

Town of Maggie Valley
Zoning Board of Adjustment
March 18, 2021

MINUTES

Members Present: Chairman Bill Banks, Marion Hamel, Tinker Moody, Evans Duncan, David Lybrand, and Allen Alsbrooks

Staff Present: Town Planner Ron Hancock and Town Clerk Vickie Best

Others Present: Four people and Alderman Tammy Wight (6:08pm)

1. **Call to Order**

Chairman Banks called the meeting to order at 5:37 pm on Thursday March 18, 2021 in the Town Hall Boardroom.

2. **Approval of the Minutes of the February 25, 2021 Meeting**

(Action Required)

MR. ALSBROOKS MADE A MOTION TO APPROVE THE MINUTES OF FEBRUARY 25, 2021 AS PRESENTED. MS. HAMEL SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

3. **Application for an Appeal: Chris Chagnon, 1915 Soco Road**

(Action Required)

Chairman Banks explained how a Quasi-Judicial Board operates similar to a court of law. The Board is only to listen to evidence presented during the case under oath.

Director Hancock explained that Mr. Chagnon is appealing his interpretation of a Class A Manufactured Home and went on to present the facts of the case.

1. Chris Chagnon is the owner of property located at 1915 Soco Road in Maggie Valley with PIN 7696-17-9264.
2. This property is situated on an irregularly shaped corner lot adjacent to Soco Road and Hemlock Loop. The lot is 0.67 acres and zoned C-1: General Business.
3. The property has been blighted for several years and Mr. Chagnon is in the process of redeveloping the site to accommodate a new restaurant and accessory buildings and would like to include a manufactured housing unit as a part of the site plan.
4. The Town's Zoning Ordinance allows one dwelling unit to be located on the same lot as a business if it meets the standards of a single-family dwelling or Class A Manufactured Home. The Town's ordinance includes a provision that, "No single-wide mobile homes are permitted." However, the Zoning Ordinance does not define, or otherwise reference, single-wide mobile homes.
5. On March 11, 2021 Mr. Chagnon was informed about the prohibition of single-wide manufactured homes in the C-1 district and that the floorplans submitted for the manufactured

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home to be included on his parcel could be construed to be a "single-wide" mobile home.

6. On March 15, 2021 Mr. Chagnon applied for an appeal of staff's interpretation of single-wide mobile home as related to the floor plan he submitted, which could technically meet the definition of a Class A Manufactured Home.
7. Class A Manufactured Homes have traditionally been considered to be double-wide mobile homes because one, "...has a length of not exceeding four times its width." The manufactured home Mr. Chagnon would like to place on his lot has dimensions of 13'4" X 40' and an area of 533 square feet. The length of the proposed manufactured home is three times its width.
8. Upon approval, all standards for setup of a Class A Manufactured Home shall be met, including: Pitched roof and eaves; exterior siding commonly used in residential construction; permanent underpinning; porches built to code; and removal of moving hitch, wheels, axles, and lights.

Definitions Per The Code of Ordinances:

MANUFACTURED HOME. A factory-assembled portable housing unit, or a portion thereof, built on a chassis and intended for use as a dwelling unit, and not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for 1- and 2-family dwellings. A manufactured home is designed to be transported on its own chassis and has a measurement of 40 feet or more in length and 8 feet or more in width. A manufactured home shall be construed to remain a manufactured home whether wheels, axles, hitch, or other appurtenances of mobility are removed, and regardless of the nature of the foundation provided. All vehicles that are designated manufactured homes by the Uniform Standards Code for Mobile Homes Act shall be considered manufactured homes. A manufactured home shall not be construed to be a travel trailer or other form of recreational vehicle.

(1) **MANUFACTURED HOME, CLASS A.** A manufactured home constructed after 7-1-1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria. It is the intent of these criteria to ensure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling:

- (a) The manufactured home has a length of not exceeding 4 times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- (b) The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.
- (c) All roof structures shall provide an eave projection of no less than 6 inches, which may include a gutter.
- (d) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in

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composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(e) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent, approved skirting material foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

(f) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, self-supporting and anchored securely to the ground; with a minimum of 6 feet by 6 feet landing; and

(g) The moving hitch, wheels, and axles, and transporting lights have been removed.

(2) **MANUFACTURED HOME, CLASS B.** A manufactured home constructed after 7-1-1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, and that meet or exceed divisions (e), (f), and (g) for Class A homes above.

(3) **MANUFACTURED HOME, CLASS C.** Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

Everyone agreed that Mr. Chagnon has done an exceptional job cleaning the property located at 1915 Soco Road.

Under oath, Mr. Chris Chagnon, a resident of 63 Sassafras Lane provided the following testimony.

On this parcel, Mr. Chagnon would like to put in a little mountain café with six (6) tables that would serve six course meals by reservation only at a cost of around \$17. The unit in question would be for the owners to live in at their restaurant. All the structures will have that "country cottage appearance" with the same color scheme, White Siding, Butter Yellow Shutters, Sage Green Doors, Yellow Flower Boxes, and a Sunlight Blond Picket Fence with picturesque landscaping. A lot of work has been done inside the buildings and on the property's drainage.

Mr. Chagnon made clear that he has no desire to rent or Airbnb the unit. It will be used for the home of the owners of the restaurant.

Mr. Chagnon admitted that it was incredibly challenging to get the debris moved from the property, but he felt that this would be a good project and the property has been in disarray for quite some time now.

Mr. Alsbrooks asked if the unit would arrive on wheels? Is the unit built somewhere else and then rolled onto the property?

The unit will be brought onto the parcel.

Mr. Chagnon has started and sold several restaurants in Maggie Valley i.e., Café Italiano, Brick House, The Valley House, and Pavino's Pizzeria & Bistro. All of these restaurants are popular with locals and visitors.

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Chairman Banks directed the Board's attention to the definition of a Class A Manufactured Home (see above).

There will be a shingle roof on the unit. When the Zoning Ordinance was written in 1997, this type of structure was not being built.

Chairman Banks then drew the board's attention to 154.039 Commercial 1 District: General Business.

Under permitted uses: 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 a Class A manufactured home.

Mr. Alsbrooks reminded the board that they have turned down single-wide mobile homes before.

Although single-wide mobile homes are not defined in the ordinance, the definition for a Class A reads: The manufactured home has a length of not exceeding 4 times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

Mr. Chagnon assured the Board that by adding a front porch, shutters, and other outside elements, the unit will look like it was built onsite. The landscaping will be outstanding.

After a lengthy discussion on Class A Manufactured Homes, Mr. Lybrand questioned why the unit must be called a singlewide. It is irrelevant if a Class A Manufactured Home looks like a singlewide unit.

Mr. Alsbrooks responded that the unit does not meet the ordinance.

The unit is less than 4-times its length. Ms. Hamel agreed, there is a difference between a trailer and a manufactured home.

Chairman Banks asked the Board to review letters e, f, and g under Class A Manufactured Home in the Zoning Ordinance.

Letter e reads: The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent, approved skirting material foundation of masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home.

Letter f reads: Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, self-supporting and anchored securely to the ground; with a minimum of 6 feet by 6 feet landing.

Letter g reads: The moving hitch, wheels, and axles, and transporting lights have been removed.

As for compatibility, the parcel next door is going to be used as a Park Model sales lot.

After much debate over a singlewide and a Class A Manufactured Home the following motion was made.

MR. ALLSBROOKS MADE A MOTION TO DENY THE APPEAL TO PUT A MANUFACTURED HOME ON THE PROPERTY WHILE GIVING CREDIT AS TO HOW THE PROPERTY CURRENTLY LOOKS; BUT THE ORDINANCE SAYS NO SINGLEWIDE MOBILE HOMES ARE ALLOWED. MR. DUNCAN SECONDED THE MOTION. CHAIRMAN BANKS, MS. HAMEL, MR. LYBRAND VOTED NO. MOTION FAILED.

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MR. LYBRAND MADE A MOTION TO APPROVE THE APPEAL AS DOCUMENTED IN THE APPLICATION, MS. HAMEL AND CHAIRMAN BANKS VOTED IN THE AFFIRMATIVE. MR. ALSBROOKS AND MR. DUNCAN VOTED NO. MOTION PASSED BY MAJORITY.

4. Application for a Variance: Henry Gouldin, Lot 12 Brannon Forest

(Action Required)

George and Debbie Gouldin are in the process of purchasing the property from Robert A. Campbell, Jr. George Blackburn will be the builder. Mr. Blackburn is addressing the Board on the Gouldin's behalf for a variance to the roadside setback. The Variance would be to decrease the setback from 20-Feet to 10-Feet to accommodate the house plan design.

Planner Hancock provided the following facts.

1. Robert A. Campbell is the owner of a property with PIN 7697-65-9122 located at the intersection of Trapper Lane and Sparkleberry Ridge in the Brannon Forest neighborhood of Maggie Valley.
2. This property consists of a 0.31 acre (13,504 square feet) vacant lot accessed by privately maintained roads having 30-foot rights of way. The rights of way include approximately 4140 square feet, effectively reducing the buildable area of the lot by one third.
3. The lot is currently zoned R-2, a Medium Density Residential zoning district with a front yard setback requirement of 20 feet as measured from the street right of way.
4. The building area on the lot is also constrained by its irregular shape and size, which does not meet the Town's R-2 minimum lot size standard of 11,000 square feet, which excludes street right-of-ways. The lot is also encumbered by the existence of a 50-foot easement surrounding a shared private well located on an adjacent lot.
5. In March 2021, the potential buyers of the property, Henry, and Debbie Gouldin, with Mr. Campbell's consent, applied for a 10-foot variance from the front yard setback to construct a house on the lot oriented toward Sparkleberry Ridge.
6. A natural watercourse exists at the intersection of Sparkleberry Ridge and Trapper Lane along with associated storm water management structures, including culverts and ditches in the drainage ways. These drainage ways must be taken into careful consideration during and after construction so as not to cause any adverse impacts to the structures or neighboring properties.
7. The applicants have stated that the zoning ordinance and setback requirement, along with the existence of the well easement would cause an unnecessary hardship because strict application of the standard will not allow them to construct their house as planned.
8. The layout and design are consistent with the spirit of the ordinance in that it maintains separation between houses to the sides and the rear and does not encroach on neighboring properties.
9. Construction of the home as presented will not impede emergency vehicle access, create a fire hazard, or otherwise be contrary to public health and safety.

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10. As required by state statute, all adjacent property owners have been notified of the Public Hearing and the site has been posted.

This is a small lot with constraints. Most of the houses in the area do not meet the setbacks.

The neighbors have been notified of the request and almost all responded wanting to know the details. No one had any problems with the concept. The only concern was drainage.

Brannon Forest HOA President Kownacki stated from the floor that the house footprint cannot go into the well easement, as shown on the drawing. There are some deed restrictions and controls that the HOA have over the wells in Brannon Forest.

Mr. Kownacki began questioning Mr. Blackburn about his options and possibly reorienting the house.

The Board asked that Mr. Kownacki be sworn under oath if he wants to make a statement.

Discussion from the floor continued. The Board decided if Mr. Blackburn can reorient the house and not use the variance that would be great and if not, the variance would be there.

MS HAMEL MADE A MOTION TO GRANT THE VARIANCE, MR. ALSBROOKS SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

5. Other Business

The Board discussed the need to state why you are making a motion on every case. Hearsay is not allowed. Expert evidence is needed.

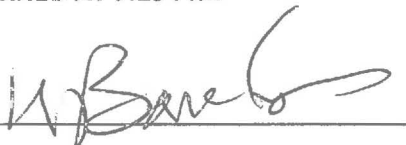
Although you would treat every case the same to a certain point; each case is treated on its own merit.

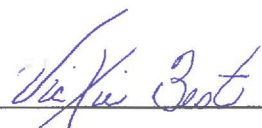
The Board discussed informing the audience that the Board only needs the facts and not their feelings on the matter. It is difficult for people that do not have a standing on the case to understand.

Mr. Alsbrooks suggested asking each speaker what evidence they have to offer.

Adjourn

ON MOTION OF MR. ALSBROOKS, SECONDED BY MS. HAMEL, WITH ALL IN FAVOR, THE MEETING ADJOURNED AT 7:23 PM.


Chairman Bill Banks


Vickie Best, CMC, Town Clerk

