



PLANNING AND ZONING BOARD

MINUTES

February 14, 2023

6:00 PM

Chairman Jay Voyles opened the meeting and welcomed everyone. He asked Vice Chairman Leonard Harvell to open with a word of prayer. Those present at the meeting were Mr. Leonard Harvell, Mr. Lanny Hathcock, Mr. David Heath, and Dr. Chris Murray. Mr. Wes Tucker was absent. Mr. Mike Efird, Zoning Officer was also present.

A motion was made to approve the minutes from January 17, 2023 by Mr. Leonard Harvell and a second by Dr. Chris Murray. Voted and carried unanimously.

Chairman Voyles entertained a motion to amend the agenda in order to include public comments with the items under new business. Those items are 1 - rezone a piece of property located at the corner of East Third Street and Dorsett Street and 2 - a rezoning request for the property at 1533 North Main Street. Mr. David Heath made a motion to amend the agenda with the above changes. Dr. Murray seconded. Voted and carried unanimously.

Old Business: Report on True Homes

Mr. Efird updated the board on the old business regarding True Homes. He was happy to report that True Homes will make the corrections discussed by the board at the last meeting. They are going to comply with everything asked by the board. The project is now ready to go. Nothing further is needed from the board.

New Business: Request to Rezone Corner of East Third Street and Dorsett Street.

Mr. Efird presented the information on this to the board stating that the owners have asked to divide the property in half to build two houses. They have met all the requirements for general district rezoning for this piece of property. A pre-application conference was held on Wednesday, January 4, 2023. A neighborhood meeting was held on Wednesday, January 18, 2023. Mr. Efird received the application along with fees on January 24, 2023 which completed all requirements. Advertising was also done and all adjoining property owners were notified. Mr. Efird stated it was now in the hands of the planning and zoning board as to how they send this to the board of commissioners – either with a favorable or unfavorable recommendation.

Chairman Voyles asked the applicant to come to the podium and present the case. Mr. Terry Whitley spoke on behalf of Mr. Matthew Whitley. He stated he bought this piece of property with the intent to build houses on it. Mr. Whitley asked for Mr. Efird's help on explaining and Mr. Efird stated that the rule was when Mr. Whitley purchased the property, he could ask to have it rezoned to R9. According to Mr. Whitley, the possibility of rezoning had changed. He stated when that was done by a board, all of the land owners should have been notified. He referenced this piece of property was at one time R9. Mr. Whitley asked the board had they had a chance to look at the property and all commented or nodded with affirmative. He said he had purchased the property some time ago but didn't do anything with it because sewer lines were running across it. That has since been fixed by the town according to Mr.

Whitley. He stated that when Mr. Matthew Whitley purchased it, he expected to get two houses on the lot. Mr. Terry Whitley went on to share that the lot was approximately 25,000 sq. ft. If it is split into 2 lots, each lot will be 11,279 sq. ft. each. He emphasized that the square footage was quite a bit more than the 9,000 sq. ft. Mr. Terry Whitley stated that the meeting with the landowners adjacent to this property brought about their concerns regarding the flooding and water issues. He was aware of these issues and he would not build on something that could flood and not have a strong foundation. Mr. Whitley shared that he met with the town maintenance and they all went out to that area during the last heavy rain. There have never been any ditches put in which is causing this flooding. Mr. Whitley went on to say that he was going to put two pipes underneath the ground to help with the water issue. He said the town was going to purchase the pipe and he would install it since that is what he does for a living. The ditch on the other side of Dorsett didn't have much water at all. They will redirect the water. Mr. Whitley stated that it may still mean they won't put a second house, but they still would like to see the area rezoned in case in the future it is completely fixed. He told the board he has no plans of building apartments. Right now, until the water gets fixed and until he can see if it works, he doesn't know if he would ever build a second house.

Mr. Heath questioned if it was single family homes to which Mr. Whitley replied yes. Mr. Harvell stated there would be a maximum of two and Mr. Whitley stated yes. Mr. Whitley stated that the neighborhood meeting was well attended. He said that those people expressed concerns about the water issue and they were also worried about townhomes. Mr. Harvell asked if Mr. Whitley could stipulate that this wasn't on a flood plane and Mr. Whitley said it was not on any flood maps. He said it is just the way the water flows through that area. If the water can't be taken care of, Mr. Whitley said there wouldn't be a house built.

At this point, Chairman Jay Voyles asked if anyone present wanted to speak for or against this case, now would be the time. He asked each person that came up to speak to state their name and address.

The first public commenter was Ms. Cindy Feis. Her address is 212 East Third Street. She asked permission to approach the board and show pictures. She stated that these pictures showed the flooding. It also showed Ms. Peggy Meggs property. Ms. Feis wanted to point out that her property wasn't on a flood plain either according to the town, but it did flood, so Ms. Meggs spent money out of her pocket to have her heating/cooling unit lifted up so that the water wouldn't ruin it. Ms. Feis stated that Ms. Meggs is 97 years old and was unable to be at the meeting tonight.

Ms. Feis asked when the zoning was changed from R9 to R15. Mr. Efrid stated it has always been R15. Mr. Harvell stated he wasn't aware of any changes.

Chairman Voyles stated that what he believes Mr. Whitley was referring to was when the town adopted the Unified Development Ordinance which didn't allow for any zoning changes from R15 to R9 in subdivisions where you see four or more house.

Ms. Feis asked the board if they were aware that Mr. Whitley also owned a lot on East Second Street. She had prepared a map of the blocks and stated that no block had 4 houses on one side of the road. According to Ms. Feis, they like Oakboro and the way it is. Ms. Feis said that she looked up flood plain and according to what she was reading the property being discussed is a flood plain. She asked if there would be any professional study done. She questioned also if this was approved and the water came rushing down, who would be responsible? Would that be something the tax payers would have to absorb?

Ms. Feis also asked if there was anything required with green space or property density. She stated that Mr. Whitley said it would improve her property value with the addition of these two houses. She said she really didn't care about that because she was planning on retiring here and didn't have plans of moving. She doesn't have a problem with him building one house. She feels like two is too much. She also stated that Mr. Whitley said the house would be 30 feet high and she felt that was too high and would take away her privacy. She wanted it to be known that traffic, noise, and lights have to be considered in addition to the houses. The problem is that Mr. Whitley will build the house, sell it and leave it for the neighbors to deal with. Ms. Feis asked to see a picture of the house and she was told Mr. Whitley did not have to show her. Mr. Whitley stated that he doesn't even have the plans yet.

Mr. Harvell questioned Ms. Feis was her biggest problem water? He asked her if the water situation was taken care of would she be okay with the plans to rezone this property for two houses? She stated she still wouldn't be okay with that because she doesn't want two houses beside her. Mr. Harvell explained to her that the number of houses beside her can't be controlled if they are within the zoning regulations. He hoped she understood that. Mr. Harvell said he wanted to make sure she wouldn't be flooded out. She stated she doesn't feel like she will be the one who is flooded – that it will be towards Long Street. She doesn't want two new houses on her street – she likes the feel of downtown Oakboro, and doesn't want it to become like Locust.

Next, Tina Spaulding Booth spoke. She lives at 315 East Third Street. She doesn't have a problem with them building a single-family home. She stated she attended the meeting last month. Her main concern was with duplexes or triplexes. Ms. Booth agrees with Ms. Feis on a lot of what she said, she wants to keep the small-town feel. Drainage is a real issue. She feels like something should be done with water drainage. She stated there used to be a ditch at the corner and when it rains it all comes down her paved driveway. She said when she first moved there this wasn't a problem. Water is her main concern.

Third, Dolly Tucker who lives at 305 East Third Street. She has the same concern as the rest of the ladies that spoke earlier regarding the water issue. She feels like if a double drain is put in, she will have even more issues with water coming into her basement. She is concerned about duplexes and apartments; she doesn't want that. She stated that her property was R15 when she purchased it and is assuming the location Mr. Whitley purchased was also R15 when bought.

Chairman Voyles gave Mr. Whitley a chance to address the comments. He stated that zoning is confusing even for zoning officers. He said it was hard to explain and if he explained it wrong, he didn't do it intentionally. He was told when he purchased the property that the town told him he was able to be bring the rezoning issue up before the board and ask for it to be rezoned to R9. He said they would do what was right or the town would stop him.

Chairman Voyles asked Mr. Whitley if he had said earlier that if he wasn't able to figure out the water issue that he wouldn't build the second home. With the plan to build two homes, Chairman Voyles asked which location would the first house be built. It would be on the upper half.

Chairman Voyles mentioned tabling the rezoning and for Mr. Whitley to go ahead and build his first home as R15. In Mr. Whitley's opinion, he thought they had the right to rezone to R9 and that would give him two lots. If the water issue isn't solved now, then possibly in the future it would be and then two homes could be built.

Dr. Murray questioned why the big push for the rezoning right now if they are going to go ahead and build the one house anyway?

Mr. Whitley stated they had been working on this for about six months and that it just takes a lot of time. He went on to say that if it's not possible to build the house on it even after the rezoning, then he won't.

Mr. Efird stated that if you do not rezone now but you go ahead and build the first house on the upper lot and sell it, the new owner would not be willing to give up part of the property for it to be split into two lots.

Mr. Hathcock commented that the setbacks would be different for the zoning. He went on to say that Mr. Whitley agrees there is a water problem and that he is willing to put the pipe in to help fix this. However, if it's not rezoned, then it's really not in his best interest to fix this.

Vice Chairman Harvell stated that the biggest problem he has heard is the water issue. He questioned that if they did look at the rezoning to R9 could they not put a provision on that the water problem has to be taken care of that is satisfactory.

Mr. Whitley said that it shouldn't be up to the land owner to fix the water problem in that entire area of Oakboro. The burden shouldn't be put on him to take care of ditches downstream. This is something the town is going to have to buy into. He has talked with staff regarding this issue. He stated he was willing to help fix some of the problem which is above and beyond what others would do. He doesn't want to mislead anyone that he is going to take care of all the water problems in that section of Oakboro.

Mr. Heath pointed out that the mayor and some commissioners were present and he feels the town needs to fix this before the rezoning takes place.

Chairman Voyles wanted to make sure everyone understands what the board should be concerned about tonight. It's not the water issues. It's simply to make a decision for the land use of the property being applied for and that is changing the zoning from R15 to R9.

Chairman Voyles stated that the comments for or against this proposed zoning change is now over and is asking the board for their decision. Dr. Murray expressed his opinion stating that he did not feel comfortable right now rezoning the property. Chairman Voyles stated that the board has up to three decisions to make tonight. One is a favorable recommendation to the town board, one is an unfavorable recommendation to the town board and third, they can table it for a subsequent meeting.

Mr. Harvell feels like until the water situation is cleared up that the rezoning should be put on hold. He suggests that we should table this decision. Chairman Voyles said that if it is tabled, that would prevent the applicant from reapplying and paying another fee. It would also provide the town enough time to go out and work with the developer to see if the water issue can be resolved.

Mr. Heath made a motion to table this issue until the next zoning board meeting on Tuesday, March 14, 2023 at 6pm. Mr. Harvell seconded. Mr. Hathcock, Mr. Harvell and Mr. Heath approved of that by voting yes and Dr. Murray voted no. The motion carried. This item will be back on the agenda for the next regular planning board meeting which is Tuesday, March 14, 2023.

New Business: Presentation of Oakboro Express Mart Request for Rezoning Property at 1533 N. Main St.

Mr. Efird referred to the paperwork given to each member and asked them to review it and let him know if they had any questions. Mr. Heath questioned Mr. Efird did the owners of this property know about the roundabout. Mr. Efird stated they did and have taken into consideration the design.

Mr. Hathcock stated that he had talked to Mr. Efird regarding the dumpster at this location and could it be relocated away from the residence next door. Mr. Efird had told him that was not a problem to relocate the dumpster.

Public Comments

Chairman Voyles asked if anyone had signed up to speak. Cindy Feis, Tina Spaulding Booth and Dolly Tucker had signed up.

Ms. Feis had left the meeting already.

Tina Spaulding Booth wanted to make an additional comment. She stated that it appeared that there was a ditch there at one time in front of her home. She just wanted to mention for when the town takes a look at all of the drainage if they could look at this to make it a functional ditch. Dolly Tucker agreed with this regarding the ditch. Both ladies stated it's not adequate drainage.

Dolly Tucker had nothing else to mention.

The ladies thanked the board for listening to them.

Adjournment

Mr. Heath made a motion to adjourn the Planning and Zoning Board; Dr. Murray seconded. Voted and carried unanimously.



Jay Voyles, Chairman

Leslie H Murray, Town Clerk/Finance Officer

