

**Town of Angier
Board of Adjustment
Tuesday, January 23, 2024
Municipal Building
28 N. Raleigh Street
Angier, North Carolina 27501
Minutes**

The Town of Angier Board of Adjustment met in regular session on Tuesday, January 23, 2024, inside the Municipal Building Board Room, 28 N. Raleigh Street. Mayor Bob Smith presided, calling the meeting to order at 6:30 p.m.

Members Present: Mayor Bob Jusnes
Mayor Pro-tem Sheveil Harmon
Commissioner Jim Kazakavage
Commissioner Ashley Strickland
Commissioner Loru Hawley

Members Absent:

ETJ Members Present: Everett Blake, III
Lee Marshall
Eric Julien

ETJ Members Absent:

Staff Members Present: Town Manager Elizabeth Krige
Town Clerk Veronica Hardaway
Planning Director Jeff Jones
Planner I Zach Carpenter
Town Attorney Dan Hartzog, Jr.

2. Pledge of Allegiance: Mayor Bob Jusnes led the pledge of allegiance.

3. Invocation: Commissioner Strickland offered the invocation.

It was established that Eric Julien is the Alternate ETJ member of the Board of Adjustment.

4. Approval of the October 24, 2023 Board of Adjustment Meeting Minutes: The Town Board unanimously approved the minutes as presented.

Board Action: The Town Board unanimously voted to approve the October 24, 2023 Board of Adjustment Meeting Minutes as presented.

Motion: Commissioner Kazakavage

Vote: 7-0; unanimous

Mayor Jusnes welcomed everyone to the Board of Adjustment meeting and wanted to share some things before the meeting got started. He explained how the Board of Adjustment is organized and how it functions.

The Board of Adjustment is a quasi-judicial administrative board appointed by the Town Board of Commissioners. Quasi-judicial means that the board functions like a court when we conduct business, sworn testimony is given so everyone wishing to speak for or against an application or ask questions about a case must be sworn in. Those persons who cannot be sworn in for religious reasons may be affirmed. Minutes of the meeting are taken which become the official records of actions on each application and meetings are conducted in a formal manner. Membership of the board consists of seven regular members and one alternative member to serve when a regular member is absent or must be excused from hearing a certain case. This Board has the following three powers and duties: administrative review, granting of variances, and special use permits. In the case of the Town of Angier, our Board of Adjustment consists of the Board of Commissioners and two ETJ planning board members to make the seven that you see up here tonight.

Tonight's meeting we'll hear a Variance and a Special Use Permit request. The Town's Unified Development Ordinance addresses two categories of use. The first is a permitted use or those permitted by right and the second is special uses. Special uses may have an impact on the area around them and this impact can only be determined by a review of each specific proposal before granting or denying an application. The board will hear testimony from the proponents and the opponents. Testimony must be based on facts instead of opinions and cannot be hearsay. The board also asks that the testimony not be repetitious. It isn't necessary for five people to say the same thing and it is permissible for a spokesperson to speak on behalf of a group that share the same ideas. When making a presentation, please get directly to the point so we can move in an orderly fashion.

Since the Board of Adjustment is regulated by the North Carolina General Statutes and the Town of Angier Unified Development Ordinance, we must make certain findings of fact before granting a Variance or Special Use Permit. A checklist is used to help us evaluate each application and make the required findings under current regulations. Together five findings must be made for each Variance or Special Use Permit to be issued. The board has the option of attaching certain conditions to granting any permit, hours of operation are an example of such a condition to grant a Special Use Permit.

Four fifths of the board members must vote yes to grant a variance for an application to pass. This requirement is part of the North Carolina General Statute so we're required to follow that. One thing this board cannot do is rezone property or amend the zoning text of the Unified Development Ordinance that action involves the planning board and the Board of Commissioners and is also regulated by state statutes. Prior to hearing testimony, a member of the planning department staff will present an analysis of the site and a brief case history. During all presentations and discussions, Mayor Jusnes asked that you do not talk amongst yourselves to will allow everyone in the room to hear what is being said. Our proceedings are being recorded so it's important that there be no extra noise in the room. Action taken by this board is final, cases are not sent to the Town Board of Commissioners for review. To appeal any Board of Adjustment decision, it must be filed in superior court within the time specified in the North Carolina General Statutes.

5. Swearing in of Witnesses: The following persons giving testimony during the evidentiary hearings on the agenda were duly sworn by the Town Clerk.

Tara DiDonato, 7841 Lagenaria Drive; applicant
Chuck Carey, 203 Blair Drive
Mike Roselli, 1149 Executive Circle; Professional Engineer
George Young, 11000 Regency Prkwy; Mattamy Homes
Willie McKoy, 120 Crestview Drive
Pablo Vega, 97 N. Cross Street
Alvis McKoy, 55 Cofield Street

6. New Business

A. Variance

Applicant: Tara DiDonato

Property Address: 7841 Lagenaria Drive, Angier, NC

Variance Request: Reduce the side setback in R-10 zoning district by 2.7 feet

Mayor Jusnes opened the Evidentiary Hearing.

Planning Director Jeff Jones stated applicant Tara DiDonato is requesting for a setback variance in the R-10 zoning district. The property in question is located at 7841 Lagenaria Drive within the Johnson's Landing subdivision in the Wake County portion of Angier. Unified Development Ordinance Section 3.4.2 reviews the applicable Ordinance requirements for side setbacks within the R-10 zoning district to which indicates 10ft. The property owner is proposing to add an addition to their home, the addition to the home for a bedroom creates a setback issue in which the addition encroaches into the setback by 2.7ft.

Tara DiDonato, applicant, stated she resides in the Johnson's Landing subdivision since it was built in 2017. Since that time, they have welcomed three children and are expecting baby number four. Ms. DiDonato and her family have had positive impacts on not only their neighborhood but also our community. They rescued multiple dogs, created a book box that was professionally built for their neighborhood, and also started a PTA for her daughter's daycare. Due to the new addition to their family, they need more space in their home. The applicant proposed to add an addition to the home that includes two jack and jill matching rooms that will essentially go over the setback line by 2.7ft. The only physical structure that will be over the line is a column to support the second story of the addition. She has done her due diligence by having discussions with neighbors to get their prospective on the proposal with no negative feedback or issues arising.

Ms. DiDonato stated their original site plan was drastically incorrect and had a whole new site plan completed. There would be difficulty moving the structure over by 3ft. because the columns that would be used for support would not align well with their deck and stone patio.

The Board shared concern regarding the distance between one of the existing neighboring homes and the proposed addition to which the Board determined there was adequate space. Mayor Jusnes asked for clarification on what qualifies as an unnecessary hardship to which Town Attorney Dan Hartzog, Jr. explained that it is something that is imposed on the applicant as a property owner that is not the purpose of the Ordinance itself such as the inability to add on to the home due to setback requirements. It has to be unique to the property not the property owner.

Mayor Jusnes closed the Evidentiary Hearing.

Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after an evidentiary hearing that the following conditions exist:

- A. Unnecessary hardship would result from the strict application of the ordinance; **It was the consensus of the Board this does apply***
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability; **It was the consensus of the Board this does apply***
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; **It was the consensus of the Board this does apply with the exception of one opposition***
- D. The requested variance is consistent with the spirit and purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved; **It was the consensus of the Board this does apply***

Board Action: Based on findings A-D of the Variance Approval Criteria, the Board voted to approve the variance request submitted by Tara DiDonato to reduce the side setback by 2.7 feet in R-10 Zoning District located at 7841 Lagenaria Drive.

Motion: Everett Blake, III
Vote: 7-0; unanimous

B. Special Use Permit

Applicant: Mattamy Homes

Property Address: 350 S. Raleigh St., Angier, NC

Special Use Request: Construct 168 Townhomes in R-15 Zoning District

Mayor Jusnes opened the Evidentiary Hearing.

Mr. Jones stated that the Town has received a request from Mattamy Homes to construct 168 townhomes on approximately 31.37 acres located along S. Raleigh Street. Townhomes are considered a permitted use; however, special regulations related to the number of units (over 20 units) requires a Special Use Permit.

The proposed subdivision information includes:

Number of lots: 168 (3 bedroom units)

Density: 5.36 units to an acre

Minimum Lot Size: 2,400 square feet

Average Lot Size: 2,800 square feet

Building Separation: 20 feet minimum

Parking Required – 3 bedroom per unit * 1 per bedroom + 1 additional parking space per unit = 672 parking spaces. Parking to be provided for in garages/driveways and in common parking areas throughout the neighborhood.

Mr. Jones explained that the Board of Adjustment reviews and approves Special Use Permits subject to district provisions, other applicable requirements, and conditions of approval. Some special uses may also be subject to special requirements outlined in chapter 4 of the Unified Development Ordinance.

Special Use Permits are the development and execution of this section based on the division of the Town of Angier into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. Special uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In granting approval of a Special Use Permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare, and public interest.

The Angier Comprehensive Land Use Plan designates the property in question as medium density. Townhomes are considered a multifamily residential development.

Development standards for this use is as follows:

Maximum density: 12 dwelling units per acre (with public water and sewer)

Minimum public street frontage: 150ft if 20 or more units/100ft if less than 20 units

Front setback (project perimeter): projects equal to or greater than 10 acres: 100ft.; projects between 5 and 10 acres: 50ft; projects less than 5 acres: 25ft.

Side setback: 30ft

Rear setback: 30ft

Minimum building separation: 10ft (applicant is proposing 20ft)

Maximum units per structure: single-story structure 6 units; multistory structure 18 units

All structures shall be a minimum of ten feet from all internal parking areas, and drive-isles. Project perimeter setback areas shall be free of any structures, excluding access ways and signs. Amenities and accessory structures shall be permitted as an accessory use to the primary use. Developments of 50 units or more shall provide two means of ingress and egress.

George Young, Mattamy Homes, stated that Townhomes are an allowable use under this zoning classification. The plan that is before the board has had several different variations and densities. The current proposal is 5.36 units per acre at medium density. The property in question is proposing open space, common areas, playgrounds, and connectivity. They would like to have connectivity to adjacent streets that are dead end stub roads that are difficult for emergency vehicle access. They feel they have addressed most of the concerns that have come up and are pleased with the plan as it stands right now. Research has been conducted in regards to the density in surrounding areas and some of those properties have 5.7-5.8 units per acre.

Mike Roselli, P.E. with Underfoot Engineering, stated that this proposed development will provide connectivity to existing properties and businesses, providing road connectivity and utility stubs at the property line to promote future connectivity in an orderly fashion. The project will provide additional housing and diversify the surrounding developments, contributing beneficial factors for successful growth in the Town of Angier. The proposed development will provide an increased tax base, increasing revenue generated during development and home sales. An increase in building permits and associated inspection fees is to be expected, as well as an increase in property taxes.

Mr. Roselli explained that the proposed site drainage will be treated within the site via use of on-site stormwater control measures (SCMs). The site is currently proposing the development of two (2) SCMs (wet ponds) to ensure functionality and capacity. As on-site stormwater permitting efforts are ongoing with the Town as well as NCDEQ, the final configuration is subject to change. However, the development will meet all applicable stormwater ordinances and engineering requirements, ensuring that the site continues to drain according to its existing drainage patterns and meeting all water quality and quantity requirements. The proposed roadway is 35' back-to-back with a 60' right-of-way, in compliance with the Town of Angier road cross section specifications. Roadway will be paved according to the Town of Angier paving design specifications. Proposed roadway (R001) will connect to S. Raleigh Street. Trash and garbage will be collected either via local Town of Angier Trash & Recycling Service or private trash collection.

Mr. Roselli went on to say that per the findings of the Traffic Impact Analysis (TIA) from McAdams, S. Raleigh Street, the primary road that serves the property, is a 35-mph road with an Annual Average Daily Traffic (AADT) of 13,500 vehicles per day (2021). Sight distance for the intersection of R001 and S. Raleigh Street will be in accordance with the NCDOT Sight Distance Triangle design specifications. The approximate distance between the intersection of proposed R001 and S. Raleigh Street is 600 feet north from the intersection of S. Raleigh Street and S Broad Street E, and 750 feet south from the intersection of S. Raleigh Street and W McIver Street. The TIA showed that no improvements would be required; however, with coordinating with Mr. Hines, the district engineer with NCDOT, stated although not required he would like to see a right turn lane into the site at the southern entrance.

Conditions the applicant is willing to consider as part of the approved Special Use Permit:

1. The number of dwelling units will be limited to one hundred and sixty-eight (168).
2. To promote variations in building appearance, each building shall have two distinct facades.
3. A varied color palette shall be utilized on buildings throughout the subdivision to include a harmonious mix of colors for siding.
4. All homes shall have a 1-car garage minimum.
5. Variation in front façade shall include at least two of the following: a. Changes in exterior materials such as brick, masonry, board and batten, horizontal siding, or shake siding. b. Changes in rooflines, directions, or materials c. Addition of front dormers, shed roofs, or gables d. Addition/variation of a front porch, balcony, covered entry, portico or stoop. e. Addition of decorative trim, shake, horizontal trim, gable brackets, or air vents/windows on gables. f. Addition of shutters, window trim, or window grids.
6. Northern boundary along R001 will be upgraded from a Type A buffer to a Type B buffer.
7. Any roadway improvements required as part of the NCDOT TIA review shall be a condition of Construction Drawing approval.

8. Any sanitary sewer improvements required for adequate downstream capacity as part of a Town of Angier Wastewater Collection System analysis review shall be a condition of Construction Drawing approval.
9. Connections to Oak Wood Drive and Crestview Drive are included as part of this development. Issuance of building permits and certificates of occupancy shall not be withheld if the developer cannot obtain temporary construction easements to complete the connections shown.

Chuck Carey, 203 Blair Drive, stated his concern regarding traffic.

Willie Mae McKoy, 120 Crest View Drive, was concerned regarding the proposed connectivity to her street and felt vehicles would use her road as a cut through.

Mr. Roselli stated that they anticipate having two connections being NC 55 and Cross Street. It was desirable to the Town to have connections at Crest View and Oakwood as well as Lee Lane. Those connections were not necessarily desirable to the developer; however, it was at the request of the Town. He doesn't see a particular reason why folks would drive down Crest View or Oakwood knowing that much easier connections to NC 55 are being constructed and the one at West Depot which provides signalization. Should these access points be undesirable, those connections can be removed.

The Board requested some insight into the desirability of the connectivity of the aforementioned streets and shared concern regarding the connected streets being used as cut throughs. Mr. Jones explained that the Town's Ordinance encourages streets that are dead end streets to be built out if an opportunity would come up. The connections were proposed from an emergency standpoint. The Ordinance encourages when we have dead end streets to build out a grid pattern for the Town which is how Town's develop; however, recognizes that Oakwood and Crest View are very close to each other and may be beneficial not to connect both.

The Board wanted clarity on amenity space and proposed use. Mr. Roselli stated the plan was to disperse amenity space throughout the neighborhoods. There's a total of 14 acres that differ in size providing different functions such as recreation, trails, dog park, playground, active green space for hammocks frisbees and soccer. Parking areas are proposed around amenity sites. A lighting plan and Type A buffer is also proposed.

There was discussion regarding on street parking to which it was explained that each unit will have a single car garage with a two-car driveway giving a total of 3 spaces. As part of the HOA, on street parking is prohibited.

Pablo Vega, 97 N. Cross St., stated the developer reached out to his family to see if they would be willing to sell property they own on James Street. Because they decided that wasn't something they were interested in as it would take away too much of their property, he requested the Board to take that information into account when making their decision.

It was pointed out by the Board that according to the TIA there would be a severe impact to traffic with a larger delay time to the intersection of Raleigh Rd. and W. Depot St. It was also pointed out that it looks as though little traffic is going to go on Cross Street which if James St. doesn't connect all the way through, then Cross St. and Hwy 55 is the majority spot of traffic. The TIA report was also conducted in 2020 using traffic counts in 2021.

Mr. Roselli recommended that if the Board wanted to make it a condition of approval, the applicant would install traffic calming devices on one or both of those connectivity points. One could be a pedestrian connection or a connection to be used for emergency access.

The Board had questions regarding trash cans versus dumpsters and what would be used in the proposed development. Mr. Jones is going to research this for the Board and report back.

Alvis McKoy, 55 Cofield St., asked why the Town keeps adding streets instead of fixing the ones we currently have.

Town Attorney Dan Hartzog, Jr. reminded the Board that conditions can be placed on the proposed development.

The applicant requested a continuance of the Public Hearing if the Board needs more information on the development. The Board requested more information on their concerns in regards to trash, traffic, and access roads.

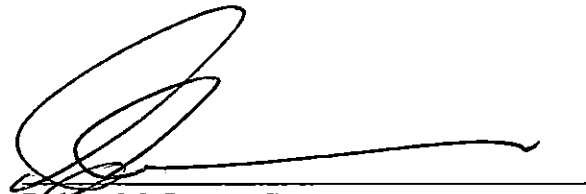
Mayor Jusnes closed the Evidentiary Hearing.

Board Action: The Board voted to table this public hearing until more clarifying testimony can be heard.

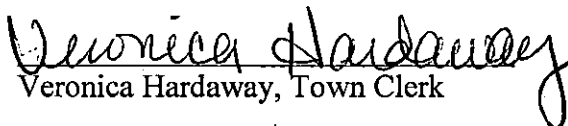
Motion: Everett Blake, III
Opposed: Commissioner Harmon; Commissioner Strickland
Vote: 5-2; motion carried

6. Adjournment: Mayor Smith entertained a motion to adjourn the meeting. Motion to adjourn was unanimous at approximately 8:50pm.

Motion: Mayor Pro-tem Harmon
Vote: 7-0; unanimous


Robert M. Jusnes, Sr.
Chairman / Board of Adjustment

Attest:


Veronica Hardaway, Town Clerk

