

AGENDA-BLOUNT COUNTY BOARD OF ZONING APPEALS

December 8, 2005 meeting, 6pm at the Blount County Courthouse

Roll Call and Approval of Minutes:

Appeals:

1. None.

Variances:

1. Don & Mary Mcdougale on lot 91 of Big Valley
2. Ann L. Seaton & Ken J. Love at 2832 Spruce Hill Road

Special Exceptions:

1. Joe & Kathy Burns ate 909 School House Gap Road.
2. Forest Hill Apartments off Montvale Road.

Other Business:

None

**BLOUNT COUNTY BOARD OF ZONING APPEALS
REGULAR SESSION
THURSDAY, November 3, 2005**

BZA members present: Katherine Lovingood, Stanley Headrick, Harold Brown, Larry Campbell, and Rob Walker.

The minutes from the last meeting were read and approved. A motion was made By **Larry Campbell** to accept the minutes and was second by **Rob Brown**. The minutes were approved by all the members present.

CASES BEING HEARD / AND ACTION TAKEN

VARIANCE: TWO

SPECIAL EXCEPTION: TWO

APPEALS: NONE

1. Variance: Mitchell Myers at 3832 Morganton Road.

This is an **Appeal** to the stop work order issued by **Roger Fields** on August 22, 2005.

Mr. Myers received a site plan approval for the expansion of his Existing storage unit located at **3832 Morganton Rd.** In August **Roger Fields** Was notified that an automobile repair had been moved into the newly constructed building.

Since the approval was for the expansion of the existing business and not for a newly established auto repair shop, **Mr. Fields** issued a *stop work* order.

Mr. Myers is now appealing that order.

Mr. Fields stated that this is not a legal use according to our zoning regulations.

David Osborn spoke in support of this appeal.

Larry Campbell made a motion to deny this variance and **Katherine Lovingood** Second the motion.

The vote was: **Katerine Lovingood = YES**
Larry Campbell = YES
Rob Walker = YES
Stanley Headrick = YES
Harold Brown = YES

The Variance was denied.

2. **VARANCE:** Ridout L.L.C. at 3917 Leyter Drive.
The request is for a six foot variance on a porch on new construction..

Mr Fields spoke concerning the layout and useable areas of this lot. The lot is Impacted. By shape and septic area which includes the septic reserve area.

Seth Ridout was present and spoke in favor of this variance.

Mr Melton spoke concering this Variance.

There was discussion among the BZA members.

Katherine Lovingood moved to approved this variance and **Harold Brown** Second the motion.

A vote was taken : **Harold Brown = YES**
Stanley Heardick = YES
Rob Walker = YES
Katherine Lovingood = YES
Larry Campbell = NO

SPECIAL EXCEPTIONS

1. **SPECIAL EXCEPTION: Mr. Ralph Henry at 1491 E. Brown School Road.**

Roger Fields explained the special exception.

This request is for a wrecker business to be located on site. **Mr.Henry** has one Flat bed hauler that will be stored in the garage when not in use.

The use is a wrecker service with no storage of cars on site

This property is zoned **suburbanizing**.

Mr. Henry was present to speak in favor of this special exception.

Harold Brown made a motion to approve this special exception and it was second by **Larry Campbell**.

The vote was : **Stanley Headrick = YES**
Rob Walker = YES
Larry Campbell = YES
Katherine Lovingood = YES
Harold Brown = YES

The special exception was approved.

2. SPECIAL EXCEPTION: located 4915 U.S. Hwy 411 South. **Del Allen** owner

Mr. Allen requested a change of use to be located in an existing commercial Use building.

Mr. Allen wants to locate his pool business in the property. The property Was previously "Looner Go Carts" and is zoned R1.

Mr. Allen was present to speak in favor of this Special Exception.

Mr. Melton spoke in regard to this special exception.

Stanley Headrick moved to approve , not to include the proposed building, and The motion was second by **Harold Brown**.

The vote was: **Stanley Headrick = YES**
Rob Walker = YES
Larry Campbell = YES
Katherine Lovingood = YES
Harold Brown = YES

The special exception was approved.

OTHER BUSINESS

1. Determination if a use is agricultural on West Millers Cove Road.

Blackberry Farm is planning on recreating a historic farm on a portion of the Property that the **Singing Brook** development is located. This property is Located on **West Millers Cove Rd.**

Matt Alexander was presented and spoke for **Blackberry Farms.**

Much discussion was had regarding whether said property would be A working farm or not.

This did not require a vote.

Mr. Fields stated that he would research this more and get back to the BZA at a later date.

2. Possible date for training session.

Discussion was had on when to schedule the training session.

Harold Brown was voted in as secretary. All the **BZA** members voted yes to **Mr. Brown** being secretary.

MEETING WAS ADJOURNED

Memo

To: Blount County Board of Zoning Appeals

From: Roger D. Fields

CC: Other Board Members and Staff

Date: December 1, 2005

Re: Don and Mary McDougle.

Back Ground:

1. The applicant is requesting a variance from the front building setback requirements. They would like to build a closed in porch 7 feet from the front property line.
2. The current setback requirements are 15 feet from the paved edge of the road provided that at least one area of dimensions 10 feet wide and 20 feet in depth measured from edge of road pavement is reserved for parking.
3. The zoning regulations limits the granting of variances to the minimum needed to overcome hardships or difficulties based only on the following criteria:
 - I. The hardship or difficulty is present by reason of exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of this Resolution or any relevant amendment thereto; or
 - II. The hardship or difficulty is present by reason of exceptional topographic conditions of a specific piece of property; or
 - III. The hardship or difficulty is present by reason of other extraordinary and exceptional situation or condition of a specific piece of property; or
 - IV. The strict application of regulations would result in substantial loss of value of land, such substantial loss of value being considered in this Resolution as an extraordinary and

exceptional condition of a specific piece of property, provided that a small reduction of value shall not be considered as a valid basis for granting a variance; and

- V. The hardship or difficulty is not the result of or created by the actions of the application;
4. Section 11.6 G describes reasons that the board may deny the application for a variance and they are as follows.
 - a. Granting of the variance will materially endanger the public health or safety;
 - b. Granting of the variance will substantially injure the value of adjoining or abutting property;
 - c. Granting of the variance will not be in conformity with the purposes, intents or goals of this Resolution;
5. It is my interpretation that the lack of a front porch would not be considered a substantial loss of value of the property.
6. That would be the only applicable situation to for granting this variance.

Staff's Recommendation:

I do not recommend approval of this variance.

LOT 67

LOT 66

LOT 9

THIS PROPERTY
NO USE ABLE

LOT 915

12x35
ROOM
SET

SEXUAL
ACTS

Request a 7'
variance for a
porch

N 5700' 05" E
100.00'

N 5700' 05" E
75.00'

S 05° 12' 30" W
60.12'

PARKING

PARKING

PI NEWOOD DR

RIGHT OF WAY

Memo

To: Blount County Board of Zoning Appeals
From: Roger D. Fields
CC: Other Board Members and Staff
Date: December 1, 2005
Re: Ann Seaton & Ken J. Love Variance request.

Back Ground:

1. This is a request from the minimum lot size requirements. Our zoning regulations require a minimum 23,000 square feet. The applicant has a single lot with two dwellings located on it and would like to divide the property into two lots each containing one dwelling unit.
2. The Blount County Planning Commission has already granted a variance from the lot size requirements for this particular piece of property. I have enclosed the minutes and the staff report from that planning commission meeting.
3. Our zoning regulations give the limitation of granting variances in section 11.6 F and they are as follows.
 - I. The hardship or difficulty is present by reason of exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of this Resolution or any relevant amendment thereto; or
 - II. The hardship or difficulty is present by reason of exceptional topographic conditions of a specific piece of property; or
 - III. The hardship or difficulty is present by reason of other extraordinary and exceptional situation or condition of a specific piece of property; or
 - IV. The strict application of regulations would result in substantial loss of value of land, such substantial loss of value being considered in this Resolution as an extraordinary and

exceptional condition of a specific piece of property, provided that a small reduction of value shall not be considered as a valid basis for granting a variance; and

- V. The hardship or difficulty is not the result of or created by the actions of the application;
4. Section 11.6 G describes reasons that the board may deny the application for a variance and they are as follows.
 - I. Granting of the variance will materially endanger the public health or safety;
 - II. Granting of the variance will substantially injure the value of adjoining or abutting property;
 - III. Granting of the variance will not be in conformity with the purposes, intents or goals of this Resolution;
5. The main concern will be the septic area. The Environmental department has looked at this property and determined that there is enough room for the existing system and repair area for both of these properties as they sit.
6. When you read the staff report made to the planning commission you will notice that the variance was supported with the stipulation that no additions can be made to the existing home, nor can there be any additional structures located on the lots. I would recommend that the BZA make the same type of condition if a motion is made to approve the variance.
7. Both of these homes were built prior to zoning and did not have to meet density requirements, so they are considered an existing nonconforming use as they are. Dividing them onto different lots may increase their value simply because it would be easier for them to be marketed and sold. I do not find any way that the division would be detrimental to the public health, safety and welfare.

Staff's Recommendation:

I recommend approval of the lot size variance with the condition that there can be no further expansion of the housing units or additional structures on the divided lots.

Request for Variance for lot size by Rex Seaton:

This item comes deferred from the last meeting to allow review by the Environmental Health Department. Mr. Lamb stated that the size of the lots had been corrected from the September meeting. The proposed division contains roughly two equal lots of 14,450 square feet which would also not meet the minimum standard. Another concern raised at the September meeting was in regards to the dedication of right-of-way along Seaton Lane and Spruce Hill Road. This could potentially reduce the lot size even further. The two lots would then be 12,306 square feet for the interior lot on Seaton Lane and 10,849 square feet for the corner lot. Mr. Lamb stated that variances could be granted on the right-of-way for Seaton Lane. He stated that use of the driveway on Spruce Hill Road should not be hindered.

Planning Department staff recommended for approval of the variance request for lot size, and variance of right-of-way dedication off of Seaton Lane (contingent on approval of the Highway Department), and variance of right-of-way dedication along Spruce Hill Lane sufficient to mitigate any adverse impact on the existing housing units, with condition of no further expansion of the housing units will be allowed, and with condition that the Board of Zoning Appeals also consider favorable any required variance from zoning regulations.

Commissioner Gray asked for Mr. Lamb to explain why this variance request would need to be presented to the Board of Zoning Appeals. Mr. Lamb explained that the Zoning Regulations also required a lot size of 23,000 square feet in this zone on private septic. They would also have to vary the lot size regulation.

Commissioner McClellan asked if the Environmental Health Department knew where the lines were located for the reserve area without an actual survey being done yet. Mr. Ferguson explained that there was a row of trees that would split the properties. He stated that it was a bad situation and that the division would not make it any worse. The house built in 2000 had been approved for two drain fields and that the older home had enough reserve area for one. The division of land will not adversely affect the drain field. The drain field is not within 10 feet of that established lot line that goes down the center of the lot. The property owner will have to have a final survey to verify that the field lines will not encroach on any property lines.

Commissioner Melton made the motion to approve the variance request as recommended by staff, seconded by Commissioner Brownlie. The motion to approve the variance passed with Commissioner McDonald abstaining.

2. Request for Variance for Lot size by Rex Seaton

This item comes deferred from the last meeting to allow review by the Environmental Department. Rex Seaton requests variance of lot size to divide property at corner of Seaton Lane and Spruce Hill Road in the Mentor community. See sketch of proposed division attached. The property contains two houses. The property is approximately 118 by 245 feet, or 28,900 square feet (these calculations are correction from consideration last month). Public sewer is not available to the property, and both houses are on separate private septic systems. The minimum lot size in the Subdivision Regulations for a lot on private septic is 23,000 square feet. The present lot undivided does not meet that minimum standard. The proposed division into roughly two equal lots of 14,450 square feet (corrected from last meeting) would also not meet the minimum standard. Mr. Seaton, representing owners within family, claims hardship in not being able to divide the two houses onto separate lots.

The property is in the S-Suburbanizing zone which allows lots with minimum size of 7,500 square feet if on public sewer; otherwise the minimum lot size is 23,000 square feet if on private septic. The older of the two houses predated zoning in the County, and the newer house was started just prior to zoning and was allowed to continue to completion. The situation is thus a nonconforming situation in the zone.

Note that any variance of lot size to accommodate division will also need to be considered separately by the Board of Zoning Appeals to address zoning regulations. Any action by the Planning Commission in this case will only address Subdivision Regulation matters.

The following are the criteria for Planning Commission consideration of this variance from Section 1.13 of the Subdivision Regulations:

(1) General. Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Commission shall not approve variance unless it shall make findings based on the evidence presented to it in each specific case that:

- (a) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property; and,

(b) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property; and,

(c) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

Staff finds the following:

1. There is a practical difficulty involved since there are two existing houses on the lots and division between the two is feasible as presented. This has been confirmed with the Environmental Department (Gary Ferguson).
2. The grant of the variance will not nullify the intent of the Subdivision Regulations to require sufficient land for septic disposal, provided that the houses presently constructed meet all requirements of the Environmental Department and sufficient reserve area is available. This has been confirmed with the Environmental Department.
3. The grant of variance will not be injurious to public health, safety and welfare, and will not be injurious to surrounding properties since the variance will only allow division of an existing two house situation.
4. The conditions are unique to the property in that the two houses were established prior to zoning and in conformity with applicable regulations at the time, and the presence of two houses on a single lot is not applicable generally to other properties in the county.
5. The particular physical surroundings of two existing houses on a single lot, established in conformity with regulations in effect at the time of construction, poses a particular hardship now to the owner. See also under 1 above.

The Planning Commission, in approving a variance, may set conditions as follows from Section 1.13:

(2) Conditions. In approving variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

Appropriate conditions in this case should focus on the septic capability of the land after division. An appropriate condition could be requirement

that the two houses cannot be expanded in such a way to adversely affect present or reserve septic capability.

A question was raised at the last meeting concerning dedication of right-of-way along Seaton Lane and Spruce Hill Road. The County roads list shows Seaton Lane with 9 feet of pavement in a 15 foot wide right-of-way. Indicative requirement of right-of-way dedication would thus be 25 feet off center-line or about an additional 17.5 feet along Seaton Lane. This would cut the size of lots by about 2144 square feet each. Spruce Hill Road shows 13 feet of pavement in a 21 foot wide right-of-way. Indicative requirement of right-of-way dedication would thus be 25 feet off center-line or about an additional 14.5 feet along Spruce Hill Road. This would cut the size of the corner lot by an additional 1457 square feet. The resulting two lots would thus be about 12,306 (14,450 – 2,144) square feet for the interior lot with the newer house, and 10,849 (14,450 – 2,144 – 1,457) square feet for the corner lot with the older house.

Seaton Lane is basically a short alley of about 600 feet of length between Spruce Hill Road and Jonathan Road, with all other properties (four total) along Seaton Lane having alternate access to other roads. Requirement for additional dedication of right-of-way would probably adversely impact the driveway on the corner lot.. Consideration may be given to variance of the road right-of-way for Seaton Lane if the Highway Department finds no need to widen the existing road.

Spruce Hill Road is a loop road about 2000 feet in total length (loops out and back onto Mentor Road). The main concern with dedication of additional right-of-way off of Spruce Hill Road is the closeness of the existing septic field on the corner lot. Consideration may be given to variance requiring only additional right-of-way that would not adversely impact the existing septic field.

Recommendation: Staff recommends for approval of the variance request for lot size, and variance of right-of-way dedication off of Seaton Lane (contingent on approval of the Highway Department), and variance of right-of-way dedication along Spruce Hill Lane sufficient to mitigate any adverse impact on the existing septic field, to allow division of the property into two lots encompassing the existing housing units, with condition of no further expansion of the housing units will be allowed, and with condition that the Board of Zoning Appeals also consider favorably any required variance from zoning regulations.

Site Plans: (See memo from Roger Fields)

Memo

To: Blount County Board of Zoning Appeals
From: Roger D. Fields
CC: Other Board Members and Staff
Date: December 5, 2005
Re: Joe and Kathy Burns, special exception.

Back Ground:

1. This is a request for a family commercial enterprise to be located at 909 School House Gap Road.
2. The applicant is requesting a cabinet shop to be located in the garage of the dwelling they intend to build on this property.
3. Family commercial enterprises are limited to 1,000 square feet per lot unless the lot is 2 acres or more, and then the family commercial enterprise can be 2,000 square feet.
4. This lot is 1.92 acres and the family commercial enterprise would be 1,520 square feet of the total structure. The remaining portion of the structure will be used as residential.
5. The square footage will exceed the maximum for this property by 520 square feet.
6. Buffering will be required to screen from any abutting residential use lots. Existing evergreen buffering can be used as long it is maintained.
7. The site plan does indicate that all building setback requirements will be met.

Staff's Recommendation:

Due to the square footage requirements I do not recommend approval of this site plan.

Cedar Creek WoodWorks, Inc.
Joe H. Burns, President
7777 Cedar Creek Rd.
Townsend, TN 37882
(865) 448-6066

Blount County Building Permit Request
11/14/05

Proposal:

Cabinet Shop and Resident at 909 School House Gap Rd. ; Townsend, TN 37882

Site and Floor Plan attached

Steel Building Construction with basement on one end and concrete slab on the other end.

Residential Portion

2040 Square Feet
(20 x 40 with 20 x 40 basement underneath, plus 440
Square Feet on concrete slab.)

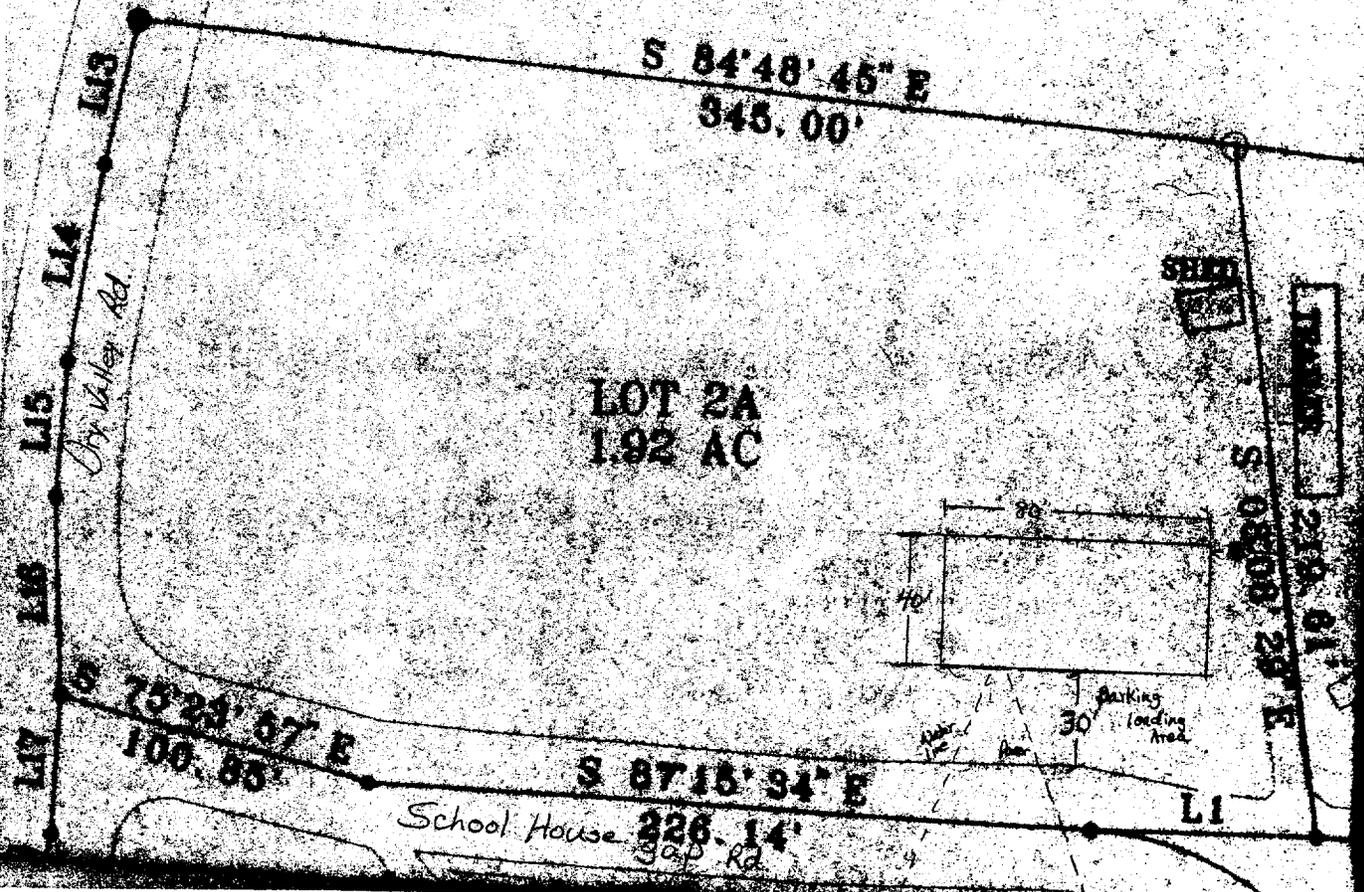
Family commercial enterprise , Cabinet Shop Portion

1960 Square Feet
(60 x 40 on concrete slab, less 440 square feet for
residential.)

Estimated Construction Cost: \$105,000

1" = Approx. 30'

337



See Kelly Survey
 498-6066
 parcel 089.0

Memo

To: Blount County Board of Zoning Appeals
From: Roger D. Fields
CC: Other Board Members and Staff
Date: December 6, 2005
Re: Forest Hill Apartments.

Back Ground:

1. This site plan is for an additional 67 units to be located off Montvale Road.
2. The total acreage for this development is 20.98 acres. That total comes from combining tax map 80 parcels 4, 4.04, 4.05, and 6. This would allow 130 units at a density of 6.2 units per acre. There is some discrepancy on the total acreage. If the total is 21.3 or more then the density will allow a total of 132 acres. I will research this and report the findings at the meeting.
3. This property is the combination of the four properties listed above. That combination was made by quit claim deed and registered at the register of deeds office.
4. The site plan shows that there would be a total of 132 units. That final number of units will depend on the final acreage.
5. The site plan shows that all building setback requirements will be met.
6. Buffering will be required along any abutting single family residential use lots.
7. This property does have a flood zone associated with it. All first floor

Staff's Recommendation:

My recommendation is to approve the site plan pending the final total acreage. If the acreage is found to be 21.3 or greater, then the site plan will be acceptable as it is shown. The developer will have to submit the first floor

elevations along with the highest adjacent grade elevation for compliance of the FEMA regulations. This should be made part of the approval.