

Minutes of the Town of Huntersville Board of Adjustments

The Town of Huntersville Board of Adjustments met at 6:30 p.m. on Tuesday, March 14, 2023.

Call to Order/Roll Call

Clerk T. Barron called the meeting to order at 6:30 pm.

Present: S. Genenbacher, J. Bradshaw, K. Burton, M. Bennett

Absent: E. Cecil, P. Jacobson & J. Loucks

Alternate Members Present & Voting: J. Passarelli, J. Carbonell & C. Price

Temporary Chair

Clerk T. Barron requested nominations for temporary chair.

Nomination: K. Burton nominated J. Bradshaw. There were no other nominations.

Motion: K. Burton made a Motion to Appoint J. Bradshaw temporary chair. S. Genenbacher seconded the motion.

Vote: The motion passed unanimously (7-0).

Public Comments

No comments

Conflict of Interest

J. Bradshaw asked the Board if there was any conflict of interest. There was no conflict.

Attestation

J. Bradshaw completed the attestation. The applicant Ray Kavelish and staff N. Farber, Planner II were sworn in.

Agenda Change

Motion: M. Bennett made a Motion to Change the agenda to remove Items 3B through 3H due to applicant written withdrawal. S. Genenbacher seconded the motion.

Vote: The motion passed (6-0-1) with J. Passarelli abstaining.

Approval of Minutes

Item 2A. Consider approval of the revised January 10, 2023, Regular Meeting Minutes

Motion: M. Bennett made a Motion to Approve the January 10, 2023, minutes. J. Carbonell seconded the motion.

Vote: The motion passed (5-0-2) with C. Price & J. Passarelli abstaining.

Motion: J. Passarelli made a Motion to Adopt the rules of procedure as prepared by the Board of Adjustments and drafted by himself prior to the Town Board adopted Board of Adjustment rules of procedure dated November 15, 2021. There was not a second.

Motion: C. Price made a Motion to Table the rules of procedure discussion to the April 11, 2023, Board of Adjustments meeting and requested that a copy of the BOA drafted and currently adopted rules of procedure be provided to all members of the BOA. S. Genenbacher seconded the motion.

Vote: The motion passed (6-1) with J. Passarelli opposed.

Recusal: J. Passarelli shared his point of order as attached as exhibit A and then recused himself from the hearing.

Quasi-judicial

J. Glass, Town Attorney completed the reading of the quasi-judicial statement.

J. Glass then informed the applicants that per the rules of procedure and this being a quasijudicial hearing the Board must reach a 4/5 majority which would mean six votes. With there being only six Board members present the applicant has the option to request deferral. The applicant acknowledged they understood and stated they would move forward with the proceeding with the six Board members present.

Hearing of Cases

Item 3A: V22-03 12006 HILLCREST LN HUNTERSVILLE 28078

The applicant is requesting a variance from Article 3.2.2 (d) of the Zoning Ordinance.

This request is to allow the placement of a Mobile Home within both side setbacks.

N. Farber, Planner II entered his staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the applicant's variance request and staff report as included in the agenda packet. Staff finds that the application meets four of the four requirements and therefore recommends approval of the variance request.

J. Bradshaw asked staff if the adjacent properties were informed of the variance request and potential encroachment. Staff confirmed that legal notices were published, and notifications were sent my US Mail. The neighbor adjacent to the left (when looking at the subject property from the street) subsequently called in and spoke with staff. They did not voice an opinion they simply wanted to know what the variance was for.

Applicant R. Kavelish, 12006 Hillcrest Lane stated that he finds the staff report to be accurate and complete. He stated that the trailer was purchased after Environmental Services stated that the septic was suitable for 3 bedrooms. After the trailer was placed the error on the septic was identified and the applicant had to add approximately 100 feet of septic line and move the trailer creating the encroachment.

C. Price asked the applicant if the subject property currently has any skirting or underpinning in place. The applicant responded there is a full CMU, or cement block, skirting in place.

J. Bradshaw closed the hearing and asked the Board if there was any deliberation. There were no deliberations.

Motion: K. Burton made a Motion to Approve the case V22-03 in considering the application, a request by Batt Work Construction Services for a variance from Article 3.2.3 (d) of the Zoning Ordinance, the Board of Adjustment approves the variance request based on a finding that the request meets four of the four criteria, outlined in the Zoning Ordinance, for granting a variance. The Board of Adjustment finds the request meets four of the four criteria for granting a variance based on the staff's finding of facts as presented. S. Genenbacher seconded the motion.

Vote: The motion passed unanimously (6-0).

Other Business

J. Glass shared with the Board that the Town Attorneys were directed by the Town Board in early 2021 to review the rules of procedure for all the Boards. Following the appointments to the Board of Adjustment in July 2021 the Board of Adjustments reviewed their rules of procedure and made additional recommendations. Those were reviewed by the legal department and some of those recommendations were accepted, some were not, and the Town Board then adopted the updated Board of Adjustment rules of procedure.

The Town Attorneys have confirmed with the UNC School of Government that the Town Board does have the authority to take over the rules and make the changes under NCGS 160d-308. Since the Town Board has this authority, it would be the position of the legal department that the Board of Adjustments may make recommendations for the Town Board to consider.

J. Glass encouraged all board members to bring any questions they have regarding this to the attention of legal staff prior to the April meeting and they will be happy to answer them.

S. Genenbacher and K. Burton commented that they would like to receive a copy of the currently adopted rules of procedure. Staff confirmed we would send that to the Board.

K. Burton asked why the Town Board has the authority to set the rules of procedure for the Board of Adjustment if this board is separate. J. Glass responded that the Board exists at the direction of the Town Board to hear the variances and appeals however the Town Board does not have the right to interfere with the decisions on the hearings before the Board of Adjustment or to tell them how to vote.

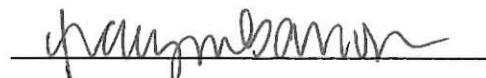
Adjourn

Motion: C. Price made a Motion to Adjourn. S. Genenbacher seconded the motion.

Vote: The motion passed unanimously (6-0).

Approved this 12 day of September 2023.

Chairman or Vice Chairman



Board Secretary

