

Town of Maggie Valley  
Regularly Scheduled Zoning Board of Adjustment Meeting  
April 21, 2022

MINUTES

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

Staff Present: Planner Kaitland Finkle and Town Clerk Vickie Best

Others Present: Reporter Kathy Ross, Alderman Tammy Wight, Planning Board Member Jeff Lee and ten others.

1. **Call to Order**

Chairman Bill Banks called the meeting to order at 5:32pm on Thursday April 21, 2022, in the Town Hall Boardroom.

The alternate members may participate in discussion, but only one alternate member may vote due to a vacant seat on the Zoning Board of Adjustment. The alternate members are Eve Barrett and Charlotte Ruiz.

Chairman Banks explained how a Quasi-Judicial Board acts like a court of law i.e., testimony under oath, only listening to the facts, not emotions or feelings.

2. **Approval of Minutes**

a. March 17, 2022, meeting

**MS. HAMEL MADE A MOTION TO APPROVE THE MINUTES OF MARCH 17, 2022, AS PRESENTED, MS. MOODY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

3. **New Business**

a. Jeffrey Kuhnert, Mountain View of Maggie Valley, LLC, 1391 Soco Road (7696-47-5713) Special Exception Request in C-1 for Residential Use.

Before granting a Special Exception, the following questions must be answered.

154.172 POWERS AND DUTIES.

(2) Special exceptions.

(b) Before any special exception shall be issued, the Board shall make written findings certifying compliance with all specific rules governing the individual special exception and that satisfactory provision and arrangement has been made concerning the following wherever applicable:

1. Ingress and egress to property and proposed structure with particular reference to automotive and pedestrian safety, convenience, traffic flow and control, and access in case of fire or catastrophe;
2. Refuse and service areas, with particular reference to the items in division (b)1. above;
3. Off-street parking and loading areas where required with particular attention to the items in division (b)1. above and to the economic, noise, glare, or odor effects of the special exception on adjoining properties and generally in the district;



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4. Utilities, with reference to location, availability, and compatibility;
5. Screening and buffering, with reference to type, dimensions, and character;
6. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district; and
7. Required yards and other open spaces;
8. General compatibility with adjacent property and other property in the district.

At their Board meeting regarding this issue on April 7, the Planning Board created a consistency statement and findings statement which reviewed and made recommendations concerning the special exceptions relative to the following considerations:

1. Relation of the special exception to applicable elements of the planning program; and
2. Appearance of the special exception relative to location, structure, and design.

Planning Board unanimously recommends granting the Special Exception for a Residential Use at 1391 Soco Road. Based upon:

- Zoning is C-1.
- Using existing structure.
- Surrounding Residential Land Uses.



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Mountain View of Maggie Valley, LLC owns .9274 acres at 1391 Soco Road, PIN 7696-47-5713. The property is zoned C-1, General Business. A Special Exception is required for a Residential Use in C-1. The 3,036 square foot building was constructed in 1997 and has previously been used commercially for miscellaneous offices.



MOUNTAIN VIEW OF MAGGIE VALLEY LLC A I  
20 OLD DIXIE HWY  
VERO BEACH, FL 32962-3574

**Account Information**

**PIN:** 7696-47-5713

**Legal Ref:** 1052/466

**Add Ref:** 424/70  
E/P-3

**Site Information**

R H PLOTT HEIRS

OFFICE GENERAL

Commercial Use

1391 SOCO RD

**Heated Area:** 3036

**Year Built:** 1997

**Total Acreage:** 0.9274

**Township:** Town of Maggie

**Site Value Information**

**Land Value:**

**Building Value:**

**Market Value:**

**Deferred Value:**

**Assessed Value:**

**Sale Price:**

**Sale Date:** 12/29/2021



1 inch = 200 feet  
April 4, 2022

§ 154.039 COMMERCIAL 1 DISTRICT; GENERAL BUSINESS (GB).

(B) Permitted uses. Due to potential conflicts, such as noise, traffic, and the like, residential uses in the C-1 District is discouraged, however, it may be allowed as a special exception if approved by the Zoning Board of Adjustment based on elements listed in § 154.172. One dwelling unit either located within the commercial building or in a separate dwelling structure located on the same lot. Dwelling structures shall be a single-family dwelling or Class A manufactured home. No single-wide mobile homes are permitted.

SPECIAL EXCEPTION. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. The uses may be permitted in a zoning district as special exceptions, if specific provision for the special exceptions is made in this chapter.



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**Facts for Special Exception Application #220318003**

1. Mountain View of Maggie Valley, LLC owns .9274 acres at 1391 Soco Road, PIN 7696-47-5713.
2. The property is zoned C-1, General Business.
3. On March 10, 2022, the property owner applied for a Special Exception for a Residential Use, as required in the C-1 district.
4. The log structure, built in 1997 with 3,036 square feet, has previously been used for miscellaneous commercial offices.
5. There are no proposed changes to the property.

All other requirements of the Town's Zoning Ordinance for Special Exceptions shall be met.

The property has a circular drive and would qualify for trash/recycling pick up. The home must meet Haywood County's minimum housing standards after receiving approval from Maggie Valley.

Under oath, Ron Rosendahl of 1899 Dogwood Drive, Maggie Valley, offered to answer any questions the board may have.

Mr. Rosendahl had a real estate office, and Calvary Road Baptist Church has had offices at this location.

**MS. MOODY MADE A MOTION TO APPROVE THE SPECIAL EXCEPTION FOR RESIDENTIAL USE AT 1391 SOCO ROAD. MOTION CARRIED UNANIMOUSLY.**

- b. Anastacio Delacruz-Martin and Kristina Delacruz, 144 Teague's Loop (8606-19-4624) Special Exception Request in C-1 for Residential Use.



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Anastacio Delacruz-Martin and Kristina Delacruz own .125 acres at 144 Teagues Loop, PIN 8606-19-4624. The property is zoned C-1, General Business. A Special Exception is required for a Residential Use in C-1. The previous structure was a 696 square foot legal nonconforming home built in 1948 predating zoning.



DELACRUZ-MARTIN, ANASTACIO  
DELACRUZ, KRISTINA S  
225 RACHAEL DR  
WAYNESVILLE, NC 28785-6984

**Account Information**

**PIN:** 8606-19-4624

**Legal Ref:** 1009/588

**Add Ref:** D2019/59  
DC102/557

**Site Information**

DWELLING

144 TEAGUES LOOP

**Heated Area:** 696

**Year Built:** 1948

**Total Acreage:** 0.125

**Township:** Town of Maggie

**Site Value Information**

**Land Value:** \$19,900

**Building Value:** \$49,000

**Market Value:** \$68,900

**Deferred Value:** \$0

**Assessed Value:** \$68,900

**Sale Price:** \$10,000

**Sale Date:** 10/01/2020



1 inch = 200 feet  
April 4, 2022

**§ 154.039 COMMERCIAL 1 DISTRICT; GENERAL BUSINESS (GB).**

Permitted uses. Due to potential conflicts, such as noise, traffic, and the like, residential uses in the C-1 District is discouraged, however, it may be allowed as a special exception if approved by the Zoning Board of Adjustment based on elements listed in § 154.172. One dwelling unit either located within the commercial building or in a separate dwelling structure located on the same lot. Dwelling structures shall be a single-family dwelling or Class A manufactured home. No single-wide mobile homes are permitted.

The same questions as above, must be answered before considering granting or denying a Special Exception.



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At their Board meeting regarding this issue on April 7, the Planning Board created a consistency statement and findings statement which reviewed and made recommendations concerning the special exceptions relative to the following considerations:

1. Relation of the special exception to applicable elements of the planning program; and
2. Appearance of the special exception relative to location, structure, and design.

**Planning Board recommends (4-1) granting the Special Exception for a Residential Use at 144 Teagues Loop with the condition that no Manufactured Homes be allowed.** Based upon:

- Zoning is C-1.
- Demolished a home that was legal nonconforming as it predated zoning.
- Surrounding Residential Land Uses.

The application was submitted prior to the text amendment therefore, the amended text cannot be part of the decision process. The property next door has a vacant mobile home where the access is unclear. There are other mobile homes, campers, and park models in the area.

Under oath, Mr. Anastacio Delacruz-Martin addressed the board stating that his son has served six years in the Airforce and is now coming home, and he wanted to purchase this for his son's home. There was a residential home there that he planned to remodel for his son but after getting into the house he found it was too deteriorated to remodel.

Ms. Hamel clarified that she hates to see a mobile home go in while the rules are being changed. Ms. Moody reminded the board that the application was received prior to the rules changing.

Mr. Hoogerwerf stated that the area is zoned C1 and normally would rely on R3 zoning for residential use.

Planner Finkle presented an email from Town Attorney Craig Justus as well as the Planner's Finding of Facts.



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**Facts for Special Exception Application #220329001**

1. Anastacio Delacruz-Martin and Kristina Delacruz own .125 acres at 144 Teagues Loop, PIN 8606-19-4624.
2. The property is zoned C-1, General Business.
3. On March 29, 2022, the property owner applied for a Special Exception for a Residential Use, as required in the C-1 district.
4. The previous structure was a 696 square foot legal nonconforming home built in 1948 predating zoning.
5. The property owner is proposing a Class A manufactured home (double wide).

All other requirements of the Town's Zoning Ordinance for Special Exceptions shall be met.



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**Kaitland Finkle**

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**From:** Craig D. Justus <cjustus@vwlawfirm.com>  
**Sent:** Friday, April 8, 2022 11:08 AM  
**To:** Kaitland Finkle  
**Cc:** Nathan Clark; Vickie Best; Cynthia Arrowood  
**Subject:** RE: Vested Rights?

Kaitland,

Under G.S. 143-755 and 160D-108, vesting to rules occurs at the time of application. So, the answer to 1 is yes and 2 is no. The recent text amendment cannot be mentioned or relied upon.

Craig

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**From:** Kaitland Finkle <kfinkle@maggievalleync.gov>  
**Sent:** Thursday, April 7, 2022 1:49 PM  
**To:** Craig D. Justus <cjustus@vwlawfirm.com>  
**Cc:** Nathan Clark <nclark@maggievalleync.gov>; Vickie Best <vbest@maggievalleync.gov>; Cynthia Arrowood <carrowood@vwlawfirm.com>  
**Subject:** Vested Rights?

Craig,

We had an individual apply for a Special Exception to have a residence in the C-1 district on March 29. His request for a Class A Manufactured Home will be heard by the Zoning Board of Adjustment on April 21<sup>st</sup>.

My questions are as follows:

1. Can the Board grant approval for a Class A Manufactured home given the below regulations?
2. Can the Board deny the approval for a Class A Manufactured home given spirit and intent of the recent text amendment prohibiting Manufactured Homes in R-3?

**§ 154.039 COMMERCIAL 1 DISTRICT; GENERAL BUSINESS (GB)**

(B) *Permitted uses.* All uses permitted in the R-3 Residential District, except mobile home parks, mini rental storage units, travel trailer storage. Due to potential conflicts, such as noise, traffic, and the like, residential uses in the C-1 District is discouraged, however, it may be allowed as a special exception if approved by the Zoning Board of Adjustment based on elements listed in § 154.172. One dwelling unit either located within the commercial building or in a separate dwelling structure located on the same lot. Dwelling structures shall be a single-family dwelling or Class A manufactured home. No single-wide mobile homes are permitted.

Districts	Minimum Lot Area	Lot Area per Dwelling Unit	Minimum Lot Width	Setback (Front, Side, Rear)
General Business (C1)	—	For residential uses, R-3 provisions shall apply	75 feet	10 feet, 10 feet, 10 feet

Ms. Tracy Pressley, 129 Teague's Loop addressed the Board stating that she noticed that the new owner was tearing out the roof of the home after making the determination that the home could not be renovated.



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The Pressley's talked with Mr. Delacruz about buying the parcel that he bought for \$10,000. Mr. Delacruz now wanted \$70,000. Ms. Pressley called Haywood County multiple times because Mr. Delacruz was working without obtaining any permits. "Mr. Delacruz would leave then the County Inspectors would show up."

"Haywood County did issue a Stop Workorder, but Mr. Delacruz continued to work and never stopped." The Pressley's have two small children and it was a mess and full of asbestos. An Airbnb is also in the neighborhood across the street.

To the left is a trailer park and older homes are predominant in the area other than a church that was converted into a home. Most homes were built in the 1930's, but the church was built in the 1950's.

Ms. Moody travels Teague's Loop often and agreed that there are mobile homes all around the area.

Mr. Hoogerwerf stated what happened before does not count. Look at the neighborhood now as it is.

Planner Finkle asked that the Board review the eight questions that must be answered for a Special Exception.

1. Ingress and egress to property and proposed structure with particular reference to automotive and pedestrian safety, convenience, traffic flow and control, and access in case of fire or catastrophe;

Traffic flow would not be an issue.

2. Refuse and service areas, with particular reference to the items in division (b)1. above;

The area is within Maggie Valleys Service District.

3. Off-street parking and loading areas where required with particular attention to the items in division (b)1. above and to the economic, noise, glare, or odor effects of the special exception on adjoining properties and generally in the district;

There are off street parking spaces, two spaces are required. There will be no economic, noise, glare, or odor effects.

4. Utilities, with reference to location, availability, and compatibility;

NCDOT does have a drainage easement along the property and will continue to have access within the ten-foot setback. The Clarion Motel is to the rear of the property. Buffering could be required. There will be no signage or exterior lighting. There will be a yard and open space outside the easements and rights-of-way.

Considering the size of the lot, Ms. Hamel asked if there is room. Planner Finkle responded that there is room, but it will be tight. Ms. Hamel also had concerns about compliance and the fact that no one is on staff to help Planner Finkle.

Planner Finkle issued a violation on this property for the asbestos removal as an unsafe building.



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Mr. Delacruz has stated he was not aware of the permits that were needed. Ms. Hamel stated that Mr. Delacruz needs to understand the requirements throughout the process.

Planner Finkle added that Haywood County will not issue a Certificate of Occupancy (CO) until Maggie Valley signs off on the project.

5. Screening and buffering, with reference to type, dimensions, and character;

Buffering and screening will be needed to the rear of the property with landscaping to the front.

6. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district; and

Does not apply.

7. Required yards and other open spaces;

Will have a yard. Was a home before demolition.

8. General compatibility with adjacent property and other property in the district.

It is of the most importance that the parcel is compatible with the community.

**MS. RUIZ MADE A MOTION TO ALLOW THE SPECIAL EXCEPTON WITH PARTICULAR CARE TO BE IN COMPLIANCE WITH QUESTIONS 3, 5, 8. MS. MOODY SECONDED THE MOTION. BUFFERING WITH EVERGREENS, HAVING A YARD, LANDSCAPING COMPATIBLE WITH THE NEIGHBORHOOD. MOTION CARRIED UNANIMOUSLY.**

- c. Maggie Valley Storage Solutions LLC, 69 Water Plant Road (7686-19-1189) Special Exception in C-1 for Mini-storage Units.





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Maggie Valley Storage Solutions LLC own .973 acres at 69 Water Plant Road, PIN 7686-19-1189. The property is zoned C-1, General Business. A Special Exception is required for Mini-storage Units in C-1. The two existing structures (each 3,600 square feet) were built in 1998 and are in the 100-year floodplain.

Based upon

- Zoning is C-1.
- Existing Mini-storage Units.
- Proposed structures are to be located outside of the regulated floodplain.

At their Board meeting regarding this issue on April 7, the Planning Board Shall create a consistency statement and findings statement which review and make recommendations concerning the special exceptions relative to the following considerations:

1. Relation of the special exception to applicable elements of the planning program; and
2. Appearance of the special exception relative to location, structure, and design.

Planner Finkle presented the finding of facts.

**Facts for Special Exception Application #220404001**

1. Maggie Valley Storage Solutions LLC own .973 acres at 69 Water Plant Road, PIN 7686-19-1189.
2. The property is zoned C-1, General Business.
3. On March 29, 2022, the property owner applied for a Special Exception for Mini-storage Units, as required in the C-1 district.
4. The two existing structures (each 3,600 square feet) were built in 1998 and are in the 100-year floodplain.
5. The property owner is proposing two additional Mini-storage buildings to be located outside of the regulated floodplain.

All other requirements of the Town's Zoning Ordinance for Special Exceptions shall be met.

RV storage was within the 100-year floodplain, now the property owner wants two additional storage units.

After sending notice to the adjacent property owners, Planner Finkle received one call. The concern was having light spillover onto neighboring property and will the mini-storage units have to meet any of esthetics standards.

Under oath, Calvin Clayton, the agent for the owners stated that he has built over one thousand of these type units up and down the southeast. Mr. Clayton explained that the lights to be used are 1200 luminaries that hit only the areas the light is pointed at. He nor the owners would do anything to negatively impact the neighbors. The storage units will have fencing around them with an automatic gate to have a safer facility. "We will make the area better."



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MAGGIE VALLEY STORAGE SOLUTIONS LLC  
5062 SHERIER PL NW  
WASHINGTON, DC 20016-3328

**Account Information**

**PIN:** 7686-19-1189

**Legal Ref:** 1058/1288

**Add Ref:** CABD/1232  
DC105/662

**Site Information**

WAREHOUSE MINI, WAREHOUSE MINI  
Commercial Use, Commercial Use  
69 WATER PLANT RD

**Heated Area:** 0

**Year Built:** 1998

**Total Acreage:** 0.973

**Township:** Town of Maggie

**Site Value Information**

**Land Value:** \$44,800

**Building Value:** \$124,400

**Market Value:** \$169,200

**Defered Value:** \$0

**Assessed Value:** \$169,200

**Sale Price:** \$540,000

**Sale Date:** 03/21/2022



1 inch = 200 feet  
April 5, 2022

Mr. Clayton stated the owners are looking to get two additional buildings on the property that measure 30' by 130'. The entire process will last three to four months.

The owners will continue to live in Washington, DC and will manage the facility remotely via technology and a local manager.

Ms. Hamel was curious about how much of the structure can be seen from the Methodist Church. Mr. Lee added that area feels like being in nature, so it should not be an eyesore. What you see from the Church is already there. The members really liked the fence screening that a previous case before the Board deemed acceptable. The green mesh netting was attractive.

Screening always looks better than straight fencing.

After the review of the eight questions to approve or deny a Special Exception the following motion was made.

**MS. HAMEL MADE A MOTION TO APPROVE THE SPECIAL EXCEPTION AS PRESENTED, BUT TO HAVE A CHAINLINK FENCE WITH MESH SCREENING THE SAME AS THE FENCING ON DELLWOOD ROAD BEHIND ONE OF THE WAREHOUSES. MS. MOODY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.**

4. Other Business

There was no other business to discuss.



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5. Aldermen removal of ZBOA member Allen Alsbrooks

Chairman Banks stated that he understands the Board needing to discuss the dismissal of a board member but "we are volunteers and serve at the pleasure of the Board of Aldermen." "Any of us could be dismissed, at any time, without reason."

Planner Finkle informed the members that although what occurred and how it occurred is difficult to utterly understand, the Aldermen do not have to provide a reason for dismissal. The Zoning Board of Adjustment is held to a higher standard than the Board of Aldermen because of the quasi-judicial nature of the board. Some Aldermen felt there was a conflict of interest.

If any of the members would like to address Council, they may do so during public comment at a Regularly Scheduled Board of Aldermen Meeting or submit a written statement to the Town Clerk.

Mr. Hoogerwerf wanted to bring up the issue and Chairman Banks agreed because Allen (Alsbrooks) has been a valuable member on this board.

Mr. Hoogerwerf feels the Aldermen's actions have devalued the Zoning Board of Adjustment (ZBOA) and that bothers several members. The Zoning Board of Adjustment Minutes reflect Allen (Alsbrooks) asking to be recused. "If the Aldermen do not like what we (ZBOA) are doing they need to say so and not let someone go under false pretenses."

Again, Chairman Banks stated that this is out of the ZBOA's hands.

Ms. Hamel, as have others on the Board, has served in a leadership position. "I would always take someone to the side and talk to them and give them the opportunity to resolve the issue. It puts a bad taste in people's mouths when someone is let go unexpectedly. I would hope that the Aldermen would talk to me first. Allen was a tremendous asset to the ZBOA."

Planner Finkle added that we need another ETJ member and that we have two alternates to fill the position until Council acts.

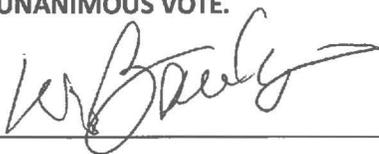
Ms. Ruiz stated that "I have leadership capacity even in my home. We do not hide it and do things in secret. When you blindside someone, that is not right."

Chairman Banks agreed, Allen has always asked to be excused.

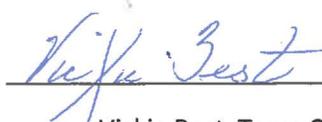
Mr. Hoogerwerf stated that he wants everyone to know that this board values Allen.

6. Adjourn

**ON MOTION OF MS. MOODY, WITH MR. HOOGERWERF'S SECOND THE MEETING ADJOURNED AT 6:51 PM BY UNANIMOUS VOTE.**



Chairman Bill Banks



Vickie Best, Town Clerk, CMC

