and exit.
7. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the planning and zoning board of adjustment.

Member Gosnell seconded the motion, which passed unanimously, 5-0.

8. **Item 6: Special Use Permit:** The property is zoned R-10 and is located at 471 Olivette Road, further identified by Buncombe County Parcel Identification Number 9720-76-5362. The special use permit request is for use of the property as temporary public works and utility storage.

Planning Director Isenhower: A special use permit is requested for use of property located at 471 Olivette Road as temporary public works and utilities storage. The request is in response to the Craggy-Enka Reliability Transmission Line Upgrade project to be completed by Duke Energy. The site

has been identified as an ideal location for material storage for the project. Because this request is for temporary use, resulting in a grey area in ordinance interpretation, staff recommended review of the request by the Board of Adjustment through the special use process. The property is zoned R-10 and the district allows for public works and public utility facilities as a special use. The applicant has provided feedback to staff regarding plans for buffering the site from neighboring properties and will provide those details to the board during the special use hearing.

Chairperson Carver: We will now open the hearing for a special use permit. The Board must base its decision upon competent, relevant, and substantial evidence in the record. Witnesses must swear or affirm their testimony. All persons who wish to speak and testify must be sworn in. Please stand if you plan to give testimony.

Chairperson Carver: In order to act as a party in the case, an individual must have legal standing. The applicant, property owner, and local government all have legal standing. Other individuals maybe have standing if they will suffer special damages. If you wish to act as a party, please provide evidence to establish that you will suffer special damages from the requested development.

- Chairperson Carver opened the public hearing at 8:42 pm.
- Chairperson Carver swore in Planning Director Isenhower and Josh Holmes.
- Chairperson Carver asked the Board Members if any of them had any information or special knowledge about the case that would come out during the hearing. Chairperson Carver said she knew the applicant, Josh Holmes, as they went to High School together and colleagues at the City of Asheville.

Josh Holmes: The project is to serve Duke Energy and their project of the Craggy/Enka reliability improvement, which is a 9-mile project. This is a good area; it is in the right of way. It would keep their equipment on major roads, the project is temporary. While it is a few years off from starting, we are looking at a 5-year project from today to completion. The area would be fenced off and double row of trees, there would be no weekend or night operations. It would be to just to store poles and wires.

Member Hanson: Would there be any damage to the environment from their vehicles?

Josh Holmes: No, as it's on the existing right of way and out of public way.

Ken Bunner: I own adjoining property and I am in favor of the project. It amount is a lay down yard, it is the best use of the property. It would be a bigger impact to have to go somewhere else, mostly poles, wires, and insulators.

The Board discussed the application, the items being stored on site, and the length of the project.

Member Hanson made a motion to approve the Special Use Permit for 471 Olivette Road for Duke Energy having established that:

8. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
9. The special uses will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;
10. The project will be completed within 6 years.

Member Hoffman seconded the motion, which passed unanimously, 5-0.

F. Adjournment

Member Horton made a motion to adjourn the meeting. Member Hoffman seconded the motion, which passed unanimously, 5-0.

Chairperson Carver adjourned the meeting at 8:59 pm.

Susannah Carver
Chairperson

Attest: _____
Ryan Vinson
Town Clerk