

MINUTES

RANDOLPH COUNTY ZONING BOARD OF ADJUSTMENT

May 13, 2014

The Randolph County Zoning Board of Adjustment met at 6:30 p.m., on Tuesday, May 13, 2014, in the 2nd Floor Meeting Room, Randolph County Historic Courthouse, 145 Worth Street, Asheboro, North Carolina.

1. **Chairman Reid Pell** called to Order the Randolph County Zoning Board of Adjustment meeting.
2. **Hal Johnson**, called roll of the Members: Reid Pell, Chairman, present; Wayne Joyce, Vice Chairman, present; **Chris McLeod, absent**; **Larry Brown, absent**; Phil Ridge, present; Jim Rains, present; and Kemp Davis, present. County Attorney **Ben Morgan** was also present.
3. **Request for a Variance:**

Chairman Pell administered the oath.

Swearing in of the Witnesses - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."

4 people took this oath.

LUANN SEXTON, Trinity, North Carolina, is requesting a Variance from the County Unified Development Ordinance to allow 2 single-family residences on a 0.31 acre lot in lieu of the Zoning, Subdivision, and Watershed Regulations. Location: 525 Colonial Loop, Level Cross Township, Forestwood Estates Section 2 lot 3, 0.31 acre, Randleman Lake Watershed, Zoning District RM, Tax ID# 7758668391.

Johnson explained that this subdivision was developed back in the 1960s and the lots were very small. When the new by-pass was built, the lots were reduced for it's right-of-way. Johnson said that the Board approved a Special Use Permit for the small storage building to be used for an electrical contractor's business on this property several years ago. Since that time, the storage building (on this property) was renovated for a residence without the proper building permits. Johnson said that one of the problems here is septic tank issues. Johnson presented pictures from a neighbor of this issue and also drainage problems. The pictures also showed damage to the existing mobile home on the property.

*****Arguments for Granting this Request***

Sexton said that she purchased the property when it went into foreclosure. Sexton presented pictures to the Board of the house and mobile home on the property. Sexton said that she had the septic tank checked when she purchased the property and the contractor said it was good. Sexton discussed the tax appraisal on the property and said that the house is in nice condition. She said that she has a few rental properties that she owns in Guilford County and Randolph County. **Johnson** asked Sexton if there were any building permits issued for the house. She said she didn't know. She said that she hasn't had any issues with the septic tank on the property. **Johnson** told her that there were not any permits on record for the house. **Sexton** said that the drainage problems are coming from neighboring properties. **Johnson** asked if the Health Department has approved the septic tank system for 2 residences. **Sexton** said she did not say that. Sexton said she doesn't have any problems with the septic tank. **Pell** asked Sexton how many septic tanks she has on the property. **Sexton** said that she has 1 septic tank. **Pell** asked Sexton how many wells and she answered 1 well. **Sexton** said that she tries to keep nice rental properties. Sexton said that the trailer is nice on the inside, but it needs work on the outside. Sexton said that she will make these repairs if this is approved. Sexton told the Board that she wanted to report another property in the neighborhood that has 2 homes on 1 septic system. Sexton provided the Board with pictures. **Pell** asked what the Health Department said about 2 homes on the 1 septic tank system. **Sexton** said that the system can only be used for 2 bedrooms total. She said the mobile home has 2 bedrooms and the house has 2 bedrooms, but that the house could be made into a 1 bedroom home. Sexton said that she has owned the property since 2006. **Davis** asked how many times the septic system has been serviced. **Sexton** said that she hasn't had it serviced because her septic contractor said it was in good condition.

*****Arguments Against Granting this Request***

Jeff Roig, 519 Colonial Loop, said that he lives next to this site and their main problem is drainage problems. Roig said that they have dug a drainage ditch to help with these issues. Roig said he has talked to Sexton about these problems and she has said she has a guy that is going to come out and fix it. Roig said that the man never showed up. Roig said that they have had break-ins and a lot of strange activity coming from the renters at this location. Roig talked about strange people walking through their backyards wearing "hoodies".

Beverly Roig, said that the guys with the hoodies said that they had permission from Sexton's renters to hunt the property. Roig said that the people that live here don't keep up the property.

Diane McRoberts, 515 Colonial Loop, said when she purchased the property she was told by her realtor that the house on this property would not be used for a residence. McRoberts said that their home has been broken into and she has had to miss work to get a security system installed. McRoberts said that the drainage ends with Sexton's property. McRoberts said if special permission is given for this request, will I be able to get special privileges also. McRoberts said there are rules and she should have to follow them. McRoberts said that she doesn't run background checks on these people she rents to and they are also having dog problems with these neighbors. McRoberts said that

Sexton's renters are racing up and down the road coming in and out. McRoberts said she is a special needs foster parent and these people concern her.

****Board Discussion: Based on Findings of Fact**

Sexton said the neighbors are mad because her renters won't let them use her part of the driveway to pull out. Sexton said she does do background checks. Sexton said that a girl lived here for a year, her son has lived here for 3 years with another boy and they were not loud. Sexton said that she has not been told about the men with hoodies. Sexton said that she was not told that Roig's car was ransacked. Sexton said that she is going to put up a fence on the property.

Johnson said the people who rent are not the issue. The issue is if a second residence should be allowed. Johnson said that there have been no building permit issued for the structure to be converted to a residence. **Sexton** said that the building is a Jim Walters Home. Sexton said that she didn't know when the house was moved to the property.

Morgan said that a lot of what both parties have said about the renters, doesn't have any bearing on the legal standards required by the Board of Adjustment to grant a Variance..

Joyce asked if the original Special Use Permit that had been approved for the electrician's shop was void after the property was sold. **Johnson** said that the Special Use Permit goes with the land use and as long as the land use followed the conditions of the Special Use Permit it was valid. **Johnson** said that the use of the building had changed to a single-family residence without proper permits. **Rains** questioned if the stormwater issues raised by the adjoining property owners were relevant to the zoning Variance that was being requested. **Morgan** said that he felt the issue of stormwater impacts was relevant to a Variance decision of the Board because the minimum lot sizes and number of residences per lot mandated by all zoning ordinances are designed to lesson adverse impacts to adjoining land uses. **Johnson** agreed and stated that the main reason for minimum lot sizes and the limitation of one residence per designated square feet of lot was to enhance public health, safety, and the general character of the area. **Johnson** said the Variance request before the Board was to allow 2 single-family residences on a 0.31-acre lot. The lot was originally platted in the 1960's prior to any county or state regulations pertaining to lot size. The size of the lot was further reduced when the new Interstate highway took right-of-way from the lot. The 0.31-acre lot is classified as a legal "non-conforming use" and one single-family residence would be permitted on this lot. **Johnson** said that Mrs. Sexton has insisted that she be heard before the Board of Adjustment because she desires to use the lot for two single-family residences. No building permits, or approved septic tank permits, have been issued for the second structure that is now being used for a single-family residence. **Davis** asked if the Health Department would approve 1 septic tank system for 2 residences on such a

small area of land, 0.31-acre. **Johnson** said that Mrs. Sexton's testimony was that the septic tank was approved for only 2 bedrooms.

Davis said that he always has sympathy for property owners that are requesting a Variance but the Board is required to weigh all evidence and testimony presented at the hearing in an impartial manner. **Davis** said that this request did not meet several of the normal factors for a Board of Adjustment to consider when granting approval of a zoning variance. He cited (1) that reasonable use of the property can be made without the variance as the lot can still be used for a single-family residence on the non-conforming lot; (2) the hardship is not peculiar to this specific property because the one residence per zoning lot generally applies to all properties within the Randolph County zoning jurisdiction; and (3) the general spirit of the ordinance is to mostly restrict one residence per zoning lot so as to protect the general health and welfare of county citizens.

Davis said that, as a Board member, he would like to think that he could help her out, but he didn't see how the Board could justifiably approve this request.

*****Order of the Board of Adjustment***

Davis made the motion, seconded by **Joyce**, to **deny** this request for a Variance due to the previously state findings and conclusions. The motion passed by a vote of 4 to 1, **Rains** voted against the motion.

4. **Joyce** motion, seconded by **Ridge**, to adjourn the meeting. The meeting adjourned at 7:38 p.m. There were 5 citizens present for this meeting.

Johnson announced that there would not be a meeting of the Planning Board held in June. The next meeting would be scheduled for July.

**NORTH CAROLINA
RANDOLPH COUNTY**

Planning Director

Date

Clerk/Secretary