

**TOWN OF HUNTERSVILLE
BOARD OF ADJUSTMENT MEETING
MINUTES**

January 12, 2021
6:30 PM - Huntersville Town Hall

Roll Call, Determination of Quorum

Prior to testimony, a group attestation was completed for all parties involved or giving testimony to the case. This included: Laurie Martin, 15710 Pine Street and Lauren Speight, Planner 1.

The Chairman read the disclosure statement to the members: The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she/he has a fixed opinion about the matter, a financial interest in the outcome of the matter, an undisclosed *ex parte* communication with a party, or a close relationship with an affected person. Does any board member have any partialities, *ex parte* communication, financial interest, or a close relationship with affected persons to disclose and recusal to offer? There were none.

Approval of Minutes

Consider approval of the November 10, 2020 Meeting Minutes

Hearing of Cases

DA 20-01 15710 Pine Street (Receiving) & 16401 Terry Lane (Giving)

Lauren Speight, Planner I (also referred to herein as “staff”) presented, and entered the Staff Report into the record through verbal testimony as indicated below, and written documentation, which is attached hereto as Exhibit A, and incorporated herein by reference.

The applicants, Laurie R. Martin, Mitchell W. Spahn, and Sheryl M. Spahn, are requesting a Density Averaging Certificate to allow 1,300 sq. ft. of impervious development rights to be transferred from 16401 Terry Lane to 15710 Pine Street.

- 1. *A density averaging certificate shall be considered one development request.***

Staff Finding: The application has been processed as one development request.

1. ***Overall impervious area/amount of the paired parcel averaged-density development, calculated by built-upon area, shall not exceed the impervious that would be allowed if the parcels were developed separately. The parcel pair shall be located in the same water supply watershed and preferably in the same drainage area of the watershed. Parcel pairs may be located in the Critical Area and in the Protected Area. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed beyond those impervious amounts allowed in the critical area provisions of the Huntersville Zoning Ordinance. A property in a more restricted watershed area shall not acquire impervious rights from a property in a less restricted area of the watershed. The purpose of this provision is to preserve open space in the more sensitive areas of the watershed.***

Staff Findings: The lot at 15710 Pine Street is zoned General Residential (GR) and it is located in the Lake Norman Watershed Critical Area (LN-CA). The giving property, 16401 Terry Lane, is zoned General Residential (GR) and is also located in the Lake Norman Watershed Critical Area (LN-CA). The 1,300 sq. ft. proposed for 15710 Pine Street combined with the existing impervious area for both properties will not exceed the total impervious allowed for both parcels – which is 16,860 sq. ft.

1. ***The paired parcels may include or be developed for residential or non-residential purposes.***

Staff Findings: The paired-parcel lot at 15710 Pine Street is residential zoned and may be further developed for residential purposes. The lot at 16401 Terry Lane is residential zoned and may be further developed for residential purposes.

1. ***Buffers shall at least meet the appropriate minimum Huntersville Zoning Ordinance water supply watershed protection requirements on both parcels in the parcel pair.***

Staff Findings: There are no perennial streams that require buffers within or abutting either parcel.

1. ***The portion of the parcel(s) which is not developed as part of the paired parcel, but that is being averaged in the land area being evaluated to meet the built-upon surface area, shall remain in an undisturbed vegetated or natural state. A metes and bounds description of the space to be undisturbed and limits on use shall be recorded on the subdivision plat, in homeowner covenants, and on individual deed and shall be irrevocable. The resultant impervious area/amount for the two lots combined shall not exceed the original allowable impervious amount for***

each individual lot if they were developed separately. It shall be noted on the plat that the Zoning Administrator shall reserve the right to make periodic inspections to ensure compliance.

Staff Findings: In order to comply with this requirement, a 1,300 sq. ft. metes and bounds description of an undisturbed vegetated buffer area will be reserved in perpetuity for the parcel at 16401 Terry Lane. This area will be recorded on a subdivision plat and property deeds at the Mecklenburg County Register of Deeds. This note does not currently appear on the included survey, but Town of Huntersville Staff will request the survey company to add a note to this effect before recordation of the map.

- 1. A Density Averaging Certificate shall be obtained from the Watershed Review Board (Board of Adjustment) to ensure that both parcels considered together meet the standards of the ordinance and that potential owners have record of how the watershed regulations were applied to the parcel pair. Only the owner(s) of both of the paired parcels may submit the application for the Density Averaging Certificate. A site plan for both of the parcels must be submitted and approved as part of the Density Averaging Certificate. If such a certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the certificate is amended. Upon issuance of such certificate, one copy will be forwarded to the North Carolina Division of Water Quality (DWQ). Included with the Density Averaging Certificate will be a site plan, registered plats for both properties, a description of both properties, and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.***

Staff Findings: The owners of both paired-parcels submitted an application for a Density Averaging Certificate (Exhibits 1-4). The Board of Adjustment Hearing (acting as the Watershed Review Board) will be held on January 12, 2021 to determine whether a Density Averaging Certificate will be granted. If granted, the plats will be recorded with a copy of the Density Averaging Certificate, and revised deeds. The necessary parties will be notified, and given a copy of the recorded information.

- 1. The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of this Article and Section, and that the proposed agreement assures protection of the public interest.***

Staff Findings:

The surveys provided demonstrate conformity to the intent and requirements of this Article and Section, and the proposed agreement does not adversely affect the public interest.

1. ***The undisturbed land area shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel-pair. Both the designated undisturbed land area and the certificate shall be noted on the subdivision plat that applies to each of the parcels.***

Staff Findings:

If the Density Averaging Certificate is granted, the applicant will prepare a revised deed and plat for both properties. Then the applicant is responsible for recording the Density Averaging Certificate for both properties with the appropriate deeds and plats.

1. ***Storm water run-off from paired parcel averaged-density development which meets the low-density option development requirements shall be controlled by vegetative conveyances to the maximum extent practicable and shall be approved by Mecklenburg County Storm Water Services', Water Quality Program.***

Staff Findings:

On November 24, 2020, David Caldwell (Environmental Supervisor, Charlotte-Mecklenburg Storm Water Services, Water Quality Program) inspected the property at 15710 Pine St. in Huntersville. At the time of the inspection it was determined that storm water runoff was controlled by vegetative conveyances to the maximum extent practicable, as per item (9) in the Huntersville Density Averaging Ordinance. (Exhibit 6).

1. ***Storm water runoff from paired-parcel averaged density development which meets the high-density option development requirements shall be controlled on the parcel(s) where the high-density development is occurring in accordance with the criteria specified in the Huntersville Water Quality Design Manual and the Huntersville Zoning Ordinance for high-density development.***

Staff Findings:

Both properties are in a low-density development area.

1. ***No parcel for which a watershed variance has been granted, or would be required, may be included as part of a parcel pair.***

Staff Findings:

There have been no watershed variances granted for either parcel.

1. *Compliance with criteria 1-12 shall be evidence that the parcel pair is consistent with the orderly and planned distribution of development throughout the watershed.*

Staff Findings: The applicant has complied with all applicable criteria for a Density Averaging Certificate.

Based on all of the above findings, staff recommends approval of a Density Averaging Certificate. Based upon finding of facts, staff concludes the criteria as outlined in Zoning Ordinance Article 3.3.3.A,i, (*Paired-Parcel Averaged-Density Development*) has been satisfied.

L. Martin advised the Board of her concern related to this process and stated that while she respects the need to protect our water she is not sure if the Board is aware of the aggressive tactics that are being implemented in the unregulated secondary market of buying and selling impervious rights for ridiculous mark-up's.

Chairman Cecil thanked the applicant for providing this feedback and recommended that the applicant speak at the Ordinance Advisory Board or Town Board meetings during the public comments portion to also make these Boards aware of the problems, concerns and challenges she expressed.

Chairman Cecil asked if there was any discussion or questions, there was none.

T. Primiano made a Motion to Accept the Staff's Findings as the Boards Findings of Fact. D. Brewer seconded the motion. The motion passed unanimously (7-0).

T. Primiano made a Motion to Approve the Density Averaging Certificate. E. Cecil seconded the motion. The motion passed unanimously (7-0).

Other Business

Discussion of the Rules of Procedure updates including alignment to meet Statue 160D

Jacob Glass, Town Staff Attorney introduced himself to the Board. The Board then considered a review of the proposed changes to the Rules of Procedure. A detailed record of those changes and clarifications have been recorded and tracked. These updates will be considered by the Board and further discussed at the next regularly scheduled meeting.

Adjourn