

Stanly County Planning Board
September 11, 2023 - Meeting Minutes

Call to Order Chair Jay Eckman called the meeting to order on September 11, 2023 at 6:30 p.m. in the Gene McIntyre meeting room at 1000 N. First Street, Albemarle, North Carolina.

Stanly County Planning Board members attending David Underwood, Jay Eckman, Michael Williams & Tim Fesperman

Absent: Kevin Brickman, TJ Smith & Joel Mauldin

Stanly County Planning Staff Attending: Bob Remsburg, Planning Director

Chair Eckman asked if there were any conflicts of interests with the items to be heard due to financial or personal relationships.

There were none

Chair Eckman asked if there were any other additions to the agenda that the board needed to consider.

There were none.

Chair Eckman asked for a motion to approve the proposed agenda.

Motion: David Underwood

Second: Michael Williams

Approved: 4-0

Chair Eckman asked for a motion to approve the minutes from July 24, 2023.

Motion: David Underwood

Second: Tim Fesperman

Approved: 4-0

Chair Eckman shared that the first item on the agenda was ZA 23-08, a request by Christian Herring to rezone a 21.61 acre parcel located at 35893 Red Bird Road, Albemarle from R20 (Residential) to RA(Residential Agricultural).

Chair Eckman invited county staff to share the details of this request.

Bob Remsburg shared the following:

This is a request from Mr. Christian Herring to rezone a parcel that is 21.61 acres which is located at 35893 Red Bird Road from R20 to RA. In some books you could consider this a down zoning. It is currently zoned R20 along with other parcels along Ridge Road south of Mountain View Church Road. The access is from the end of Red Bird Road which is a dead end street and state maintained road. Mr. Herring plans to continue farming and forestry on this property. Adjacent property to the South, West and East are zoned R20. Adjacent properties to the North are zoned RA. It is in the Airport Overlay District but that does not affect anything here. You just can't build something really tall. It is not that close to the airport but in some cases we have to deal with tall trees. An area of flood zone does exist on the west side of the property along the creek. It is located in a secondary growth area per the Land Use Plan.

Mr. Remsburg displayed images of the property.

Everything south of Ridge Street is zoned R20 and that was done many years ago but Mr. Herring's request is to reverse that and have this section as RA. There is no water or sewer and the traffic on Red Bird is very limited.

Chair Eckman asked if the board had any questions.

There were none.

Chair Eckman invited Mr. Herring to speak in favor of his request.

Mr. Herring shared the following:

I don't have much to add other than what was in the letter and what you have seen. I would just like to share a little bit of our plans for your benefit and also my neighbor, Mr. Drye who is here tonight. Our plan is we bought that land because we wanted a place for our family to live and to have a little homestead and personal farm. I have four kids from 9 years to 6 months and we really want a place where they can put down roots and hopefully one day that will be theirs. Our intent is entirely to live off of that land and make it ours. We probably will clear some so we can have some fields and put up fences and barns to have some animals. It felt like RA was a more suitable zoning for what we want to do. I don't know if you guys have paid attention but building prices are a little high right now and we bought this property 2 years ago this month and we have not been able to build what we want to and going RA would allow us the flexibility if we desired to place a mobile home on it while we build our final home. We can't do that with how it is now. We have no intention of subdividing it or turning it into a mobile home park. If we went that route it would be while we build our home. The last two years we have been transient living with family and not been able to live on the land that we purchased. We want to get our family out there.

David Underwood "So the mobile home would be gone once you built the home?"

Mr. Herring "Yes, that would be the plan. We have no desire to live in a mobile home forever. We just got done living in a camper for 2 years. It would be temporary."

There were no further questions.

Chair Eckman asked if anyone from the audience would like to speak regarding the request.

There was no one.

Chair Eckman entertained a motion to recommend to the Board of Commissioners approval or denial of the rezoning request.

Motion: Michael Williams made a motion to approve because this rezoning encourages agriculture use on the property.

Second: David Underwood

Approved: 4-0

Chair Eckman shared that the County Commissioners will likely consider this request following their Legislative Public Hearing scheduled for Monday, October 2, 2023 at 6:00 PM.

Chair Eckman introduced the second item on the agenda, ZA 23-09, a request by Tony Mauldin to rezone an approximately 6.79 acre portion of two parcels containing 10.34 acres from RA (Residential Agricultural) and R20 (Residential) to HB (Highway Business) located at 39117 NE Connector, Albemarle.

Chair Eckman asked for County Staff to share the details.

Mr. Remsburg shared the following:

I realized that I had included a small measurement that I should not have and Mr. Mauldin can clarify if I am right or not. Part of the property is zoned R20 and the rear portion is zoned RA and they are wanting to rezone approximately 6.79 acres of it to Highway Business. It is two parcels and the two parcel together have 9.89 acres and according to DOT the Northeast Connector sees about 8300 vehicles per day and it is currently used as Tony's Produce Stand which was permitted as a Rural Home Occupation. The permit was issued several years ago. Properties nearby are zoned RA and R20. The Albemarle city limits are about 650 feet south of this property. Nearby areas in the city limits are zoned R10 and it is also in the Airport Overlay District area. This is located in a Primary Growth Area per the Stanly County Land Use Plan but a lot of the Northeast Connector is in the city limits.

Mr. Remsburg displayed maps of the property.

There is a second house near the driveway entrance. The idea is to cut around that house location and down the Northeast Connector it is zoned R20 mostly about 200 feet off of the right of way. The request is to make it Highway Business and it does allow a laundry list of what you would expect in this type of district. This is a general rezoning not a conditional zoning. You can always adjust this in your recommendation to the County Commissioners.

Chair Eckman asked if there were any questions for Mr. Remsburg.
There were none.

Chair Eckman invited Mr. Mauldin to speak in favor of his request.

Mr. Mauldin shared the following:

I have had that store for a few years and I did not realize that it was not commercial. They gave me commercial rates and when I built the store we had to do commercial plumbing, commercial wiring and I have been running it for two years. I am 72 years old and I have someone wanting to lease it and run it. They cannot run it on my property under an agriculture type thing so we are going to put it under highway business. The other part of the land, I have had a guy approach me wanting to rezone that half to put some storage buildings on and that would have to be highway business also. We are not looking at housing development, if anything it is just storage sheds down there and then my store. I did not want to get the house involved in it because once you go commercial and you change it then you can't go back and live in it. That is the reason I have left it. I have been there for two years and I have never had a problem with anybody. I would like to keep it going as a produce market. I don't have a train of people in and out at all times I just enjoy doing it.

Chair Eckman asked if the board had any questions for Mr. Mauldin.
There were none

Chair Eckman asked if there were any present to speak in favor or opposition to the request.

Larry Talbert shared the following:

My concern is the intersection of Talbert Road. When you go North on that road, you try to take a left on Talbert Road, the site lines on the hill behind it is only 400 feet from the top of the hill to the intersection. If you put on your brakes there, the people coming over the top of the hill have had numerous accidents there. If you zone this business, Tony says that he will not put a business in there but I don't know why you would want to zone all of that if you are not wanting to do anything. The safety of that intersection is terrible. It takes 300 feet according to Google to stop a car going 55 miles per hour. You have 399 feet to do it right here. I know my tenant was driving on July 4, 2019 and she had three kids in the car and she was pregnant and someone drove straight through and plowed into her and destroyed the car. She was hurt for six months. I went over and looked at that place really hard and that is a dangerous intersection. The connector has double yellow lines so they know that the sight line issue exists. To add more traffic to that area would be a disaster. I am totally against it.

Mel Garder shared the following:

The last time I was in a scenario like this was in 1999. I believe when they were putting the connector in and we had quite a few residents showing up for the meeting. The consensus was that the connector was fine and it has been a good road but it has had its issues with putting roundabouts in to correct traffic problems and deaths. That has been a good thing. The thing we all agreed on was that it would not be commercial or business because we did not want that kind of activity going on. We wanted it to be low key and rural. We talked about if they wanted to put a school in there then that would be fine down the road. Apartments, it would depend. The consensus with that group of people was that it would not be commercial or business and wanted it to remain that way. I have nothing against the fruit stand, I have been down there a few times but I would ask you not to zone it commercial or business.

Chair Eckman asked if there was anyone else wishing to speak.
There were none.

Chair Eckman entertained a motion by the Board to recommend to the County Commissioners for approval or denial of the rezoning request.

Motion: Michael Williams to recommend approval because the rezoning encourages growth along a major traffic corridor and it is in a growth area according to the Land Use Plan.

Second: David Underwood

The Board discussed:

Tim Fesperman "I am a little concerned, not so much about the fruit stand or the produce stand but the large area for the storage. I would like to see more of a plan for how many they are talking about and security, lights, cars in and out. We don't know anything about that. I think that bothers me that you could pass this and we don't really know what would go in there. This is a rural setting for something like that."

David Underwood "Continuing on with that. All of this is available for storage if approved. Bob, how many other businesses are along here?"

Mr. Remsburg “At each end you will find it but nothing in the central part is commercial that I am aware of. I know that Mr. Mauldin has gotten my attention and would like to say something else if the board would let him.”

The Board allowed Mr. Mauldin to speak.

Mr. Mauldin “We have dump trucks running out of there all the time. I have been living there for 27 years too. Whether I get this zoned commercial or not, this problem was there before. We have a lot of problems with these people coming through the roundabouts but I have never had an accident coming out of my driveway from the store. It is a hazard the way they fixed it on Talbert Road but I cannot fix that whether it is commercial zoned or not. I have had a couple of people approach me about the land and build some storage buildings. I do not know how many or any of that and it may not even happen but while we were doing the zoning I was going to do it all at one time. It is just a little something to let some folks make a living. I appreciate it.”

Bob Remsburg “I hinted to Mr. Mauldin the possibility of doing a conditional zoning or something that was more limited and I don't know if he would be agreeable to that. I don't know that you are prepared to act on that sort of thing but you can recommend denial and Mr. Mauldin can do whatever he wants or you can recommend approval with the motion that is on the floor. I suppose you could table it or send it back to Mr. Mauldin with a suggestion on what he should do.”

Chair Eckman shared that the motion is to recommend approval to the County Commissioners. He asked all those in favor of the motion to say “aye” and then those opposed.

Favor: 1

Opposed: 3

Motion Fails

David Underwood “If he wanted to come back and ask just for the one section then I would not have a problem with that.”

Mr. Remsburg “As it stands the Rural Home Occupation requires that the individual running the business must live on the property. Obviously if he is not running the business it needs to be reconfigured somehow. Whether he leases it or sells it off.”

Chair Eckman stated the Planning staff will consult with Mr. Mauldin to determine whether he wishes to move forward with the rezoning request. If they do move forward, this rezoning could be considered by the County Commissioners following a legislative public hearing at their meeting scheduled for Monday, October 2, 2023 at 6:00 PM.

Chair Eckman introduced the third item on the agenda, a proposed Text Amendment to section 13.3 of the Zoning Ordinance and section 66-5 of the Subdivision Ordinance to define “Substantial Work” or “Substantial Expenditure.”

Mr. Remsburg shared that due to previously approved subdivisions, the question of substantial work became a conversation. He discussed that based on case law it has been a hard thing to nail down and some of the County Commissioners would like to see it defined. Some Commissioners indicated that they would like to see certain things (infrastructure, roads, etc.) put in for it to be considered substantial. Mr. Remsburg indicated that he has

researched the topic some and that he found information for it in the Land Use Law book. It was an online about common law vested rights and substantial expenditures. Mr. Remsburg touched on the fact that the book indicated that a construction site does not necessarily mean that substantial work has been done. Therefore, the Board needs to be careful in considering if putting roads, water lines, etc. in is substantial. Mr. Remsburg discussed court cases where substantial work needed to be considered. Mr. Remsburg indicated he wanted to provide the board with information regarding case law and that he came up with a quick definition of substantial work that could potentially be considered in the future. Ultimately, someone will have to consider what substantial work is. The Board Members discussed the topic and potentially considering what substantial is by a percentage of the total cost of the project and that it would be beneficial also to Planning Staff. The Board was open to bringing this topic back at the next meeting. Mr. Remsburg indicated he would do research about the percentage number based on the cost of construction. Research would be done on other counties to see how they go about this process.

Chair Eckman introduced the last item on the agenda, a proposal to amend section 405 of the Zoning Ordinance to require one parcel of land for each primary dwelling unit.

Mr. Remsburg shared that under the current ordinance manufactured homes are only allowed in the RA district and mobile home parks. Section 405 allows two homes on a two acre or larger parcel as long as one of those homes is a manufactured home. Mr. Remsburg read the current language that is in the zoning ordinance and shared that this request came from the commissioners. Many counties say one primary structure per lot but there was a time before this language and the ordinance allowed for three homes regardless of what they were made of as long as there was enough space. This rule is exempt for bona fide farms but there must be a farm use on the property and the workers must live in the home. Mr. Remsburg indicated the board could consider adding language to the text amendment for hardship cases so that it could be approved administratively by staff. Mr. Remsburg told the board to think about this item and that they would circle back to it if the board chose to do so. Mr. Remsburg shared there were easement issues currently in the county and that there would potentially be updates to that ordinance as well. The board discussed the difference between a modular home and a mobile home and also the ability for individuals to put two mobile homes per three acre lot according to the newly adopted minimum lot size. Board members indicated that a second home may be OK, but only if there is a site built or modular home on the property and perhaps the property should be three acres not two.

Chair Eckman asked if there was any further business to discuss.
There was none.

Chair Eckman entertained a motion to adjourn.

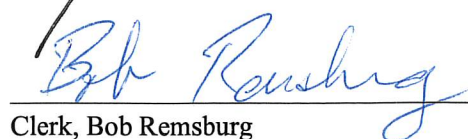
Motion: David Underwood

Second: Michael Williams

Approved: 4-0

Time: 7:53 PM


Chairman, Jay Eckman


Clerk, Bob Remsburg