

Stanly County Planning Board
October 10, 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, Joel Mauldin & Kevin Brickman

Excused: TJ Smith & Tim Fesperman

Stanly County Planning Staff Attending: Bob Remsburg, Planning Director & Bailey Cline, Planner 2

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: 5-0

Chair Eckman asked for a motion to approve the minutes from September 11, 2023.

Motion: Michael Williams

Second: David Underwood

Approved: 5-0

Chair Eckman shared that the first item on the agenda was CR 23-02, a request by Tony Mauldin to rezone an approximately .75 acre portion of a parcel located at 39117 NE Connector and containing 9.49 acres from RA (Residential Agricultural) and R20 (Residential) to a Conditional Zoning District.

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

Bob Remsburg shared the following:

This is a little different than what previously requested. .75 acres instead of the 6 acres that was previously requested before for the parcel at 39143 North East Connector from RA and R20 to a Conditional District. The idea of the conditional district is that it would be specific for the produce stand. You were provided with a survey this evening that shows where the .75 acres is. The access is from the North East Connector which sees about 300 vehicles per day. Its current use is a produce stand which is operated under a Rural Home Occupation permit. If they are wanting to continue this use and Mr. Mauldin wants to sell it then it needs to be rezoned because that home occupation permit would no longer be allowed without him being the operator. City limits are about 650 feet

south of this property and those parcels are mostly zoned R10. It is in a primary growth area per the Stanly County Land Use Plan and it would have to comply with agreed upon conditions.

Mr. Remsburg went over the proposed conditions.

Mr. Mauldin has to agree with these conditions and that they are okay with him.

Mr. Remsburg displayed maps of the property to show the proposed area.

If you want to add some conditions or subtract some you can. It is up to this board with the agreement of Mr. Mauldin.

Mr. Remsburg asked if there were any questions.

Jay Eckman “you said that he is compliant with all of the commercial building codes as of now?”

Mr. Remsburg “That is my understanding. The buildings that are currently used were built to commercial standards.”

There were no further questions.

Chair Eckman invited Mr. Mauldin to speak concerning his request.

Mr. Mauldin shared the following:

I don't see anything wrong with this. The only thing that I saw when it comes to what we are selling, we do sell flowers also. I don't see anything wrong with the rest of the list. We do eggs, dried beans, country ham, sweet potatoes, cucumber, sausage, homemade pimento cheese and chicken salad.”

Chair Eckman “Do we need to add flowers to that list?”

Mr. Remsburg “We can certainly add them to the list.”

David Underwood “I think the word locally is a pretty broad term and would cover that.”

Mr. Remsburg “I personally skipped locally for the fruits and vegetables because based on what you are selling it may not be grown locally such as oranges coming from Florida. We don't have to say local at all.”

Mr. Mauldin “I try to keep it as close to home as possible.”

Chair Eckman “That leaves a gray area because are apples from the mountains considered local?”

Mr Remsburg “You are right, I would say we just take local out of the whole thing.”

There were no further questions for Mr. Mauldin

Chair Eckman invited any speaking in favor of the request to come forward.

There were none.

Chair Eckman invited any speaking against the request to come forward.

There were none.

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

Motion: Michael Williams made a motion to approve the request because the zoning will allow the continued use of the parcel for the produce stand and protect the harmony of the neighborhood. Also, I want my motion to include the changes that were made by removing the word locally and adding flowers into the list of conditions.

Second: David Underwood

Passed: 5-0

Chair Eckman “The Board of Commissioners will likely consider this request following a legislative public hearing at their meeting scheduled for Monday, November 26, 2023 at 6:00 PM.”

Chair Eckman introduced the second 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 Expenditure”.

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

Bob Remsburg shared the following:

We discussed this at length at the last meeting and I played around with it and researched it. You all had mentioned 10 percent as a possible number, 15 percent was mentioned also. I am flexible on what you all decided. We really could insert a sentence in the text to reflect the percentage you choose. “Substantial Expenditures - a common law vested right is established if the substantial beginning of construction in which the owner/developer would suffer undue losses if required to comply with any new requirements created after an application for property improvement has been accepted. Undue losses shall be 10% or more of estimated expenditures for the project. Expenditures of time, labor, and energy as well as expenditures of money or actual construction may be considered in establishing a common law vested right. (excerpted from pp. 337-338; Land Use Law, third edition, David W. Owens, 2020)” All of this is excerpted from the book written by Dave Owens from the School of Government except for the part regarding 10 percent or more. Does that potentially meet your expectations or are we still off in a different territory?”

David Underwood “It does, but I have a question. Expenditures of time, what are we talking about? Is it my time?”

Mr. Remsburg “I would think that is the answer, yes.”

David Underwood “So, you are saying if I spend 500 hours on a project I put an estimated value on my time?”

Mr. Remsburg “Correct. That goes back to the last sentence you see. I am getting that language from the Land Use Law book.”

Michael Williams “I don't understand the energy part.”

Mr. Remsburg “We could potentially eliminate that I suppose. What is energy in this case?”

David Underwood “Are we talking paid expenses here? Because technically my time is not paid.”

Bob Remsburg “Well you can self contract so you are not going to bill yourself for that time but on the other hand your time is value.”

David Underwood "I agree but the problem is there is no way to see that. I can say I spent 500 hours but you don't know."

Jay Eckman "It is like the one project we had, she could have gone out and bulldozed the whole property and it did not cost her anything other than diesel. How do we determine that?"

Michael Williams "You could clarify the labor part as paid labor."

Jay Eckman "But if she put all of that time in, it is still a loss to her."

Joel Mauldin "If you have a project like a subdivision and you say that it cost you 200,000 dollars. If you are the owner contractor you are going to break it down into different sections and do cost plus 10 percent. If he has not gotten where he needs to be then he can factor in his time for those sections. If he has spent 20,000 dollars then he is saving himself 10 percent of that and would billable time to anyone else. That would be a way to justify how much time and money."

Mr. Remsburg "I understand and it does create a gray area but I do think it could be a problem if you don't include that because it is a legitimate expense."

David Underwood "Can we drop the energy part out?"

Mr. Remsburg "You can, but of course Jay just said something about the cost of diesel and I am thinking where would that go. But it could be considered an expenditure of money. So we are dropping energy. Anytime any of this comes up there is always a remedy and it can be appealed to the Board of Adjustment or Superior Court and leave it up to the judge."

David Underwood "If we take energy out then I don't have a problem with it."

Kevin Brickman "Should we replace energy with materials so that it says time, materials and labor?"

David Underwood "Would that not be under actual construction?"

Kevin Brickman "Yes, but if you include it then you are saying that you already have it and it is in storage somewhere waiting to be used."

Mr. Remsburg "I see where he is coming from. Just like if you bought the HVAC unit and you are waiting for construction to catch up and have it in storage."

Joel Mauldin "I mean if we have a developer come in they will have consultants and attorneys before it even gets to the commissioners and that will be a substantial cost already."

Chair Eckman "Is 10 percent a good number?"

Joel Mauldin "I don't think there is anything wrong with that number, I just think that if it is a big enough project it will go through quicker than this anyways."

Chair Eckman "I don't have enough experience in this to know if it is a good number or not."

David Underwood "If they are going to put 10 percent of the value on most of the subdivision that we do then that is going to be a substantial number. I think the word energy can be taken as putting your personal energy into it. So if we switched that to materials I think it would work better."

Mr. Remsburg “So, we did not put this as a case number but if you are ready you could make a recommendation of this to the commissioners and we will do the rest. I thought until we nailed it down I did not want to put a number with it.”

Motion: David Underwood made a motion to define substantial expenditure with the suggested changes and to assign the case number.

Second: Michael Williams

Passed: 5-0

Chair Eckman introduced the third item, a proposal to amend Section 405 of the Zoning Ordinance to require one parcel of land for each primary dwelling unit or require a larger parcel and a site-built home before allowing a manufactured home on the same lot.

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

Bob Remsburg shared the following:

We discussed this last time as well. We had Commissioners express concern about the text that allows individuals with two acres or more to have two dwellings on the property as long as you meet setback and access rules or you could have a site built home and a mobile home on the same property. If you go back about 25 years ago, the language there actually allowed 3 homes and did not designate what kind of home as long as it was 2 acres or larger. There are still some places in the county that have 3 homes on a parcel. The same with the two, you do see this some of the time but not alot. Thinking about the RA district and Rural Preservation Area and some of the changes that were made with the 3 acre rule unless it is a family subdivision. I did look around and saw that Cabarrus only allows for one primary dwelling per parcel, Rowan does allow two homes per lot. It talks about it being a secondary dwelling unit and we do allow that in all residential zoned districts as well. Think about like a garage apartment but it is limited to half the heated square footage of the main dwelling or 800 square feet whichever is less. The only way you can get around that is by making it an addition to the house. We do not regulate the size of homes on lots.”

Chair Eckman “So what if someone has a house and they want to put a guesthouse on the property...if it was over 800 square feet then they would not be able to do it?”

Mr. Remsburg “Correct. So, if you have a 2,000 square foot home then you would be limited to 800 square feet. It can be a separate home or it can be attached like a garage apartment as long as it is under 800 square feet. If you have a 12 or 1500 square foot house then you would be limited to 600 square feet. Building code only lets you get to 320 square feet.”

The Board continued to discuss Accessory Dwelling Units and what the current requirements are.

Mr. Remsburg “So, based on our last discussion I looked at this and said we basically have three options. You don't have to do anything with it, you can eliminate it and make it just one home per parcel or you can make it to where one of the homes has to be site built. If you want to allow a second home on the property that is large enough then the homes have to be at least 50 feet apart so if the lot was split then they are at least 25 feet from the property lines.”

Mr. Remsburg displayed the current language regarding two dwellings on one parcel.

David Underwood "Our problem is that are we going to allow a manufactured home on the same lot with a stick built home."

Jay Eckman "I definitely don't want to see two mobile homes on the same parcel."

Joel Mauldin "Why are we dictating that you cannot have two stick built homes on the same parcel?"

Mr. Remsburg "The only explanation that I have ever heard that makes some kind of sense is dealing with the tax law. That is that a site built home is real property where a manufactured home is personal property. The idea is that you would only have one real property dwelling on a property as opposed to two."

David Underwood "I am just not sure if we are stirring up a can to make it worse than make it better. I am just not so sure we are doing a good thing. There is no way I want to allow two manufactured homes."

Mr. Remsburg "The commissioners' concern is that there would be alot of mobile homes around because you can have two of them on a parcel 2 acres or more right now."

David Underwood "Why don't we go to three acres and require that one be stick built. I don't want to see two manufactured homes."

Mr. Remsburg "But there are times where that may be helpful for a family that needs to be close."

David Underwood "I would rather them ask for an exception for that."

Motion: David Underwood made a motion to amend section 405 to allow for one site built dwelling unit and one manufactured dwelling unit on 3 acres or larger.

Second : Kevin Brickman

Passed: 5-0

Chair Eckman "I believe that we do need to look at the accessory dwelling unit section and potentially do something with it."

Mr. Remsburg "I think you could expand it a little bit but you have to be careful because is that just becoming a second home on the same parcel?"

Chair Eckman "Yes, and that is what we need to discuss."

Mr. Remsburg "One suggestion is that you get rid of the 800 square foot language and just say that it can only be half the square footage of the main home."

Chair Eckman entertained a motion to adjourn.

Motion: David Underwood

Second: Kevin Brickman

Passed: 5-0

Time: 7:27 PM

Chair, Jay Eckman

Clerk, Bailey Emrich