

Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
May 16, 2024
Minutes

Members Present: Chairman Banks, Marion Hamel, David Carriker, Shelly Clement, Amber Patterson (not voting), Charlotte Ruiz

Members Absent: Tinker Moody

Staff Present: Town Planner, Sam Cullen, Assistant Town Planner, Noah Taylor

Others Present: Jeffrey Rush, 2 others.

1. Call to Order

Chairman Banks called the meeting to order at 5:29 pm on May 16, 2024.

A quorum was established.

2. Appointment of Shelly Clement as Full Member of the ZBOA

Chairman Banks read that the Board of Aldermen appointed Shelly Clement as a full member at the October meeting.

a. Oath of office

Shelly Clement was sworn in as a full member of the ZBOA on May 16, 2024, at 5:30pm by Assistant Town Planner, Noah Taylor.

3. Appointment of Amber Patterson as Alternate Member of the ZBOA

Chairman Banks read that the Board of Aldermen appointed Amber Patterson as an Alternate member at the April meeting.

a. Oath of office

Amber Patterson was sworn in as a full member of the ZBOA on May 16, 2024, at 5:31pm by Assistant Town Planner, Noah Taylor.

4. Disclosure of Conflicts/ Ex parte Communication

Chairman Banks asked if there were any conflicts of interest on the agenda for anyone. There were none.

5. Approval of Agenda

Chairman Banks asked if there was any discussion on the agenda. There was none. He then asked for a motion to approve the agenda.

Marion Hamel made the motion to approve the agenda for the May 16th meeting. David Carriker seconded. Motion carried unanimously.

6. Approval of Minutes

2
Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
May 16, 2024
Minutes

Chairman Banks asked if there were any corrections to the minutes. There were none.

Chairman Banks asked if there was any more discussion. There was none. He then asked for a motion to approve the minutes.

David Carriker made a motion to approve the minutes of the January 18th, 2024, ZBOA Meeting. Marion Hamel seconded the motion. Motion carried unanimously.

7. New Business

a. Variance Request, 54 Enchanted Way

Chairman Banks stated that the Zoning Board of Adjustment acts like a Court of Law. The Board takes sworn testimony and deals in fact.

The following individuals were sworn in:

1. Sam Cullen, Town Planner
2. Jeffrey Rush (Property Owner)

Planner Cullen gave a report including background information. The request from the homeowner is for a variance to the rear setback, from the adopted 10-foot setback for R-4 Seasonal Short Term Residential, to 0 feet which equals a 10-foot variance. He wants to build a single-family house but because of the topography (egress and ingress) that the lot has it only allows for parking on a deeded right-of-way that is not easily accessible. Because of the parking, the structure needs to be put back closer to the property line. The walkway is most of the encroachment that makes the parking accessible. Planner Cullen showed Mr. Rush's provided photos to show the steepness of the lot.

Mr. Rush made a correction and that he needs a 7-foot variance and not a 10-foot variance. The house would be 3 feet off the property line to allow for proper placement but after further discussion it was decided a 10-foot variance would be better suited for Mr. Rush's needs.

Mr. Cullen asked if there were any questions.

Chairman Banks asked the property owner to speak.

Marion Hamel asked if Mr. Rush would access the structure from the back.

3
Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
May 16, 2024
Minutes

Jeffrey Rush stated the home will have a front and back door with the back being used as the primary. He stated that he placed the house that way to not exceed the impervious requirements of the watershed protection ordinance.

Marion Hamel asked about adjoining property owners' concerns.

Planner Cullen stated that there was one, Mr. Rush's closet neighbor on Enchanted Way.

The neighbor wished to speak.

The neighbor stated concerns over seasonal short-term zoning and if the property would be used as a short-term rental.

Planner Cullen stated it will be secondary use, and that the zoning district name does not limit the use to only short-term rental. He stated that the zoning district was assigned to the property because of the adjoining RV park. He stated that Mr. Rush is not changing uses.

The neighbor had concerns that Mr. Rush's driveway blocks her carport access and parking on her property. She asked who owned the road.

Planner Cullen stated that it is a private road but there is also no HOA to his knowledge. He stated that R.O.W. is probably deeded to all property owners. He stated that she could call the police if she believed a law was being broken.

The neighbor stated that a neighbor had too many cars and she contacted the MVPD, but they stated they had rights to park on the road, as long they do not block access to emergency vehicles.

Mr. Rush stated that he did not block her driveway.

The neighbor stated he has blocked her driveway with trucks.

Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
May 16, 2024
Minutes

Chairman Banks stated that traffic concerns are not of the purpose of the meeting and that they will have to handle this with Maggie Valley PD.

Planner Cullen stated that short term rental issues are to be raised with the Board of Aldermen, not the Zoning Board, but the state does not allow regulation of short-term rentals anyway.

The Board asked who owned the retaining wall above Mr. Rush's property.

Mr. Rush stated that no one owned it but it was dedicated to use for his lot.

Amber Patterson asked if someone owns the property where the deeded parking lot is.

Mr. Rush stated that no one owns it, and is not any one person's property.

Charlotte Ruiz asked who owns the storage shed above the property.

Mr. Rush stated that he pays taxes on it.

Shelly Clement stated that the neighboring house is built into the right of way.

Planner Cullen stated that the neighbor was not sworn and what she says cannot be considered.

Chairman Banks thanked Jeffrey Rush for addressing the questions.

Chairman Banks asked the board to review the application. The board read the applicants' responses. They found there to be a hardship imposed if the variance should be denied and found the variance to uphold the spirit and intent of the ordinance of Maggie Valley.

Chairman Banks asked if there was any more discussion. There was none. He then asked for a motion to approve the variance.

Marion Hamel made a motion to grant the Variance, David Carriker seconded. Motion carried unanimously.

b. Amendment to Board Rules and Procedures

Planner Cullen stated that this amendment was to take out the ETJ language and reduced the required board member size from 9 to 7. He stated that the only other item that changed is the aligning of the terms to make it easier for reappointment.

Mr. Banks asked if the legislative language is repealed can the ETJ language be added back in.

Mr. Cullen stated that it will go back in as soon as it is repealed.

He offered to answer any more questions. There were none.

Chairman Banks asked if there was any more discussion. There was none. He then asked for a motion to approve the amendment.

A motion to approve the amendment to the Boards Rules and Procedures was made by Shelly Clement and seconded by David Carriker. Motion carried unanimously.

Mr. Cullen stated the new terms that was approved at the last Board of Aldermen meeting and stated that they are not binding if the members need to resign at their original appointment expiration date.

Mr. Cullen stated Mrs. Clements's term is a little shorter due to her taking Jared Lee's spot. He stated that from now on, terms are based on the position, not the member.

Mr. Cullen asked if there were any more questions.

David Carriker stated that his name was not spelled correctly.

8. Other Business

6
Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
May 16, 2024
Minutes

There was no old business discussed.

9. **Adjourn**

Marion Hamel made a motion to adjourn at 6:17pm, Amber Patterson seconded the motion. Motion carried unanimously.

s/Bill Banks

Chairman, Bill Banks

s/Noah Taylor

Town Planning Assistant, Noah Taylor