

Town of Maggie Valley
Regularly Scheduled Zoning Board of Adjustment Meeting
April 17th, 2025
Minutes

Members Present: Chairman David Carriker, Shelly Clement, Charlotte Ruiz, Jim Heise, Derek Worrell

Members Absent: Amber Patterson

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

Others Present: Joann Lyons and 1 other present

1. Call to Order

Chairman Carriker called the meeting to order at 5:30pm on Thursday April 17th, 2025.

Derek Worrell is acting as a full member due to Amber Patterson's absence.

A quorum was established.

2. Disclosure of Conflicts/ Ex parte Communication

Chairman Carriker asked if there were any conflicts of interest on the agenda for anyone.

There was none.

3. Approval of Agenda

Chairman Carriker asked if there was any discussion on the agenda. There was none.

He then asked for a motion to approve the agenda.

Jim Heise made a motion to approve the agenda for the April 17th meeting. Shelly Clement seconded. The Motion passed with all in favor.

4. Approval of Minutes

Chairman Carriker asked if there were any corrections to the minutes. There were as a grammatical error concerning members present/absent on page one.

He asked if there was any more discussion. There was none, he then asked for a motion to approve the corrected minutes.

Shelly Clement made a motion to approve the corrected minutes of the March 5th, 2025, meeting. Charlotte Ruiz seconded the motion. The motion carried unanimously.

5. New Business

a. Variance Request for Property located off Destination Drive (Linson Ridge)

Chairman David Carriker stated that the Zoning Board of Adjustment acts like a Court of Law and read the opening statement. He stated that the Board takes sworn testimony and deals in fact.

The following individuals were sworn in:

- Sam Cullen, Town Planner
- Joann Lyons (Property Owner's Appointed Agent)

Planner Cullen gave a report including background information. The request from the property owner is for a variance to the subdivision ordinance. This relates to the requirement that all utilities be installed before going for final plat approval. He stated that there was a previous approval that allowed the installation of 3 private wells while still allowing to hook to the Town's sewer system in 2021.

He stated that the owner is requesting that the future owners of the lots install the wells themselves. This is due to concerns of house placement for future building.

Planner Cullen stated the requirements for final plat approval that are relevant to this case. Planner Cullen stated that these requirements are to ensure that a building can be placed and served these lots.

Planner Cullen showed the submitted documents that are relevant to the variance case and explained each item.

Planner Cullen asked if there were any questions.

Jim Heise asked if perc tests were done on the lots. Planner Cullen stated that there has been no perc tests.

Jim Heise stated that most buyers would want to have guaranteed access to water before buying.

Charlotte Ruiz stated that her previous property had to have the perc tests done before building and that determined where the house could go.

Jim Heise stated that buyers might also buy the lots to stay vacant.

Planner Cullen stated that the issue is that sewer capacity is reserved for the lots and the capacity is reserved forever, even if there is never any development on the lots.

Shelly Clement asked if there could be a shared well.

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Planner Cullen stated that a shared well was given as an option to the owner, but the owner did not want to install a community well system or give easements.

Jim Heise asked if the lots could be sold.

Planner Cullen stated that the lots cannot be sold until final plat approval is given.

Shelly Clement asked what the total acreage is for the lots. Planner Cullen stated the size.

Jim Heise asked if a spring water permit can be obtained for access to water.

Planner Cullen stated that a spring water permit is not a permitted option in the municipal boundary. He stated that the sewer capacity costs are even higher for this property, due to them not being served by Maggie Valley Sanitary District (MVSD) water.

Jim Heise asked why the owners cannot pull the perc tests themselves after final plat approval.

Planner Cullen stated that once a final plat is approved, there is no revoking the plat, even if the properties are found that they cannot be served by wells. He stated that when annexing certain properties, the ability for the property to be served is a requirement.

Chairman Carriker asked for the agent of the property owner to speak.

Joann Lyons stated that she is representing the property owner. She stated the previous phases of the development have been completed. She asked if the existing home would be part of Phase 4 in this final plat.

Planner Cullens stated yes.

Joann Lyons gave out a packet showing the previous plats, and how the lots are to be subdivided. She stated that the property owner understands the importance of the ordinance. She stated that the property owner purchased 5 MVSD taps but was left with the 3 lots needing wells due to inability to be serviced by the MVSD water.

She stated that the lots would need to have their driveways cut to allow for a well truck to drill and complete perc tests. Which leads to a higher cost of development for the owner than he previously anticipated.

She stated that the new 2021 ordinance requirements are harder to meet for this phase of the subdivision, which is more geared to newer planned subdivisions. She stated previous developments within the Town have been allowed to drill wells after final plat approval.

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Joann Lyons offered to answer questions.

Shelly Clement asked if Lot 29 had a well already. Joann Lyons stated that it does.

Jim Heise asked if this would affect any neighbors. Joann Lyons stated it would not affect the neighbors.

Chairman Carriker asked if the hardship would still be there for the new owners if the variance was granted.

Joann Lyons stated yes, but the variance is needed because of the extra grading costs and the hardship on selling the lots if a new owner cannot put the house where they want.

Jim Heise stated that the costs can be added through the price of the lot when they are being sold.

Chairman Carriker asked if the property owner has developed the previous phases, and if he was aware that this was an issue.

Joann Lyons stated yes that he was the developer for the past phases. She stated that he did not know the issues and the ordinance has changed in the process of doing the last phase.

Planner Cullen stated that the preliminary plat was approved but was about to expire. Therefore the owner requested an extension, which was granted.

Chairman Carriker asked the board to review the application. The board read the applicants' responses. They found there to not be a hardship imposed if the variance should be denied and did not find the variance to uphold the spirit and intent of the ordinance of Maggie Valley.

He read the 4 findings of fact:

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<p>1. If the applicant complies with the provisions of the ordinance, unnecessary hardship will not result to the property by applying strict application of the ordinance because:</p>	<p>The installation of a water source is necessary to ensure development and the cost to do so is part of developing a subdivision.</p>
<p>2. The hardship of which the applicant complains does not result from conditions that are peculiar to the property and unique circumstances related to the applicant's property because:</p>	<p>The hardship is caused by the topography of the property and the inability to use Maggie Valley Sanitary District Water.</p>
<p>3. The hardship is the result of the applicant's own actions because:</p>	<p>The applicant applied for the subdivision approval with the knowledge that private wells will need to be installed on the top three lots. (Application attached to packet)</p>
<p>4. The variance is not in harmony with the general purpose and intent of this ordinance and does not preserve its spirit and does not assure public safety because:</p>	<p>The ordinance is written to allow people make use of their property. We can not guarantee water service after final plat approval if a water source is not provided, thus we can not say the lot is ready for development.</p>

He stated that the subdivision ordinance is to help protect the end users that would buy the lots.

Chairman Carriker asked if there was any more discussion.

There was more discussion of the Board.

Charlotte Ruiz stated that the topography of the lots was known.

Chairman Carriker stated that based on 3 out of the 4 findings of fact, showed that it should be denied.

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

Charlotte Ruiz made a motion to deny the Variance, Jim Heise seconded. Motion carried unanimously.

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6. Other Business

a. Reminder: Class on May 7th, 2025

Planner Cullen stated that there should have been an email confirming attendance of the class.

Charlotte Ruiz stated she has not received one.

Planner Cullen stated that Flossie White room can be used if needed. Shelly Clement stated that she might use it.

7. Adjourn

Charlotte Ruiz made a motion to adjourn at 6:21pm, Derek Worrell seconded the motion. The motion carried unanimously.

s/David Carriker

Chairman, David Carriker

s/Noah Taylor

Noah Taylor, Acting Planning Director