

TOWN OF STOKESDALE
8416 US Hwy 158
STOKESDALE, NORTH CAROLINA

The regular meeting of the Stokesdale Town Council was held in the Town Hall at 8416 US Highway 158 on Thursday, May 20, 2010.

Mayor Randle L. Jones called the meeting to order at 7:30 PM. The following members of Council were present: Mayor Randle L. Jones, Mickie Halbrook, James Attaway, Cheryl Steele and Bobby Richardson.

Others present included: William B. Trevorrow, Town Attorney; Guilford County Planner Trevor Nuttall; Guilford County Deputy Steve Christman; and Town Clerk/Finance Officer Carolyn Joyner.

After the Pledge of Allegiance, Council considered the proposed agenda. Mr. Richardson made a motion to adopt the agenda. Mr. Attaway seconded the motion. All Council members voted aye and the agenda was adopted.

The minutes for the April 15, 2010 meeting were not available.

NEW BUSINESS:

Report from Guilford County Sheriff's Department: Deputy Christman reported that seven cars had been broken into since the last meeting. Two Stokesdale residents have been arrested and charged. There had also been three assaults with two arrests being made, one drug arrest, two DWI arrests, two alcohol offense arrests and one communicating threats report and one damage to property report.

PUBLIC HEARING – Board of Adjustment Case No. 13 (10-04-STPL-01341): Robert Cook is requesting variances to allow three existing accessory structures to remain as presently located in front of the existing principal dwelling rather than behind as required by Section 4-2.2 (A) of the Stokesdale Development Ordinance and to encroach within the street setback, as established by Table 4-4-1, up to sixteen feet. The property is located at 9067 US Highway 158 in Oak Ridge Township, is identified by County Parcel Number 0167032, and is zoned Agricultural.

Mayor Jones made a motion for Council to recess and convene as the Board of Adjustment. Ms. Steele seconded the motion. All Council members voted aye.

Mr. Nuttall said that the Board would be asked to make a quasi-judicial decision. Ronald Dale Cook, Eugene Lawson, and Trevor Nuttall were sworn in by Mayor Jones.

Mr. Nuttall presented the case as follows: Mr. Robert Cook requests variances from the standards of Section 4-2.2 (A) and Table 4-4-1 of the Stokesdale Development Ordinance to allow three existing accessory structures to remain as presently located in front of the existing principal dwelling rather than behind the dwelling as required by the Ordinance. Mr. Cook also seeks variances to permit the structures to encroach into the front street setback for a distance not to exceed sixteen feet. The subject property is located at 9067 US Highway 158 and is identified as County Parcel Number 0167032. The property is zoned Agricultural.

The applicant has submitted written responses to Ordinance considerations required by Section 9-4.8 of the Stokesdale Development Ordinance. These responses are included with the application and will be presented at the hearing. Staff does not make recommendations on quasi-judicial decisions. The Board's decision shall be based on evidence presented during the hearing. The Board's packet of information should have the Board of Adjustment regulations Article 9 of the Ordinance, zoning map of the area, a topographical map and an aerial of the site.

Mr. Nuttall pointed out a few property characteristics that the Board should be aware of while considering this request.

1. The front property line is approximately 75 feet from the centerline of US Highway 158. This ROW was established at the time the lot was created in 1987 to enable future expansion of the highway within a projected needed 150'-ROW. The ROW is approximately 45' wider in this location for this property than it is for the property to the west (30' from centerline).
2. The last thoroughfare plan adopted by the regional transportation planning agency (GUAMPO) projected a

future ROW need of closer to 90 feet for Hwy 158 expansion in this area but the previously established ROW still remains.

3. This means that if the property were to have been created today, the ROW likely would have only extended to approximately 45 feet from centerline and the required building setback would have been only 95' from centerline instead of 125'. The existing buildings would not be within the 50' setback. The issue pertaining to the accessory buildings being located in front of the primary dwelling would still require variances.
4. There is a small stand of existing vegetation within the existing ROW that provides some screening of the structures in question. One of the reasons for the requirement that accessory structures be located behind the primary dwelling is for aesthetics
5. The applicants indicate that, among other reasons, the property's topography, drainage, and septic system location make placing the buildings behind the principal dwelling unfeasible.

Mr. Nuttall said that he would answer any of the Board's questions.

Ms. Steele asked how long the buildings have been there. Mr. Nuttall did not know. Ms. Halbrook asked if they were there prior to 1987. Mr. Nuttall said that he did not know. Ms. Steele said that some of the older aerials show them. Mr. Nuttall said that on the older aerials there does appear to be some type of structures at the approximate locations. On newer aerials, they do not seem to be there.

Ms. Halbrook asked if all three are storage buildings. Mr. Nuttall said that there is a carport and two small storage buildings.

Ms. Steele asked if there were any photographs. She said that she had driven by the location. Mr. Nuttall said that the applicant would present some photos. The photos were submitted with the application and are a part of the file. The applicant will explain what the photos depict.

Ms. Steele asked if the footprints on the maps represent existing structures or permitted structures. Mr. Nutgall replied that they represent the structures that were on the ground at the time that the planimetric information was gathered which was many years ago.

Mayor Jones said that the Board would hear from the applicant first.

Ronald Dale Cook, 3204-D Regents Park Lane, Greensboro, (son of Robert Cook) said that they could not locate the buildings behind the residence because the septic lines are at the rear of the property and drainage of water. All of the water from the roadway, the adjacent cemetery and the pavement for it drains toward the property. Additional asphalt on the opposite side has created a funnel effect. It is always muddy and sometime swampy to the rear of the property. The septic lines are located there. One structure is a garage that is used to park vehicles under and a concrete pad is needed and that could not be placed on septic lines. The carport structure is not in front of the structure. One corner is 12 inches away from the residence rather than 18 inches that is required. Two of the buildings have been there since January. They were purchased for Christmas and when they were purchased, the salesperson said that all of the permits were included in the price. When they were contacted by Mr. Nuttall and told they needed permits, they went back to the company that sold the buildings to them and were told that moving permits that were included because the building was modular and delivered in sections. They did not tell them that it was not building permits and they needed to obtain them. There are trees along the roadway that block 85 to 95% of the sight from the road. The photo was taken in January and the trees do not have leaves. The trees have been there forever and they expect them to stay there unless the road is widened. They provided a sound buffer and keeps them from seeing the traffic. The carport and the gray building was delivered in January. The other building has been there for about seven years. Water comes off of the adjoining property and it has knocked over a tree and a fence is falling down. If the structure was place in the rear, they could not get to it and the footing would have to be poured again because they would erode away.

Mayor Jones asked what the buildings were used for. Mr. Cook replied that one is used for storage of a hot dog cart that is used as a business in the summer along with a refrigerator and supplies for the business. The other building is used as a woodworking shop. The garage has the lawn mower and weed eater in it. He said that there is precedence in the area because his neighbor has two buildings located between the roadway and his home and they are not covered by a tree buffer between Hwy 158 and the road on the side. There is no tree buffer and they are right up at the roadway and ours are behind trees. Mayor Jones asked the primary purpose of the structure. Mr. Cook replied that it is a residence and his father and mother reside there.

Mr. Attaway asked if they were notified by the County for a violation. Mr. Cook said that the County had notified them that they needed to get permits for the buildings. When they went to get the permits, they were told that their property had a larger setback than the two properties beside of them.

Ms. Steele asked if the garage and the carport are the two that need permits. Mr. Cook said that all of them need permits. The carport needs a permit because it is 6 inches too close. The other buildings needs permits because they are in front of the property.

Those Speaking in Opposition:

Gene Lawson said that the two buildings mentioned are the two buildings that the Town of Stokesdale and Guilford County had him move from 9105 US Hwy 158 off of the setback area. They are pulled there until they can be set at the proper location. They are there temporarily and he has applied for the permits for them. He said that he had to move three separate buldings for the same reason since they were on the setback area. He said that he was against this since he had to move his buildings.

No one else came forward to give testimony.

Mayor Jones said there are several things that the Board must consider in this case such as whether it meets the criteria for granting a variance or not and whether it is going to make reasonable use of the land, building or structure. The fact that the property may be utilized to make a greater profit is not to be considered. It has to be adequate to justify the granting of a variance. The Board cannot look at an unpermitted use or densities and how the zoning district involved and neither the non-conforming use of the land nor financial hardship constitutes grounds for granting a variance. Financial hardship is not grounds for granting a variance.

Mayor Jones said there were some issues that he would like to look into before making a decision. In granting a variance you have to indicate that there is a hardship that the applicant complains of is the result of unique circumstances relating to the applicants property. The hardship relates to the applicants property rather than personal circumstances. Financial hardship is not grounds for granting a variance. The applicants can make no other reasonable use of his property if he complies with the provisions of the Ordinance.

Mayor Jones said that based on the testimony, he does not feel that he has sufficient information to make finding of fact. He made a motion to continue the case until the next Council meeting in order to look at some of the other issues. One issue is what the setback it is now versus what it was in the past. Another issue is whether the corner of the garage being off 6 inches is the only issue or if there are others and the issue of the buildings being in front of the structure. There are issues about the conditions that could be placed on this. Mr. Richardson seconded the motion. Mayor Jones amended his motion to continue the matter until the next Council meeting which would schedule the Board of Adjustment to reconvene on June 17 to complete addressing this matter without further advertising. Mr. Richardson seconded the motion as amended. All Council members voted aye and the motion carried.

Mr. Cook asked if the issues could be provided for them in writing in order that they could prepare their answers. Mayor Jones said that if there are issues that information from them is needed, then upon the advice of the attorney it would be provided. Mr. Trevorrow said that it would be appropriate. He suggested that all issues be channeled through Mr. Nuttall and he can contact Mr. Cook if information is needed.

Mayor Jones made a motion to recess as the Board of Adjustment until the June 17 meeting. Mr. Attaway seconded the motion. All Council members voted aye and the motion carried. Council reconvened at 8:17 p.m.

UNFINISHED BUSINESS:

Water Issue: Mary Mikels: Ms Mikels said that she lived in Greensboro and owns the Family Diner in Stokesdale. She signed up for water when it came to Stokesdale and paid \$200 for it. An attorney in Greensboro was searching the deed for the property and found that she there was a lien on the property which she did not know about. She gets a water bill every month. She had put a new well in and she did not want to hook up to the water but she paid the \$29.50 every month. Later she decided that she would hook up to the Town water. Ms. Honeycutt with the Guilford County Health Department came out and said that she could not hook up to Town water. Ms. Mikels said that she called Ms. Joyner and told her not to send any more bills since she could not hook up. She still gets the bills every month and it has added up but she has not used any water. She said that she has been to Town Hall twice to ask for the lien to be taken off of her property. The Clerk confirmed that she had paid the \$200

connection fee at Town Hall. Mayor Jones asked if the County, the Health Department, sent anything to the Town of Stokesdale saying that she was not eligible for using the Town water or any type of certified dated letter when it initially occurred and she stopped paying her bill. If they did, the Town has no record of it. He asked if, when she elected not to pay the bill, did she come to Town Hall when the County said that she could not hook up to the water system. Ms. Mikels said that the only thing that she had sent to Town Hall was the letter that she brought to Ms. Joyner and asked her not to send any more bills. At this point Ms. Mikels showed Mayor Jones a letter. Mayor Jones said that the letter was not dated and the postmark on the envelope said February 16, 2010. Mr. Trevorror clarified that he had seen the letter that was not dated and had called Ms. Honeycutt and she had sent him a letter that was dated February 15, 2010. She also sent a log of the Health Department actions regarding the property. In 2004 – 2005 Ms. Honeycutt had worked with Ms. Mikels on a malfunction of the septic system and it was at that time that she had informed Ms. Mikels that there was not enough room on her property for her to tap into the Town water line. The point of that would appear to be that from 2005 to the 2010 date of the letter that Ms. Mikels did nothing although the dry tap fee was apparently ongoing. The dry tap fee is what Ms. Mikels is commenting about. It would appear that something could have been done in 2005 but that the applicant has allowed this to go on for 5 years without doing anything about it. Ms. Mikels said that she was asking for this to be taken off of her lease so that she could sell her property to Mr. Sharon. Mayor Jones said that it happened because the Town had not received any notice of why she should not have paid her water bill. According to Mr. Trevorror's comments, it could have been corrected in 2005 by having the Health Department to send the Town the information. He asked for the total amount of the lien. Mr. Sharon responded that he thought it was about \$3,000 with a lot of it being late charges rather than the water bill. Mayor Jones asked if the \$3000 was from 2005 until now. Mr. Sharon said that he thought it was from when she stopped paying her water bill until now.

Ms. Halbrook said that Ms. Mikels has been in business in Stokesdale for forty years and sometimes you do not know how to handle this type of situation. She feels that if the Town can help her and settle it, then they should. Ms. Mikels said that she has been here for fifty years. Mayor Jones said that it would have been better if she had handled it five years ago and there would not be a lien on her property rather than just electing not to pay. She should have been on notice that something was wrong or the Town would not have continued to send her a bill each month. She said that Ms. Joyner had showed her the phone number since she had not seen it on the bill. Mayor Jones said that you cannot just ignore bills and not pay them. It is up to Council's pleasure as to whether to waive the fees or not or waive the penalties. He asked if she or Mr. Sharon had a proposal for how to correct this situation. Mr. Sharon said that his attorney, Tom Keever, had contacted Mr. Trevorror about the late fees. Mr. Sharon asked if he bought the property and could not hook up to Town water, would he continue to get a water bill. Mayor Jones said that if the County information is as Council has been told that it is, then Council will not make a hardship of it and continue to send bills for something that he cannot use. It does not mean that people who signed up for a dry tap and continue to not use it aren't going to get a bill because they are. He said that he pays his bill every month and he has not hooked up yet. There is some precedence here but it can be resolved but the Town has incurred some expenses that would not have been incurred by the Town and the tax payers had proper notice been given to the Town. Mayor Jones suggested that Mr. Sharon and Mr. Trevorror get together and see if there is a suggestion or option for resolving this and if you have an appropriate proposal of a good way to resolve this then make that and if Council needs to act on it they can address it at the next meeting. Mayor Jones made this as a motion and Mr. Halbrook seconded the motion. All Council members voted aye and the motion passed. Mayor Jones said that Council has some precedence may be set but Council will work with them on it. Mr. Trevorror asked if he can expect a call from Mr. Keever. Mr. Sharon said that he would call Mr. Keever the next day and see if they could not resolve the issue.

Municipal Environmental Assessment Coalition (MEAC): Consider Participation in Coalition (Continued from April 15, 2010): The Clerk had inquired about questions that were brought up at the previous meeting about whether the Town would be billed for additional fees if Council joined the MEAC. The NCLM had responded that enough municipalities are participating in the program so there will not be any additional billing other than the original \$500 fee. Mayor Jones asked what the Town's benefit would be by joining the group. Ms. Joyner said that it is an effort to determine the effect of water quality rules such as the Jordan Lake Rules. Mayor Jones said that the Jordan Lake Rules had unfunded mandates. The Clerk noted that there are more rules and they are now looking at reclassifying the Haw River. Mayor Jones said that joining the Coalition would cost \$500. There was no further discussion and no action on the matter.

Request for Waterline Extension for Tree Court: Mayor Jones said that Council had an estimate of \$12,783.00 from the Town's engineers for an extension of the water lines on Tree Court. He indicated that two residents had signed up for a water tap. Ms. Maness said that one resident was interested in water if the price for a connection was

less that the price she had been quoted. Another resident was not interested but said that if others wanted it they should have it. Mayor Jones said that it may not be realistic for that price if only two or possibly three people were interested in it. Mayor Jones said that the budget is coming up and the Town has to make ends meet. He said that Council may consider it at another time. Ms. Maness said that a neighbor on McCrorie Road was interested in water but the line is on the opposite side of the road from his house. Mayor Jones said that the Town water can be taken to the opposite side of the road to his residence. He suggested that Council should remember the request for Tree Court should there be a time when it would be more feasible.

Construction Change Orders: Ms. Joyner indicated that there is one change order in the amount of \$211.45 for the Park. It was for the installation of conduit before the paving was done so that the pavement would not have to be torn up in the future to install the electrical wiring for lighting. There would be \$17,300 in contingency if the change order is approved. Stewart Cooper Newell had recommended approval of the change order. Mayor Jones made a motion to approve the change order for \$211.45. Ms. Halbrook seconded the motion. All Council members voted aye and the change order was approved.

There were four change orders for the Town Hall. One was for unsuitable soil in the amount \$10,020. Trench rock excavation will cost \$6,406 and is necessary so that storm water drains can be installed near the south parking lot. Duke Energy says that three phase three electrical service is necessary for the new Town Hall. The location of a transformer was also an issue. By placing it on an existing pole on Angel Pardue Road, a savings will be realized by the Town. A change order for the net amount of \$4,926.54 for the changes in electrical service is needed. The fourth change order is \$773 for adding in a gate valve in the water line that extends to the concession stand at the Park. This would allow the water to be turned off to the concession stand while Town Hall would continue to have water. Mr. Richardson said that this valve may not be needed. There is probably a shutoff valve at or near the concession stand and two would not be needed. The Clerk noted that Birk Ayers, Project Engineer says that the valve would be nice but not a necessity. Mr. Richardson suggested approving the change order now and a final decision can be made after the foreman reviews the plans for the water system and determines if there is another valve. A construction meeting is scheduled for next week and a final decision can be made at that time. Mr. Richardson said that the rock is granite and cannot be avoided like the rock in the park. Ms. Joyner indicated that there is a contingency amount of \$58,000 for the Town Hall project and if all of the change orders are approved and implemented, there would be \$35,874.46. Mr. Richardson made a motion to approve the change orders. Ms. Halbrook seconded the motion. All Council members voted aye and the change orders were approved.

COMMITTEE AND BOARD REPORTS:

Committee/Board Reports: There were no Committee reports.

Departmental and Administrative Reports; Finance Report: April, 2010: The Finance Officer noted that cash assets have declined due to the expenditures for Town Hall. Checking account transactions include a payment of \$262 for the insurance on the Town generator, and \$270 for the copier maintenance agreement. Accounts Payable for General Fund includes Carolina Security and Wiring and an invoice from Office Depot. Two Certificates matured during the month. One earned \$159.75 and the other earned \$4,287.93. Both were renewed. A deposit from Time Warner Cable to the General Fund savings account was made in the amount of \$1,513.63 for first quarter franchise fees.

Town Hall Capital Project checking account shows the first payment to R. P. Murray in the amount of \$66,477. There were no expenditures from the Park Capital Project checking account. A Water Sewer certificate matured. It earned \$634.34 in interest and was renewed for 13 months. Water Enterprise Accounts Payable reflects an invoice from Sir Speedy Printing for \$306.73 which was for the printing and mailing out of water quality reports to all water customers. Ms. Joyner indicated that the State required that the reports be mailed out while last year, a post card was sent out with information on how to get a copy of the report.

A Water Enterprise Certificate of Deposit matured and it had earned \$832.62 and it was also renewed. The Water Enterprise Checking Account transactions were routine. On April 27, a deposit of \$3,401.62 was paid to the Town as a result of an insurance claim that was filed for a damaged fire hydrant on Athens Road. Mr. Attaway asked for the location of the last water line break that occurred recently. Ms. Joyner replied that it was in Angels Glen not on Athens Road. Mr. Attaway said that a large puddle of water on Athens Road near the dentist office. Ms. Joyner replied that it is being checked on to see if it is a slow leak.

Presentation of the 2010-2011 Budget & Budget Message - Finance Officer: Ms. Joyner reported that the

Book 10, Page 1922

proposed budget is basic with no extras but it does maintain the status quo. Funds have been allocated for the operation of the Park and some changes are the result of the upcoming move into the new Town Hall. The budget does not have an ad valorem tax in the proposal. Expenditures are limited to the amount of income that the Town receives and does not using savings to pay for the daily operations of the Town. Additional Law Enforcement and street lights for the downtown area are included as well as funds for the operation of the Town Water system. A copy of the Budget Message is hereby incorporated into and made a part of the minutes of the minutes.

Set Date for Budget Hearing: Mayor Jones made a motion to set the budget hearing for June 17, 2010 and to authorize advertising for the public hearing. Mr. Attaway seconded the motion. All Council members present voted aye and the public hearing was set.

Administrative Report – Town Clerk:

Emergency Operations Plan Update: The Clerk had attended a meeting regarding an update to the Emergency Operations Plan for the County. There will be some addition meetings.

Vacation Request: Mayor Jones made a motion to approve the Town Clerk/Finance Officer's vacation request. Ms. Steele seconded the motion. All of the Council members voted aye and the motion carried.

ANNOUNCEMENTS: Mayor Jones read the announcements listed on the agenda.

COMMENTS FROM THE FLOOR: No comments were made.

COMMENTS FROM COUNCIL: Mr. Trevorrow updated Council on their request for information on the ABC issue. Mr. Trevorrow said that he heard back from the Triad ABC Board which is principally Forsyth County with some adjoining communities in the same area. Greensboro had declined to take any interest in taking on Stokesdale as a project and now Triad has also declined. Both site the current economic condition as their reason for declining. Mr. Bradsher, manager of the Triad Board indicated that if Stokesdale has an interest in proceeding on their own, there are two models that Council may want to look at. They are Mt. Airy and Pilot Mountain ABC Boards. They both have established their own stores. Mr. Trevorrow wanted to make the report to Council before placing a call to their manager to see if there was any reason for the call to be made. Ms Steele and Ms. Holbrook indicated that Council should wait for a while before doing anything further.

ADJOURNMENT: Mayor Jones made a motion to adjourn. Mr. Attaway seconded the motion. All Council Members voted aye and the motion carried. The meeting adjourned at 9:02.

Carolyn L. Joyner, Town Clerk/Finance Officer

Approved:

Mayor Randle L. Jones