

Town of Maggie Valley
Zoning Board of Adjustment
January 20, 2022
MINUTES

Members Present: Chairman Bill Banks, Members: Allen Alsbrooks, Jared Lee, Eve Barrett, Marion Hamel, Tinker Moody, and Charlotte Ruiz

Members Absent: Joshua Hoogerwerf

Staff Present: Planner Kaitland Finkle and Clerk Vickie Best

Others Present: Gordon Graham

1. Call to Order

Chairman Banks called the meeting to order at 5:35pm on Thursday January 20, 2022, in the Town Hall Boardroom. Chairman Banks explained how a quasi-judicial board operates like a court of law.

Clerk Best administered the oath of office to Charlotte Ruiz, the newly appointed member to the Zoning Board of Adjustment.

2. Approval of Minutes

a. November 18, 2021, meeting

MR. ALSBROOKS MADE A MOTION TO APPROVE THE MINUTES AS PRESENTED. MS. HAMEL SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Planner Finkle reported that she had visited the owner of Queens Garage after reviewing the minutes. Both Ryan's Garage and Queens Garage were sent a Notice of Violation on December 19, 2021.

The owner of Queen's Garage responded immediately. There are no violations documented. The owner assured Planner Finkle that he would stay on top of the situation and was considering installing a fence. There is not enough room to park vehicles behind the building.

Planner Finkle will continue to work on the Ryan's Garage violations.

When questioned about a previous case that came before the board regarding a garage to be in front of the home at 1113 Moody Farm Road. Planner Finkle responded that the building material is there because Mr. Stockwell is attaching a garage to his home. There are increased sewer capacity fees and yes, the garage will be larger than the home.

3. NEW BUSINESS

a. Application for a Variance request to Section 154.113 for Recreational Vehicle to exceed 1 month in C-1 by Gordon Graham, 2468 Dellwood Road (8607-71-9896).

Clerk Best administered the oath to tell the truth to Planner Finkle and Mr. Gordon Graham.

This case has nothing to do with the current moratorium that is in effect regarding RV-PUDs, Campgrounds, RV storage, and RV Parks.

Mr. Graham rents two warehouses from Ms. Powell. One building is for G's Live Edge Furniture and the other is for storage as well as containing an RV. The warehouses have been empty for a long time. Now

Town of Maggie Valley
Zoning Board of Adjustment
January 20, 2022

MINUTES

all buildings have been leased. There are security issues due to homeless people being out back of the warehouses smoking meth. Security cameras have been installed, but there is a need for 24-hour security onsite. After the grading and parking lots are complete, Ms. Powell plans to build a one-bedroom structure out back for security. Mr. Graham has already had a catalytic converter stolen off his truck. Mr. Graham wants to live in the RV inside the warehouse until a security structure is built.

When questioned about the police patrolling the area, Mr. Graham responded that sometimes the State Patrol sit out front running radar.

When questioned about the length of time it will take to construct a security structure, Mr. Graham responded maybe by the end of the year.

Application for a Variance to Section 154.113 for Recreational Vehicle to exceed 1 month in C-1 by Gordon Graham, 2468 Dellwood Road (8607-71-9896)

Item 3a



Amy Powell is the owner of 25.63 acres on Dellwood Road, PIN 8607-71-9896. The property is zoned C-1, General Business. Tenant Gordon Graham operates G's Live Edge Furniture at 2466 Dellwood Road.

On December 9, 2021 Mr. Graham applied for and received a Zoning Permit (#211209001) to locate a Recreational Vehicle at 2468 Dellwood Road. One of the conditions of his permit is that the Recreational Vehicle may only be used on a temporary basis (not to exceed 1 month). Mr. Graham is requesting an extension of the timeframe.

3
Town of Maggie Valley
Zoning Board of Adjustment
January 20, 2022
MINUTES

Code section §154.113 RECREATIONAL VEHICLES states the following:

Recreational vehicles may be stored or used on business or residential lots, provided that:

- (A) No more than 2 recreational vehicles are stored or used on any one lot other than at a campground;
- (B) Recreational vehicles may be used on a temporary basis but not to exceed 1 month unless in a RV park; and
- (C) Recreational vehicles shall not be used as a single-family residence.

The Town of Maggie Valley recognizes that there may exist certain conditions that make the literal enforcement of its Zoning Ordinance result in a practical difficulty or unnecessary hardship. To that end, the Town has created a process whereby interested parties may request a variance from the Zoning Board of Adjustment from specific requirements of the ordinance.

Ms. Hamel responded that Mr. Graham has already broken two of the above rules.

The RV, once located outside the warehouse was moved inside. Haywood County has approved Mr. Graham living inside the RV, inside the warehouse, if no gas is used.

Ms. Ruiz questioned if Mr. Graham would move the RV outside if permission is given. Mr. Graham responded no. The RV will remain inside the warehouse.

The language of the ordinance allows for water, sewer, and electric. Planner Finkle informed the board that Public Works Director Mike Mehaffey has concerns that the capacity fee paid was for commercial use only, not residential use inside the warehouse.

Mr. Graham addressed the board stating that he leases the warehouse and moved the RV inside to do a remodel. "It is a job."

Ms. Hamel explained that it is the board's job to obey the ordinances. Ms. Hamel went on to let Mr. Graham know that she does not appreciate his dispersions of the PD, the zoning regulations, and the violations he is aware of that he only vaguely describes. "We have laws and rules established by the Town and the State and we are a volunteer board!"

Mr. Alsbrooks responded that he does not have an issue granting a variance with a time limit until the security structure is complete.

The board reviewed the following:

Town of Maggie Valley
Zoning Board of Adjustment
January 20, 2022
MINUTES

Application for a Variance to Section 154.113 for Recreational Vehicle to exceed 1 month in C-1 by Gordon Graham, 2468 Dellwood Road (8607-71-9896)

- (1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that all of the following conditions exist.
 - (a) If the applicant complies with the provisions of this chapter, the applicant can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of this chapter that will make possible the reasonable use of the property.
 - (b) The hardship results from the application of this chapter to the property rather than from other factors such as deed restrictions or other hardship.
 - (c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
 - (d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this chapter, or who purchases the property after the effective date of this chapter and then comes to the Board for relief.
 - (e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.
- (2) The variance is in harmony with the general purpose and intent of this chapter and preserves its spirit. That is, the applicant is not seeking to establish, to expand, or to extend in area a nonconforming use. Moreover, the existence of a nonconforming use in the same or in any other zoning district shall not constitute a reason for granting the requested variance.
- (3) In granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would alter the essential character of the neighborhood, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or general welfare.

It would be difficult to estimate time due to Ms. Powell, the owner of the warehouses, dealing with different companies. Because of the pandemic, labor and materials may be delayed.

Town of Maggie Valley
Zoning Board of Adjustment
January 20, 2022
MINUTES

Application for a Variance to Section 154.113 for Recreational Vehicle to exceed 1 month in C-1 by Gordon Graham, 2468 Dellwood Road (8607-71-9896)

Facts for Variance Application #211209002

1. Amy Powell is the owner of 25.63 acres on Dellwood Road, PIN 8607-71-9896.
2. The property is zoned C-1, General Business.
3. Tenant Gordon Graham operates G's Live Edge Furniture at 2466 Dellwood Road.
4. On December 9, 2021 Gordon Graham applied for and received a Zoning Permit (#211209001) to locate a Recreational Vehicle at 2468 Dellwood Road.
5. Code Section § 154.113.B allows "Recreational vehicles [to] be used on a temporary basis but not to exceed 1 month unless in a RV park".
6. The location of the proposed recreational vehicle is at an existing structure situated behind other buildings on Dellwood Road.
7. All requirements of the Town's Zoning Ordinance for Variances shall be met.
8. As required by state statute, the property has been posted with a zoning hearing notice and all adjacent property owners have been notified of this hearing.

Ms. Barrett asked that the board look at the request from a different perspective. The RV is within a building. Mr. Graham is offering free security for a bad area. Ms. Ruiz agrees, the RV cannot be seen from the road. Mr. Alsbrooks agreed, the RV is adequately screened.

Ms. Hamel questioned what kind of door we are opening when the next guy comes in with a story.

Mr. Lee explained that the police do all they can do. Twice, the storage units for Skis & Tees have been broken into with clear evidence of drug use. Now, Maggie Valley is having issues with graffiti. "I am in favor of people looking after their stuff." The RV is off the main road.

Ms. Hamel contends that the Zoning Board of Adjustment has rules to follow.

Ms. Moody stated that it is common for security to sleep onsite.

The board again reviewed the standards for granting a variance. (See above/ 3 questions)

Ms. Barrett believed that number 1 letter e applies, as well as number 3.

After much deliberation, Planner Finkle asked if the Board would rather vote first on whether or not this was a valid request? If the majority voted not, ~~do not~~ there was no need to grant or deny the request.

Mr. Alsbrooks had concerns about the RV being moved outside the warehouse. Mr. Alsbrooks does not want to drive down the road and see RVs with people living in them.

6
Town of Maggie Valley
Zoning Board of Adjustment
January 20, 2022
MINUTES

Ms. Hamel stated that drugs and theft is widespread. It is not a hardship, when it is happening everywhere.

Again, Ms. Barrett stated that Mr. Graham needs to stay there until the security structure is built. "Mr. Graham has assured us the RV will remain inside the warehouse."

Mr. Alsbrooks felt the only hardship is he is wanting to treat the RV as a residence.

Mr. Ruiz responded that he could have built a bedroom inside the warehouse.

MR. ALSBROOKS MADE A MOTION NOT TO CONSIDER THE VARIANCE. MS. MOODY SECONDED THE MOTION. MS. HAMEL OPPOSED WITH THE REMAINING MEMBERS VOTING IN THE AFFIRMATIVE. MOTION CARRIED BY MAJORITY.

4. Other business

► On Tuesday February 8, 2022, beginning at 5pm there will be a webinar for advisory boards. The Board of Aldermen, Planning Board and Zoning Board of Adjustment members are encouraged to attend.

► Next month there will be two items on the agenda: single family home in a commercial structure and variance for the right-of-way within a subdivision.

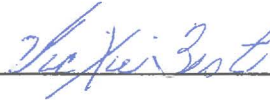
5. Adjourn

ON MOTION OF MR. ALSBROOKS, SECONDED BY MS. MOODY, WITH ALL IN FAVOR, THE MEETING ADJOURNED AT 7:57PM

Reminder: The next ZBOA meeting is scheduled for February 17, 2022, at 5:30 PM



Chairman Bill Banks



Vickie Best, Town Clerk, CMC

