

March 29, 2006
4:00 PM

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled March meeting on Wednesday, March 29, 2006, at 4:00 p.m. in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Dean Bonessi, Gary Griffin, Jim Phelps, Ann Pouch, Alternate Member Dr. Philip Stanley, Assistant Zoning Administrator Lyle Case, Zoning Administrator Natalie Berry, and Secretary to the Board Joyce Karpowski.

Chairman Dean Bonessi called the meeting to order at 4:14 PM. Chairman Bonessi introduced the members of the Board. He presented the minutes of the meeting from February 22, 2006. There were no corrections or changes. Mrs. Pouch moved to approve the minutes as written, Mr. Griffin seconded, and all members voted to approve the minutes as presented.

Chairman Bonessi explained the quasi-judicial procedure being used today. He called anyone involved in today's cases to come forward to be sworn in. Sworn in were Zoning Administrator Natalie Berry and Petitioners Connie Rayfield and Kenny Davenport.

Case V-06-01, Connie Rayfield, agent, for Covenant Presbyterian Church

Chairman Bonessi called case V-06-01, Connie Rayfield, agent, for Covenant Presbyterian Church, requesting a Variance from the maximum square footage of a bulletin board to be erected on site. The proposed site is located at 2101 Kanuga Road and is zoned R-40. Chairman Bonessi opened the hearing.

Ms. Berry gave a summary of the issues. She said that the PIN number on the Zoning Official's report was incorrect – the correct number is 9567-17-6444. The parcel of land is owned by the Trustees of Covenant Presbyterian Church. The application is for a Variance to the bulletin board regulations in an R-40 zoning district. Churches and church bulletin boards are allowed up to 12 square feet surface area on the sign. The request is for a 25 square foot bulletin board. Legal notices were properly placed. The adjacent property to the north is zoned R-20. The parcel is located at 2101 Kanuga Road at the corner of Price Road, Hilltop Lane, and Kanuga Road. Ms. Berry had a Power Point presentation and showed the map of the location of the property. The parcel is currently occupied by a church with associated parking and an unchanging sign. She showed where the new sign would be placed. Ms. Berry explained that the corner where they would like to place the sign is about 4 feet higher than the intersection and showed a picture of the area. Because of the raised height of the sign, cars exiting from Price Road would still be able to see to the right and left – the sign would not be within the sight distance triangle. Ms. Berry explained that there was a church next-door with an existing sign and showed that sign which is 42 square feet and showed where the new sign would be placed. Mr. Griffin asked if a variance was given for the existing 42 square foot sign. Ms. Berry said no, that it was probably pre-existing before zoning was in effect. Ms. Berry said that the new proposed sign would be in keeping with the neighborhood and no more offensive than the sign next door. Ms. Berry said that Attachment 5 shows the size of readable letters at specific speeds, so that is why the square footage of the sign is larger. She showed a picture of the type of sign and showed the surface area, which is used to figure the square footage. Chairman Bonessi asked if it was 12 square feet per side. Ms. Berry said that the surface area is 12 square feet so you could have 2 sides to it, but it would need to be just one sign with the 2 surfaces. Ms. Pouch asked if the sign shown was 12 square feet. Ms. Berry said the proposed sign shown was 25 square feet. Ms. Berry said that the surface area of the message board is what was used for the calculation. Ms. Berry said that zone R-40 allows church bulletin boards, but not

exceeding 12 square feet. Ms. Berry also talked about the setbacks for major and minor roads but the sign is not a structure and does not fall into the setback requirements. The sign will be outside of the Department of Transportation right-of-way.

Dr. Stanley asked if the sign would be illuminated. There will be a light within the sign. Dr. Stanley asked if the sign would block the vision of motorists coming into the intersection. Ms. Berry said the sign would be sitting up on a bank and would not impact drivers. Mr. Phelps asked if the 25 feet included the name of the church. Ms. Berry said no, just the changeable part.

Ms. Rayfield, agent for Covenant Presbyterian Church, said that Ms. Berry did a great job and asked if the Board had any questions. Dr. Stanley asked if any neighbors had any comments about the sign. Ms. Rayfield said 2 neighbors, one from behind the church and one from across the street, talked to the church secretary and seemed to be fine with the sign. Ms. Berry pointed out on Attachment 4 that there is a gas station across the street and another church across the street so there is some commercial activity in the area. Mr. Griffin asked how the gas station sign is regulated. Ms. Berry said that gas stations are not allowed in R-40. Mr. Griffin said, if the gas station had not been there forever, it would not be allowed now. Ms. Berry said yes. Chairman Bonessi asked if there was a sign there already. Ms. Berry said not in the place for the proposed sign. There is a sign for the church in front of the church. Ms. Rayfield said it is a brick wall with metal letters saying the church's name. Chairman Bonessi asked if the existing sign will stay. Ms. Berry said yes. Chairman Bonessi asked how large the sign was. Ms. Rayfield said it was like a wall. Mrs. Pouch asked if they needed a lighted sign for the church. Ms. Rayfield said that most of the churches around town with newer signs have lit signs. This would give people the opportunity to read the sign at night since there are no streetlights out there. Ms. Berry said the light would be dim with no glare. Mr. Phelps asked if it would be black letters on a white background. Ms. Rayfield said yes. Mr. Griffin asked what would be the total square footage of the signs if you calculated the both of them. Ms. Berry said she didn't know. They found a picture of the current sign to show the Board. It is not a very obvious sign. Ms. Rayfield said that the current sign is not changeable and that is what they want – to be able to post the times of services. Ms. Pouch asked if they could use the current sign and put 12 square feet of letters on it. Ms. Rayfield said they would be purchasing the smallest size sign that you can buy. Ms. Berry said that Attachment 8 has the different size signs offered. The Board discussed different church signs. Mr. Phelps asked if any trees would be removed or any grading would be done to place the sign. Ms. Rayfield said the sign would fit to the existing landscaping.

Chairman Bonessi asked if there were any more questions. There were none. Chairman Bonessi closed the public hearing and asked for discussion from the Board.

Chairman Bonessi said he is sure the sign would be tastefully done but the Ordinance was written for a reason and he doesn't feel it is the Board's job to change the Ordinance. Ms. Pouch said that everyone else could possibly want a larger sign, too. Mr. Griffin said if we have zoning, we have to stay with the zoning. The Board discussed zoning and larger signs. Ms. Berry discussed signs in different zoning districts. Mr. Griffin said it is not the Board's job to change the Ordinance but, if you are going to put up a sign, put one up that people can read. Ms. Berry suggested the Board look at the reasons the Board can give a variance and see if the variance meets the requirements. Mr. Griffin said he didn't think it would hurt the church that much not having a large sign. They could use temporary banners. But he also disagrees with the sign Ordinance because, if you're going to have a sign, it should be big enough to read. Mr. Griffin said that he thinks the church is asking for the right thing but, if the County is going to redo the Zoning..... Ms. Berry said that perhaps they might want to apply for a text amendment. Mr. Griffin said yes and then it would be changed for everybody. It is a good case – you can't read it.

Chairman Bonessi asked how long the church had been there. He reopened the hearing. Ms. Rayfield said the church has been there 20 years. Chairman Bonessi asked when zoning came into effect in the area. Ms. Berry said 1981 for zoning but she's not sure about that area. Dr. Stanley mentioned that the adjacent property owners didn't have a problem with it. Ms. Berry said the problem with that is that

it is hearsay. Dr. Stanley asked if every adjacent property owner got a letter. Ms. Berry said yes. Dr. Stanley asked if any letters were returned. Ms. Berry said one from the church across the street. Dr. Stanley said then no one objected to the sign. Dr. Stanley asked if Ms. Rayfield felt the church was affected by not having a larger sign. She said yes and one year she did a "Burma Shave" type sign for their vacation bible school. She felt there was problem because the church could not put out their information like other churches can. She felt they are not getting equal use of their property like the church next door. She said she appreciates that she can appeal this to the Zoning Board, but the Zoning Board is left with the hard decision. Dr. Stanley said the Board of Commissioners is addressing this right now in the Proposed Land Development Code. The Board discussed the flashing signs that would be in compliance, but Ms. Rayfield said she didn't want that. Ms. Berry said that the Board could grant the variance with the condition that she (as Zoning Administrator) go forward with a text amendment to try to get it changed for others. Chairman Bonessi asked what the options were to get the zoning changed. Ms. Berry said she hasn't been through the process but, since it goes before the Board of Commissioners, she assumes it would be a 2-3 month process. She is doing that presently with the Flood Ordinance. She would have to check to see who initiates the process. Chairman Bonessi asked Ms. Rayfield what their timeframe was for completing the project. Ms. Rayfield said it has been 20 years so they can wait a few more months. The Board discussed who could initiate the text amendment. Ms. Berry said that she could check the new Proposed Land Development Code to see what the new rules are and come back to the Board with that information. Chairman Bonessi closed the hearing.

Mr. Griffin made a motion to continue the hearing until Ms. Berry checks with the new zoning laws. Mrs. Pouch seconded the motion. All members voted in favor.

Case V-06-02, Kenny and Tabea Davenport, petitioners

Chairman Bonessi called Case V-06-02, Kenny and Tabea Davenport, petitioners, requesting an eleven (11) foot variance from side yard setback requirement on the west side of the property at 2089 Glenheath Drive to construct a single door garage (18' x 24'). The property is zoned R-30.

Chairman Bonessi said that he wanted to speak to the Board members. He said he lives in the neighborhood, he was President of the homeowners association in the past and was involved in the rewrite of the restrictive covenants. He said he felt he could be unbiased in any decision but he felt he had to mention it. Mr. Griffin said that on the Planning Board surveyors recuse themselves from anything they had to do with. Ms. Berry said if he thinks it might be a problem, Chairman Bonessi said he thinks it could be or could be perceived as such.

Ms. Berry explained to Mr. Davenport that there would only be 4 members of the Board and to approve a variance you need 4/5ths affirmative votes. Without 5 members all 4 members would have to vote yes to approve the variance. The hearing could be continued to next month when 5 members would be there. Mr. Davenport was given his choice and he chose to wait until next month.

Mr. Griffin made a motion to continue the hearing until next month and Mrs. Pouch seconded the motion. All voted in favor.

COMMITTEE AND STAFF REPORTS: None

OLD BUSINESS: Ms. Berry said that she had put together a list of cases to be reviewed by the Planning Board last month. The Board suggested that junkyards be moved to be reviewed by the Planning Board, which she has done. She explained the procedure for the members who were not present last month and went over the list. The Board discussed some of the uses. The Board would always have the option to send something to Planning Board for their recommendations. The Board approved the list as submitted by Ms. Berry.

NEW BUSINESS: The secretary asked the Board members to keep their packets and bring them next month with any additional information she will send them.

There being no further business, Mr. Phelps made a motion to adjourn, Mr. Griffin seconded, and all approved. Chairman Bonessi adjourned the meeting at 5:15 PM. The next meeting is Wednesday, April 26, 2006, at 4 PM.

Dean Bonessi, Vice Chairman

Joyce Karpowski, Secretary