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## Board of Planning & Adjustment Meeting Minutes January 18, 2022

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**Board Present:** Chris Martin, Bill Daves, David Wacaster, Jennifer Allen, Thom Bates

**Staff Present:** Town Manager Justin Longino

**Others Present:** See Sign In

### **AGENDA ITEM I**

#### **CALL TO ORDER**

Chair Chris Martin called the meeting to order at 5:37 p.m. A quorum was present.

### **AGENDA ITEM II**

#### **RECOGNIZE CITIZEN'S PRESENT & PUBLIC COMMENT**

### **AGENDA ITEM III**

#### **MINUTES FROM OCTOBER 19, 2021 MEETING**

J.T. Scruggs made the motion to approve the minutes of the October 19, 2022 meeting. Thom Bates seconded and the vote was unanimous.

### **AGENDA ITEM IV**

#### **PUBLIC HEARING | REZONING**

The Town has received a petition for a zoning map amendment (rezoning request) for property located at 1815 Gaffney Road. The parcel is currently located in the Boiling Springs ETJ. The property owner would like to rezone the property from M-1 (Manufacturing) to R-15-TH (Townhomes). The Planning Board was asked to make a recommendation to the Town Council in favor of or against the rezoning request.

Chair Chris Martin opened the public hearing at 5:45 p.m.

Chair Martin recognized Michael Clary. Mr. Clary spoke in support of the project.

Chair Martin recognized Russell Ferguson, Attorney for the petitioner, who also spoke in support of the project.

Mr. Longino made a brief presentation providing an overview of the request.

#### **Staff Recommendation:**

Parcel #42982 at 1815 Gaffney Road is currently within the Boiling Springs ETJ. Applicants are requesting to be rezoned from M-1 Manufacturing to R-15TH. The proposed use is a townhome development shown in the included preliminary plat.

The Future Land Use Map shows this area as being open space/farmland. So, it is inconsistent with that plan, but this parcel is approximately 370 feet from a parcel zoned R-10 being used as apartments (The Reserve) so it is consistent with surrounding uses. The rezoning would also be to a less intensive district from the current M-1 uses allowed by right.

The Technical Review Committee (TRC – established by the new Unified Development Ordinance) has reviewed the plan and had no outstanding comments.

Chair Martin closed the public hearing at 6:10 p.m.

**AGENDA ITEM V**  
**REZONING REQUEST | 1815 GAFFNEY ROAD**

Thom Bates made the motion to recommend the Town Council approve this proposed zoning map amendment request from M-1 to R-15TH stating the proposed use is in line with future uses in the Land Use Plan. Bill Daves seconded and the vote was unanimous.

**AGENDA ITEM VI**  
**PUBLIC HEARING | EVIDENTIARY HEARING FOR VARIANCE REQUEST**

The Board Of Adjustment conducts itself in a quasi-judicial fashion. The Chair facilitated an evidentiary hearing in order to collect any facts the BOA felt was needed to make an informed decision. Anyone providing statements to the Board of Adjustment including Town staff were sworn in. The Board of Adjustment is a quasi-judicial board and all testimony before it must be "sworn" testimony.

Thom Bates made the motion to appoint Jennifer Allen to serve on the Board of Adjustment. Bill Daves seconded and the vote was unanimous.

The applicants are requesting a variance from Section 8.1.1(E) of the Unified Development Ordinance to construct a 2,800 square foot metal building.

Chairman Martin called the members of the Board of Adjustment into session at 6:10 p.m.

Chair Chris Martin recognized petitioner Chasity Gaston who gave a brief overview of the project.

Chair Chris Martin recognized Stanley Humphries who is Ms. Gaston's father and managing the construction of the project. He made brief remarks about the need for the increased square footage of the building.

Mr. Longino stated the petitioner, Aric and Chasity Gaston, are requesting relief from section 8.1.1(E) of the Unified Development Ordinance. This section states "Maximum Area – on a lot smaller than 3 acres in size, the aggregate square footage of accessory structures shall not exceed 50% of the gross square footage of the principal dwelling." The total lot size (recently combined even though GIS shows two lots) is 1.66 acres. The proposed structure would be approximately 2,800 square feet. The home is approximately 1,075 square feet. The current ordinance would limit an accessory structure to approximately 538 square feet.

Petitioners have filled out two zoning permits. The first permit was denied because the accessory building was proposed to be on the separate lot when accessory buildings must be on the same parcel as the primary structure. The second permit was denied because the proposed building is more than 50% of the square footage of the primary.

Chair Chris Martin closed the public hearing at 6:30 p.m.

The Board of Adjustment reviewed the criteria in granting the variance and made the following comments:

- Unnecessary hardship: Thom Bates said they would not be able to use property or would have put forth money to work on it currently, etc. Bill Daves said he agreed.
- Hardship results from peculiar conditions:
  - o Thom Bates stated one provision for smaller lots, none for larger and that people should be able to do what they want with their property.
  - o J.T. Scruggs said it wasn't as black and white for him, but stated it wasn't in a heavy populated area.
- Not the result of action by applicant.
- Consistency with zoning code.

**AGENDA ITEM VII****VARIANCE REQUEST | 709 IDA STREET**

1. Unnecessary hardships would result from the strict application of the zoning ordinance. Jennifer Allen stated that the square footage is limiting because of the house. Chair Chris Martin stated you could still use the property but with a small building.

Thom Bates made the motion to approve Findings of Fact #1. Jennifer Allen and Chris Martin voted in the negative; all others voted in the affirmative.

2. The hardships result from conditions that are peculiar to the property.

J.T. Scruggs made the motion to approve Findings of Fact #2. Chris Martin, Jennifer Allen voted in the negative; all others voted in the affirmative.

3. The hardship results are not the result of action by applicant.

Jennifer Allen made the motion to approve Findings of Fact #3. All others voted in the affirmative.

4. The requested variance is consistent with the spirit, purpose and intent of the ordinance.

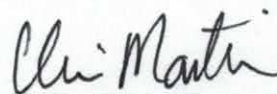
Thom Bates made the motion to approve Findings of Fact #4. Jennifer Allen voted in the negative; all others voted in the affirmative.

**AGENDA ITEM VIII****REMARKS**

J.T. Scruggs asked for a review of the ordinance.

**AGENDA ITEM IX****ADJOURN**

Thom Bates made the motion to adjourn at 6:44 p.m. J.T. Scruggs seconded and the vote was unanimous.



Chris Martin, Chairman



Noah Saldo, Town Clerk

