

**BOARD OF ADJUSTMENT MEETING MINUTES**

**Monday, August 17, 2009**

**6:00 p.m.**

Members Present: Herman Johnson, Cathy Wilson, Laurie Jarrett, Tad Martin, Don Waugh, Charles Belcher  
Members Absent: Sandra Masho  
Also Present: Jeff Earp, Atty. Charlie Davis, Tammy Speicher

**Call to Order** – Chairman Johnson called the meeting to order with the members sitting as the Board of Adjustment.

**Request to hear a setback variance request from developers of Henry's Farm Subdivision:** The Board heard a request to alter the setbacks on corner lots 16, 20, 33, 41 and 55 from 30 feet to 25 feet on the front and 15 feet to 10 feet on the side abutting street. Member Tad Martin, as part owner of Alco Development, recused himself. Angie Cunningham of CDI Realty explained that, due to the topography of the lots, it has proven difficult to find attractive house plans for these lots. When they find plans that are in character with the neighborhood that are narrower, they are too deep and would not meet the back setback of 25%. Cathy Wilson asked if the change would effect the development as a whole. Ms. Cunningham stated that it would, in fact, improve what the development would be without the changes. Tad Martin stated that the development restrictive covenants are very restrictive; this change would permit them ,builders, to put as nice, or nicer houses on the lots.

Chairman Johnson read the following from the Haw River Land Usage Ordinance 155.267:

(B) *Variances.*

(1) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in undue hardship, and so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(2) In considering all proposed variances to this chapter, the Board shall, before making any finding in a specific case, first determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district by this chapter; extend in area or expand a nonconforming use of land; change the district boundaries shown on the zoning map; impair any adequate supply of light and air to adjacent property; materially increase the public danger of fire; materially diminish or impair established property values within the surrounding area; or in any other respect impair the public health, safety, morals and general welfare.

(3) In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of proposed building, structure or use as it may deem advisable in furtherance of the purpose of this chapter. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question due to its size, shape or topography not applicable to other lands or structures in the same district.

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located.

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the public good or general welfare.

(e) The special circumstances are not the result of the applicant.

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

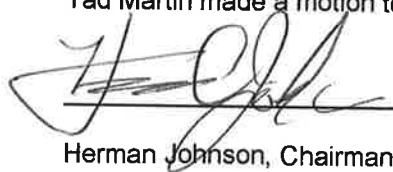
(g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

(h) At the time of a request for a variance, the person making such a request shall pay a fee of \$50 to cover advertising and administrative costs.

The Board of Adjustment found that all of the stated requirements had been met. Charles Belcher asked for verification that the variance would not in any way impact the utilities in the development. Jeff Earp stated that the ten foot utility easement would be unaffected. He also asked if the proposed change would have a positive impact on the existing homes and those to be built. Tad Martin stated that it would have a positive effect on the development. Charles Belcher made a motion that the Board of Adjustment had found that all requirements set forth in §155.267 POWERS OF THE BOARD, Variances, Land Usage (1) (2) and (3) A-H had been satisfied and that a Variance be granted to Alco Development, Inc. for Lots 16, 20, 33, 41 and 55; motion was seconded by Don Waugh. Motion carried unanimously.

Note: Jimmy Lemons was present was not serving as an active member of the Board as his membership will come before the Haw River Town Council at the September 8, 2009 meeting.

Tad Martin made a motion to adjourn; Laurie Jarrett seconded. Motion carried unanimously.

  
Herman Johnson, Chairman

DATE: 4/19/10