

BOARD OF ZONING APPEALS
July 27, 2005

THE REGULAR MEETING OF THE GREENE COUNTY BOARD OF ZONING APPEALS WAS HELD ON WEDNESDAY, JULY 27, 2005, AT 7:30 P.M.

Those present were: Raymond Daughtry, Chairman
 Bob Runkle, Vice-Chairman
 Janet Frye, Member
 Joel Snow, Member
 Richard Herring, Member
 Bart Svoboda, Zoning Official
 Kelly Clay, Secretary
 Marsha Alley, Secretary

The Chairman called the meeting to order stating that there would be one public hearing for an appeal request.

PUBLIC HEARING: Middle River, LLC—Appeal Request #05-001

Mr. Daughtry asked Mr. Svoboda to read the request and give a report.

Mr. Svoboda read the request: Middle River, LLC/Thomas Tompkins request an appeal of the Zoning Official's interpretation regarding the transfer of division rights as described in Articles 3-10 and 4-12 of the Greene County Zoning Ordinance. This request is on property that is identified on the County Tax Maps as 20-(A)-10B, 11, and 12 located on Middle River Road and Redbud Drive in Stanardsville containing a total of 85.11 acres and is zoned A-1, Agriculture, and C-1, Conservation. (BZA App#05-001)

Mr. Svoboda gave a staff report and a digital presentation.

Mr. Daughtry swore in speakers and opened the public hearing.

David Blankenbaker addressed the Board on behalf of the applicant. He explained that this subdivision application is to be heard at the Planning Commission as a 14 lot subdivision called Whispering Ridge. He pointed out that the issue tonight is to clarify what allows the transfer of land. He demonstrated that the land may not share a boundary in length but does join at a point and explained that there is a 60' r-o-w along the right hand border to serve all adjoining property. He added that he and the applicant appreciate the consideration of this request.

Mr. Daughtry asked if the subdivision would have 14 lots.

Mr. Blankenbaker explained that the subdivision is scheduled to be reviewed by the Planning Commission as a 14 lot subdivision but this request would allow for 16 lots within the same boundaries with no other changes other than the addition of 2 additional lots. He added that the 42 acre parcel is to be divided into 2 lots and the applicant is willing to abandon further division rights there.

Carl Schmitt addressed the Board as the former Chair of the Land Use Task Force for the Comprehensive Plan. He stated that it seems that the issue is interpretation of the language. He added that the Zoning Official is correct in the interpretation but pointed out that the applicant does offer good ideas by abandoning the other division rights. He noted that the transfer of division rights was addressed in the Comprehensive Plan. He suggested that the Zoning Official's decision be upheld at this point and that the Zoning Ordinance be reviewed to address the transfer of division rights.

Alton Keel, adjoining property owner, addressed the Board in support of the request. He believes that staff agrees with the concept. He pointed out that it is a good idea here because the applicant is willing to extinguish 4 division rights and the traffic would be on Redbud only. He noted that the issue is interpretation and asked if the transfer of division rights is clearly prohibited. He stated that the property does not share a boundary but a corner/point. He believes that this could be challenged. He suggested reviewing the definitions. He stated again, that the issue here is the interpretation. Mr. Keel thanked the Board for allowing him to address the issue.

Shelby Fischer addressed the Board. She lives across the street. She stated that she cannot speak on the legal aspect, but emotional only. She asked the board to deny the transfer of division rights. She is against the subdivision but feels 14 lots is better than 16 lots.

Diane Brill, adjoining property owner, agreed with the Zoning Official's interpretation.

Richard Herring asked David Blankenbaker if the request is denied what were other possibilities.

David Blankenbaker said that without the transfer, they could vacate all lot lines and then reconfigure them.

Richard Herring asked how much land must be added to the original land to get the number of division rights needed.

David Blankenbaker deferred to the Zoning Official.

Mr. Svoboda stated that the Zoning Ordinance does not specify the amount of land needed. He added that it would be the position of the County to avoid oddly shaped lots noting that he would tend not to approve them.

Mr. Herring asked if a portion of the larger parcel was added to the original parcel would that provide the number of division rights needed.

Joel Snow asked if a 60' strip with no point joins the land, would it be contiguous.

Mr. Svoboda said it would be more likely to be approved.

Mr. Herring asked if the 42 acre parcel could be joined with the other parcel.

Mr. Svoboda said no, explaining that according to interpretation it would not be an appropriate combination. He added that some state regulations and court cases have varied in the past and he has not received the most up to date decision.

Joel Snow said that there must be something or some way to determine the amount of a boundary.

Mr. Svoboda said there is nothing in this locality to make that determination as we have not been faced with this issue before.

Diane Brill questioned Mr. Herring regarding widening the boundary and how that would affect her property.

Mr. Herring said that it would not affect her at all.

Ms. Brill said ok, just wanted to understand that her property would not be affected.

Mr. Daughtry clarified that tonight's issue is to uphold or overturn the Zoning Official's decision.

Joel Snow questioned who owns the property at the point.

David Blankenbaker explained that parcel 10B is owned by Darrell Tompkins at a point with James and Diane Brill. He added that there may be a possibility of adjustments with other property owners.

Joel Snow asked if there may be any possibilities with the Brills.

Diane Brill responded with "no".

There were no further comments and the public hearing was closed.

Richard Herring stated that both sides are right.

Joel Snow stated that there is merit in abandoning some division rights. He added that this seems to be the perfect way to handle these properties. He pointed out that Mr. Svoboda has acted in the best way possible with his research and in making his

determination given the resources available to him.

Mr. Snow made a motion to uphold the Zoning Official's decision referring to Section 3-10 and 4-12 regarding Division Rights.

Mr. Runkle seconded the motion.

Mr. Daughtry asked Mr. Svoboda to call for the vote.

Mr. Svoboda called for the vote.

AYE

NAY

Mr. Runkle
Ms. Frye
Mr. Snow
Mr. Daughtry
Mr. Herring

Motion carried to uphold by a 5-0 vote.

MINUTES

Mr. Runkle made a motion to approve the minutes of June 22, 2005 as presented.

Ms. Frye seconded the motion.

The minutes of June 22, 2005 were unanimously approved.

OLD/NEW BUSINESS

Bob Runkle asked if the Planning Commission had considered the issues mentioned at the June meeting.

Bart Svoboda explained that the instructions from the Board of Supervisors is to prioritize at this point as follows:

- CIP

- Staffing
- Ordinance Revision

Bob Runkle asked if tonight's issue would encourage a zoning ordinance review.

Mr. Svoboda stated that it may. He added that time based division has been discussed. He informed the Board of Zoning Appeals that a CIP workshop has been scheduled for the Planning Commission in August. He noted that several public hearings are also scheduled for the Planning Commission in August.

Mr. Daughtry asked if there are any cases for next month.

Mr. Svoboda replied that there are no cases for August.

OTHER MATTERS

There were no other matters for discussion.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Kelly Clay
Kelly Clay, Secretary