

**MINUTES
TOWN OF FORT MILL
BOARD OF ZONING APPEALS
JUNE 20, 2016
6:00 PM**

Present: Jim Thomas, Jody Stegall, Charles Stec, Terri Murray, Becky Campbell, Assistant Planner Chris Pettit

Absent: Ryan Helms, Scott Couchenour

Guests: Randall A. Parks, Jack Dover, Scott Couchenour, Jonathan Lake, Mary Lake, Mindy Hinson

Chairman Thomas called the meeting to order at 6:00 p.m. and welcomed everyone in attendance.

APPROVAL OF MINUTES

Mr. Stec made a motion to approve the minutes of May 16, 2016 meeting as submitted by staff. Mr. Stegall seconded the motion. The motion was approved by a vote of 5-0.

PUBLIC HEARING ITEMS

1. **Variance request from Jonathan Lake – The Meadows Lot 13, Lazenby Drive – Case #2016-466:** Assistant Planner Pettit provided a brief overview of the variance request, the purpose of which was to allow a reduction in the minimum lot width as measured at the building line to allow the home design as submitted by the applicant. Mr. Pettit gave a summary of the staff report, noting the requirements per Article II, Section 1(5)(C), which outlines the 100' lot width requirement at the building line for R-15 properties. Mr. Pettit noted that the building setback for R-15 properties is 35', however the 100' lot width requirement pushes the home back further due to the shape of the lot. Finally, Mr. Pettit noted that the board, pursuant to state law, has the authority to grant variances in cases of unnecessary hardship as defined by state law and noted on the application and in the staff report.

Chairman Thomas opened the public hearing and asked if the applicant was present and would like to speak to the application.

Jonathan Lake, applicant, spoke to the shape of the buildable area on the lot and the difficulties of finding a house plan that would fit on the lot. Mr. Lake noted that the neighborhood covenants exempt the lot from neighborhood setback restrictions and instead require only that town requirements are met. Mr. Lake spoke to the proposed location of the home and noted that it would be set back significantly from the street and barely visible.

Mr. Stegall questioned the location of creeks/streams on the lot, to which Mr. Lake pointed out the creeks on the lot. Discussions occurred related to the creeks and the drainage of the property in general.

Mr. Stec discussed the neighborhood covenants and whether the HOA would approve the home since technically it wouldn't fit within the requirements of the town's zoning, to which Mr. Lake noted that he couldn't speak to it but that his immediate neighbors were present to speak for the request.

Ms. Murray questioned whether the applicant was aware that there would be issues prior to purchasing the lot, to which Mr. Lake noted that he was aware that there would be issues as he is currently in the process of purchasing the lot. Mr. Stegall noted that the options are that a variance be issued or the lot remains vacant.

Jack Dow, adjacent property owner in The Meadows, noted that he was excited for the opportunity for the Lake's to build in the neighborhood. Mr. Dow noted that the proposed home would be screened from the Doby Court properties, his property, and the golf course. Mr. Dow noted that he has been the property owner for eight (8) years and that they have been hopeful that the lot would be developed.

Mr. Stec questioned whether Mr. Dow was an original homeowner, to which Mr. Dow noted that he was not. Mr. Stec questioned whether Mr. Dow was aware of the restrictions of the lot, to which Mr. Dow noted that he has always been hopeful that the lot would be developed. Mr. Stegall questioned why the lot wasn't addressed, to which Mr. Pettit noted that the lot would be addressed upon a request for a building permit.

Randall Parks, a resident of Allison Street, noted that he was in support of the property being developed as he frequently travels through the neighborhood on his golf cart.

Scott Couchenour, owner of the adjacent property on Doby Court, noted to the public that he is a member of the Board of Zoning Appeals but would be speaking only as an adjacent property owner. Mr. Couchenour noted he purchased his property in 2007. Mr. Couchenour note that when the developer purchased the property, they were told that lot 13 was unbuildable and asked to not plat the lot, however additionally noting that the lot was platted as a buildable lot. Mr. Couchenour stated his concerns were that the Doby Court properties would have back doors facing the applicant's front door, the proximity to the rip rap, the potential flooding of the retention pond, the proximity to the drainage area behind the #4 golf green, and the potential to set a precedent for the neighborhood. Mr. Couchenour requested that if the variance is approved, that this be the only variance approved for the lot and that nothing be built to block his view going up the #4 fairway. Mr. Couchenour additionally spoke to the possibility of providing utility right-of-way access to his property. Mr. Couchenour noted that the lot today is overgrown and that developing the lot would be an improvement.

A discussion occurred regarding the existing views from Mr. Couchenour's property as looking toward the golf course and the development of the subject property / platting of the lot. Mr. Stec questioned whether any of Mr. Couchenour's knowledge of the platting history for the subject property was written, to which Mr. Couchenour noted that it was not and to which Mr. Pettit noted that the property is a legal lot of record and is therefore buildable.

Mr. Stegall questioned whether the retention pond had overflow protection, to which Mr. Dow noted that it did.

Mr. Stegall questioned whether in Mr. Couchenour's opinion that the development of the lot would be of a benefit since it would clean up the lot, to which Mr. Couchenour stated that it was "50-50".

Mr. Couchenour made two final comments, noting that he would like to see in the new UDO that adjacent property owners be notified 10 days in advance and that the Board of Zoning Appeals require HOA approval notification prior to accepting a request for variance. Chairman Thomas noted that Mr. Couchenour would need to take those matters up with Town Council. Mr. Couchenour thanked the board for hearing his comments and left the meeting prior to any further discussion or voting.

Mary Lake, applicant, noted that the property is in close proximity to her work and the plan is to make the property their forever home. Ms. Lake noted that there are no other properties in The Meadows as far as precedent for variances. Ms. Lake additionally noted that the way in which the property sits, the front door would not be visible from Mr. Couchenour's back door. Further discussions occurred related to existing vegetation onsite and the multitude of potential house plans for the site.

Mr. Stegall asked for clarification as to what the exact variance would be that is being requested, to which Mr. Pettit noted that the request is to reduce the minimum lot width at the building line from 100 feet to approximately 75' plus or minus. Mr. Thomas requested clarification that the garage is what currently does not meet the zoning requirements, to which Mr. Pettit noted that the garage is currently the only portion of the home that goes outside of the existing buildable area. The board contemplated several layout alternatives for the property, noting that none of the options would fit in the existing buildable area.

Having no others wishing to speak, Chairman Thomas closed the public hearing.

A discussion occurred regarding the HOA covenants and how residents agreed to the language noted regarding the lot and how no one attended the meeting from the neighborhood to speak against the request. Mr. Stec had concerns with the language of the HOA covenants, but noted that the residents didn't show up to speak to it. Mr. Stegall and Ms. Campbell noted that if they had issues with the request, the residents would have shown up.

Discussions occurred related to the comments and concerns of Mr. Couchenour, specifically regarding the visibility from Mr. Couchenour's rear property.

Mr. Stec questioned whether the property's lack of an address had any meaning, to which Mr. Pettit noted that there was no significance to it and that the County would provide an address upon request.

Mr. Stec questioned the exact reduction in the minimum lot width at the building line that was being requested, to which Mr. Pettit noted that it was difficult to determine exactly without a program such as AutoCAD but that the board could reference the survey as submitted and staff would ensure that any approvals matched what was shown at the meeting.

Mr. Stec questioned how many lots in the Town of Fort Mill were similar to the lot in question, to which Mr. Pettit noted that awkwardly shaped lots exist for a number of reasons and are present throughout town.

Hearing no further discussion, Mr. Thomas called for voting on the four criteria required in granting a variance. Mr. Thomas called for a motion on whether or not there were extraordinary and exceptional conditions pertaining to the particular piece of property. Ms. Campbell made a motion that there were extraordinary and exceptional conditions pertaining to the particular piece of property. Ms. Murray seconded the motion. The motion passed by a vote of 4-0 with Mr. Stec abstaining.

Mr. Thomas called for a motion on whether the conditions apply to other property in the vicinity. Mr. Stegall made a motion that the conditions do not generally apply to other property in the vicinity. Ms. Murray seconded the motion. The motion passed by a vote of 5-0.

Mr. Thomas called for a motion on whether the application of the ordinance effectively prohibits or unreasonably restricts the utilization of the property. Mr. Stec made the comment that it would be impossible for the board to determine whether or not a house plan exists that would fit on the lot. Mr. Stec made a motion that the ordinance does not effectively prohibit or unreasonably restrict the utilization of the property. The motion failed for a lack of a second. Ms. Campbell made a motion that the application of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property. Mr. Stegall seconded the motion. The motion passed by a vote of 4-1, with Mr. Stec opposed.

Mr. Stegall questioned at what point the board could apply conditions to the approval, to which Mr. Pettit noted that the final motion to overall approve or deny the variance could include conditions of approval.

Mr. Thomas called for a motion on whether the authorization of a variance would be of substantial detriment to adjacent property or to the public good, and the character of the district would be harmed by the granting of the variance. Mr. Stegall made a motion that the authorization of the variance would not be detrimental to the adjacent property and the public good, and that the character of the district would not be harmed by the granting of the variance. Ms. Campbell seconded the motion. The motion passed by a vote of 5-0.

Mr. Thomas called for a motion for whether or not to grant the variance. Mr. Stegall made the comment that no fence or solid screening over 4' would be fair to ask as a condition. Mr. Stec questioned what the condition had to do with the request at hand. A discussion occurred related to the relationship of the proposed condition to the variance request. Mr.

Thomas questioned what rules would apply for fencing, to which Mr. Pettit explained the requirements for fencing per the town's zoning ordinance. Discussions occurred related to fencing required for pools, to which Mr. Pettit noted that the swimming pool code requires only a 4' fence.

Mr. Stegall made a motion to approve the variance as requested. Ms. Campbell seconded the motion. The motion passes by a vote of 4-1, with Mr. Stec opposed.

The meeting was adjourned at 7:05 p.m.

Respectfully submitted,

Chris Pettit, AICP
Planning Department
October 1, 2016