

**MINUTES OF THE REGULARLY SCHEDULED MEETING OF:
THE ROCKINGHAM COUNTY PLANNING BOARD**



**BOARD OF COMMISSIONERS CHAMBERS
ROCKINGHAM COUNTY GOVERNMENTAL CENTER
WENTWORTH, NC
JANUARY 8, 2024 AT 6:30 PM**

MEMBERS PRESENT: Paul Ksieniewicz, Chairperson
Julie Talbert, Vice Chairperson
Bernie Parnell
Keith Duncan
Cory Scott
Daniel Woods
Quint Haley

MEMBERS ABSENT: Jeff Kallam
John Roberts

STAFF PRESENT: Clyde Albright, Rockingham County Attorney
Hiram Marziano, Community Development Director
Lynn Cochran, Senior Planner
Victoria Pedigo, Planner
Ben Curry, Code Enforcement Officer
Bricen Wall, Code Enforcement Officer

I. CALL TO ORDER

Chairperson Ksieniewicz called to order the regularly scheduled meeting of the Rockingham County Planning Board at 6:30 pm.

II. INVOCATION

Mr. Scott conducted the invocation.

III. ADOPTION OF THE AGENDA

Chairperson Ksieniewicz confirmed a quorum for conducting business. Mrs. Talbert motioned to adopt the agenda with the corrected year of January 8, 2024. Mr. Scott seconded. The board voted unanimously to adopt the motion (7-0).

IV. APPROVAL OF MINUTES

December 11, 2023 – Mrs. Talbert motioned to adopt the minutes as written, and Mr. Scott seconded. The board voted unanimously to adopt. (7-0)

**V. CONVENE BOARD OF ADJUSTMENT & REVIEW OF PROCEDURES FOR
EVIDENTIARY HEARINGS**

The Board of Adjustment was convened. Mr. Ksieniewicz reviewed the procedures for quasi-judicial evidentiary hearings. No board member indicated any conflict of interest or site visit to disclose.

VI. MATTERS BEFORE THE BOARD OF ADJUSTMENT

- a. Appeal 2023-17 Pettitt: An appeal has been filed regarding the revocation of Zoning Permit ZMISC2309-001. The original permit was approved by Staff September 15, 2023 but was revoked by the Community Development director September 21, 2023, on the advice of the County Attorney.

Mr. Cochran asked if all appellants were in attendance. Brandon Pettit, of 8260 Nautical Point in Belews Creek, requested to continue this case as his attorney was not present. Mr. Ksieniewicz stated that the board had given a prior continuance, so he did not wish to continue again. Mr. Pettit informed the board that his attorney had recently had a newborn and could not make it to the meeting. Mrs. Talbert also had a concern with this second continuance. Mr. Ksieniewicz was additionally concerned with allowing the illegal gambling to continue while the case is continued. Mr. Haley wanted to know if Mr. Pettit had been in contact with staff. Mr. Parnell asked when the child was born, and Mr. Duncan inquired about how his business would be affected. Mr. Ksieniewicz asked Mr. Albright about legal time constraints. Mr. Duncan and Mr. Albright discussed the legality of allowing Mr. Pettit's business to continue operating while the case is continued. Mr. Duncan added that other gambling establishments are allowed to operate, and Mr. Albright clarified that the nature of Lucky Ducks is considered illegal gambling. Mr. Haley and Mr. Pettit discussed the attorney's absence. **Mrs. Talbert motioned to extend this case another 30 days with no further continuances, and Mr. Scott seconded. The board voted unanimously to continue this case until the next meeting on February 12, 2024 (7-0).**

- b. Appeal 2023-20 Myers: An appeal has been filed regarding a Determination of the Community Development Director, specifically Code Enforcement Notice of Citation CE23-0296, Development Without Permit.

Mr. Cochran asked if all appellants were in attendance, and Mr. Myers stated that he was present. Mr. Cochran presented the case along with information regarding multiple code enforcement violations:

In 2021 Mr. Chad Myers acquired the property located at 252 Gallent Rd. According to the Rockingham County tax map, the property measures (+/-) one acre in size. It is zoned Residential Protected (RP). In October of 2022, Mr. Myers applied for new septic system permit. Also, he was issued a permit for temporary residence in a recreational vehicle (RV) during the period of home construction. Environmental Health Staff determined that the soils on the property are not suitable for placement of a septic system. See Exhibits C and D. Since then, the appellant has not provided evidence of evaluation of the site by a licensed soil scientist. Thus, the septic system permit denial remains in effect. Given that Mr. Myers did not obtain a building permit for a residential structure within 90 days of being granted the temporary RV permit, it

expired in January of 2023. Beginning August 3, 2023 Code Enforcement staff visited the subject location after receiving an anonymous complaint about potential burning and unpermitted building activities. Upon inspection, the property was gated but photos were taken from the public right of way area. The photos show a “primitive structure” being erected on the property. No zoning permit or building permit approvals were issued for this work. Primitive residential structures are eligible for zoning permit approval according to the Rockingham County Unified Development Ordinance. It was also noted that an RV was located on the property and appeared to be inhabited. As a result, Officer Ben Curry initiated the process of notification and citation for a zoning violation. At the point the property owner received a notice of citation, he met with Code Enforcement and Planning Staff, choosing to appeal the notice as of October 18, 2023.

Mr. Cochran also added that alternative septic and water systems cannot be installed on this lot per Environmental Health.

Mr. Scott inquired about wastewater disposal, and Mr. Cochran explained allowed disposal options.

Mr. Ksieniewicz asked if the appellant was present.

Mr. Myers, of 252 Gallent Rd, introduced himself and was sworn in. Mr. Ksieniewicz provided Mr. Myers an opportunity to state his case and explain his intentions. Mr. Myers presented information regarding topics that included land use policy, state law, taxation, citizenship, jurisdiction, and religion. Mr. Parnell, Mr. Ksieniewicz, Mr. Haley, Mrs. Talbert, Mr. Scott, and Mr. Marziano sought clarification on Mr. Myers’ viewpoints. Mr. Ksieniewicz asked Mr. Myers to focus on relevant factual information instead of personal opinion. Mrs. Talbert asked Mr. Albright about the legality of this case.

Mr. Albright explained the jurisdiction of Rockingham County to enforce adherence to the Unified Development Ordinance. Mr. Ksieniewicz asked Mr. Myers about his intention to farm on his land. Mr. Haley inquired about Mr. Myers’ present wastewater disposal which is currently not legal. Mr. Myers stated his intention to use this waste for his future farming operations. Mr. Ksieniewicz informed Mr. Myers that he cannot transport his own waste off site, and he cannot have alternative systems due to the lack of primary water and sewage systems, according to NC statutes. Mr. Ksieniewicz stressed to Mr. Myers that he must cease his building operations immediately and stop residing in his recreational vehicle, as he has no building or zoning permits. Mrs. Talbert also emphasized the need for Mr. Myers to obey the law and regulations stated within the Unified Development Ordinance.

Mr. Myers mentioned Marbury vs. Madison and claimed that he was in the parameters to for a primitive structure. Mr. Scott stated that Mr. Myers had connected the recreational vehicle to the primitive structure, none of which was permitted. Mr. Myers insisted that these structures are not attached, and he stated that the primitive structure is intended for his children when they visit on the weekends. Mr. Haley asked where the children will stay and use the bathroom, to which Mr. Myers responded that they would use a privy in the future. Mr. Marziano explained that Environmental Health can permit privies, although they are not mentioned in the Unified

Development Ordinance. Mr. Marziano detailed Mr. Myers' violations including residing in a recreational vehicle and building a primitive structure without permits. Mr. Marziano explained to Mrs. Talbert that Environmental Health issues are not particularly germane to this appeal.

Mr. Ksieniewicz asserted that Mr. Myers needs to halt construction on the parcel until he has permits issued. Mr. Marziano corrected this by stating Mr. Myers had been instructed to remove all structures from the parcel immediately per the violation notice. Mr. Haley asked Mr. Myers how long he had owned this parcel and how much acreage he owns. Mr. Cochran described the permitting process along with Mr. Myers inability to obtain the necessary approved permits. Mr. Myers suggested moving the recreational vehicle off site, and Mrs. Talbert told him that they are beyond the point of negotiations. Mr. Marziano agreed with Mrs. Talbert that remedies have already been explored and exhausted but there has been no progress.

Mr. Ksieniewicz asked if there was any further discussion. Mr. Parnell stated that he believed permitting procedures were not followed and the lot needs to be cleared. Mr. Haley motioned to deny this appeal, stating "based on the evidence submitted and the testimony received, I motion to DENY this APPEAL, CASE 2023-20. This motion and board vote is to be recorded hearing minutes and the board order." Mr. Parnell seconded this motion. The board voted unanimously to deny this appeal (7-0).

After the hearing, the Board of Adjustment was reopened to hear a public speaker. Carol Arnold, of 5717 Chrisman Rd in Browns Summit, was sworn in and spoke in opposition to the appeal. Mrs. Arnold is the adjoining property owner, which gave her legal standing to speak regarding the case. Her concerns included Mr. Myers' lack of a septic permit, lack of suitable soil for a septic system, unpermitted activity occurring on the parcel, potential property value impacts, disregard of property lines, the cutting of trees, and general noncompliance of regulations. Mrs. Arnold stated her support of the Board of Adjustment's decision.

VII. CONVENE THE PLANNING BOARD & REVIEW OF PROCEDURES FOR LEGISLATIVE HEARINGS

The Board of Adjustment was closed, and the Planning Board was convened. Mr. Ksieniewicz reviewed the procedures for legislative hearings.

VIII. MATTERS BEFORE THE PLANNING BOARD

- a. Rezoning 2024-02 Hall: a zoning map amendment has been requested for the parcel denoted by Rockingham County Tax PIN 798504540014, located 7720 NC Highway 87 in the Wentworth Township. The request is to rezone the specified parcel from Residential Agricultural (RA) and Highway Commercial (HC) to Highway Commercial (HC).

Mr. Cochran presented this case for rezoning and concluded with staff recommendation of approval for this case. Mr. Ksieniewicz asked if there were any questions for Mr. Cochran from the Planning Board. Mr. Scott, Mrs. Talbert, and Mr. Marziano discussed future NC 87 corridor growth changes in conjunction with potential future corridor widening projects. This subject was

moved to “new business.” There were no phone calls or emails received regarding this case, and there were no speakers from the public.

Mr. Duncan motioned to “recommend APPROVAL of this request to rezone the specified parcel to the requested zoning district based upon the CONSISTENCY AND REASONABLENESS DETERMINATION statements that are included in the Board agenda packet, submitted during the rezoning presentation and as may be amended, incorporated into the motion, to be included in the minutes.” Mr. Scott seconded this motion. The board voted unanimously to recommend approval of this rezoning (7-0).

The Board has reviewed Case 2024-02, rezoning to Highway Commercial (HC). As required by NCGS § 160D, the Board makes the following findings:

1. The proposed action is found to be consistent with the adopted Rockingham County Comprehensive Land Use Plan because:
 - A. This parcel is located in the 0-2 Rural Land Class, according to the Rockingham County Comprehensive Land Use Plan. This land class is generally characterized as rural, although the patterns of commercial zoning in this area are atypical of the 0-2 land class. (p. 46)
 - B. Section 4.2 of the Rockingham County Comprehensive Land Use Plan promotes “the development of new commercial opportunities while supporting the retention and expansion of existing businesses. (p.74)
2. The proposed action is found to be reasonable in the because:
 - A. The size of the tracts in question. Reasonableness. The total area proposed to be rezoned equals approximately 11.06 acres total, including the (+/-) 2.5 acre portion already zoned Highway Commercial (HC). This lot size is typical for the area and exceeds the minimum lot size of 20,000 square feet in the Highway Commercial (HC) zoning district.
 - B. The compatibility of the zoning action with the comprehensive plan. Consistency. This zoning request is not generally supported by the intents and descriptions of the 0-2 land class in the Rockingham County Land Use Plan and future land use map. Nonetheless, there exists a significant degree of commercial and industrial zoning along the NC Highway 87 corridor in this area.
 - C. The benefits and detriments resulting from the zoning action for the owner of the rezoning, the neighbors, and the surrounding community. Reasonableness & Consistency. This rezoning request will allow all uses in the Highway Commercial (HC) zoning district, similar to uses allowed already occurring on a portion of the parent parcel. The property owner may benefit economically from the rezoning. The services provided may be of benefit to residents in the area. Adjacent and nearby neighbors whose parcels are zoned and used for residential purposes may feel these uses could have a detrimental

effect. Negative effects may be mitigated to some degree by landscape screening and other required development standards pertaining to non-residential uses on parcels abutting others that are zoned for residential purposes.

D. The relationship between the uses envisioned under the rezoning and the uses currently present in adjacent tracts. Reasonableness. Immediately adjacent tracts include a mix of open lands, residential uses and industrial uses. Nearby uses along NC Highway 87 feature a broad mix of types, including multiple instances of highway commercial uses. Multiple commercially zoned properties in this area have also received special use permits for planned business development over the last two decades.

- b. Text Amendment 2023-22: a citizen request to amend the standards for private roads, specifically to allow existing private roads to serve eight (8) parcels instead of five (5), which is the current ordinance standard.

Development Standards

Article 5, Division 3, Sec 53.03d(1)

~~Road standards within minor subdivisions.~~ **Residential Private Road Standards**

Up to ~~five (5)~~ **eight (8)** parcels may be accessed by a named and approved private road. There are no specific road standards required for a private road, but a 30' private wide right-of-way must be dedicated and recorded by plat. (p. 165)

The applicant, Mike Doyle of 270 Beene Ln in Stokesdale, owns an approximately 46 acre parcel currently served by private right-of-way (Beene Lane). Beene Lane currently serves 5 parcels which prohibits the larger parcel(s) from being subdivided, sold, or developed for single-family residences. Changing the ordinance will allow seasonable development while still limiting the number of parcels allowed to be served by a private right-of-way.

The Planning Board and staff discussed various aspects of private road lots and past discussions about the number of allowed lots on private roads.

Mrs. Talbert motioned to “recommend APPROVAL of this this text amendment based upon the CONSISTENCY DETERMINATION statements that are included in the Board agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.” Mr. Duncan seconded this motion. The board voted unanimously to recommend approval of this text amendment (7-0).

The Board has reviewed Case 2023-22, a proposed text amendment to change the number of individual parcels served by a private road for residential development from five (5) to eight (8); and as required by NCGS § 160D makes the following findings:

1. The proposed action is found to be consistent with the adopted Rockingham County Comprehensive Land Use Plan.

- c. Text Amendment 2024-01a: a proposal from Community Development staff to amend the standards for Campgrounds and Recreational Vehicle Parks, clarifying the definitions of each, separating each as a discrete use and adding additional development standards for RV Parks.

Mr. Cochran presented this staff request for a text amendment along with staff recommendation for approval. The amendment will separate Campgrounds (group and primitive) and RV Parks into two discrete uses, subject to different development standards. This amendment makes RV Parks subject to approval of conditional zoning in the Residential Agricultural (RA) and Highway Commercial (HC) zoning districts. The intent of this text amendment is to more clearly define these uses, ensure safe, quality and consistent development of RV Parks, while allowing for community input as part of determining the reasonableness of rezoning for an RV park.

The Planning Board and staff discussed various aspects of recreational vehicle parks that this text amendment would help clarify.

Mrs. Talbert motioned to “recommend APPROVAL of this this text amendment based upon the CONSISTENCY DETERMINATION statements that are included in the Board agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.” Mr. Scott seconded. The board voted unanimously to recommend approval of this text amendment (7-0).

The Board has reviewed Case 2024-01a, a proposed text amendment to clarify Unified Development Ordinance requirements for Campgrounds and Recreational Vehicle Parks. As required by NCGS § 160D the Board makes the following findings:

1. The proposed action is found to be consistent with the adopted Rockingham County Comprehensive Land Use Plan.
- d. Text Amendment 2024-01b: a proposal from Community Development staff in response to vendor requests to amend, clarify and update the special use permit standards for New Wireless Telecommunications Towers.

Mr. Cochran presented a request for a text amendment along with staff recommendation for approval. The current Special Use Requirements for new wireless communication towers needs complete reformatting. Much of the information regarding regulations and statutes referenced in the permit requirements needs updating. Clarifications are also needed to match current practice and much of the language regarding engineering, site design and financial guarantees needs revision. A new fall zone definition is being included as it is referenced throughout the document but was not included previously.

The Planning Board and staff discussed fall zone requirements, site design, types of towers, engineering and break points etc.

Mr. Scott motioned to “recommend APPROVAL of this this text amendment based upon the CONSISTENCY DETERMINATION statements that are included in the Board

agenda packet, submitted during the presentation and as may be amended, incorporated into the motion, to be included in the minutes.” Mrs. Talbert seconded. The board voted unanimously to recommend approval of this text amendment (7-0).

The Board has reviewed Case 2024-01b, a proposed text amendment to clarify Unified Development Ordinance requirements for New Wireless Telecommunications Towers. As required by NCGS § 160D the Board makes the following findings:

1. The proposed action is found to be consistent with the adopted Rockingham County Comprehensive Land Use Plan.

XI. OTHER BUSINESS:

a. New Business:

Mrs. Talbert asked which corridors should be reviewed and considered. Mr. Marziano stated staff can explore possibilities through a motion for corridor studies. **Mrs. Talbert motioned to “request a corridor study by staff to be fleshed out at a later date.” Mr. Haley seconded. The board voted unanimously to request a corridor study (7-0).**

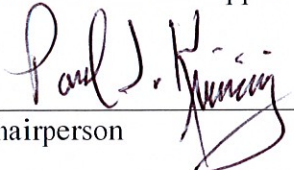
Additionally, the Planning Board and staff discussed dates and times for the County Attorney, Clyde Albright, to host a workshop on quasi-judicial hearings. **Mrs. Talbert made a motion to “hold the workshop with the County Attorney on January 29th at 2:00 pm.” Mr. Scott seconded this motion. The board voted unanimously to meet for the quasi-judicial workshop at this date and time (7-0).**

b. Old Business: None

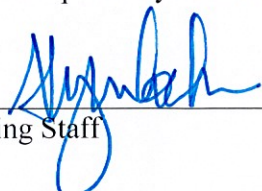
X. ADJOURN

As there was no additional business or discussion, Mrs. Talbert motioned to adjourn the meeting. Mr. Parnell seconded. The board voted unanimously to adjourn at 8:45 pm (7-0).

Minutes Read and Approved,


Chairperson _____ Date 02/12/2024

Respectfully Submitted,


Planning Staff _____ Date 2/12/2024