

Cabarrus County Government – Planning and Development



**Planning and Zoning Commission Minutes
January 14, 2025**

Mr. Charles Paxton, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Mr. Adam Dagenhart, Ms. Holly Edwards, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise, Ms. Ingrid Nurse and Mr. Mohammed Idilibi. Attending from the Planning Department were, Mr. Phil Collins, Senior Planner, Ms. Susie Morris, Planning Director, Ms. Lisa Johnson, Clerk to the Planning & Zoning Commission. Also in attendance, were Ms. Lauren Linker, Clerk to the Board of Commissioners and Mr. Evan Lee, Poyner Spruill LLP. Absent from the meeting were Mr. Michael Bywaletz and Mr. Andrew Nance.

Roll Call

Ms. Susie Morris, Planning & Development Director, called the roll.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR VARN 2024-00004

Mr. Charles Paxton, the Chair, said, the first order of business is to approve the Order for Granting Variance 2024-00004. Mr. Jeffrey Corley **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** the Granting Order. The vote was unanimous to **APPROVE**.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR VARN 2024-00003

The Chair said, next is the approval or denial of the Granting Order and Findings for Variance 2024-00003. Brent Rockett **MOTIONED, SECOND** by Ms. Holly Edwards to **APPROVE** the Granting Order. The vote was unanimous to **APPROVE**.

APPROVAL OF RULES OF PROCEDURE

The Chair said, the next order of business is to approve the Rules of Procedure for the meeting tonight. Mr. Mohammed Idilibi **MOTIONED, SECOND** by Ms. Ingrid Nurse to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

The Chair asked the audience if there was anybody that had not filled out a blue card that wished to speak. He reminded the audience that it was required. He then moved on to the next item on the Agenda.

RZON2024-00006-Request to Apply Mobile Home Overlay (MH-2) to Low Density Residential (LDR) Zoned Property

The Chair stated, we have a Request to Rezone LDR zoned property to add the MH-2. Jerry Baxter is the owner and applicant. The address is 2436 Miami Church Rd.

The Chair called on Mr. Phil Collins to present the staff report.

Mr. Collins said, the subject property is about 4.56 acres in size and is currently vacant and mostly wooded. Intermittent streams traverse the western side of the property from a northwest to southeast direction and eventually feed into Coldwater Creek. The subject property is surrounded by residential use, vacant properties and LDR zoned properties. The subject property will be served by septic and the applicant intends to request to tap onto City of Concord water. With regards to the proposed Overlay, the purpose of the MH-2 District is to provide for the principal use of land to be developed in harmony with the underlying zoning district regulations. However, permitting the substitution of a manufactured home as a principal building, providing the specific design and/or installation and design regulations appearing in section 4-28 are met. That is in your packet as Exhibit F.

With regards to the underlying zoning district, the LDR district is intended to permit development with a low-density residential character. This district allows conventional and open space subdivisions. The district is located where public utilities are available or are envisioned available within the next two to five years. The subject property is located within the boundary of the Central Area Land Use (Plan). The Plan recommends low-density residential development in this area. The Plan more specifically recommends that this area be developed at a density of up to two to three dwelling units per acre. While the plan recommends a certain density, this request is intended to allow the applicant to place a multi-section manufactured home on an existing lot of record where manufactured homes are currently not permitted as a building type. Therefore, this request will not have any effect on the application of the plan.

As part of the Plan, the City of Concord and Cabarrus County entered into an agreement which splits the Central Area into two areas, Areas A and B. That can be seen on Exhibit J in your packet. The agreement states that Concord will not extend water and sewer into Area A, except under certain circumstances and that Concord may extend utilities at its

sole discretion in Area B. The subject property is located within Area B and as stated before, the applicant intends to request to tap into the City of Concord water.

In conclusion, the subject property is approximately 4.56 acres in size. The subject property is an existing lot of record within the LDR district. The request is not to allow any increases in density. The request does not propose any change to the density. It only proposes allowing the substitution of a manufactured home for a stick built or modular home on the subject property. The request is for the MH-2 Overlay to be applied to the subject property. The MH-2 Overlay restricts the use of manufactured homes to multi-section. The subject property is not adjacent to any properties within the MH-2 Overlay. The nearest property with the MH-2 Overlay is located approximately one-thousand, eight hundred and seventy-five feet to the southeast of the subject property. There are existing mobile homes within the vicinity of the proposal, you can see that in Exhibit I in your packets, which have existed in this area for quite some time. The applicant is requesting to apply the Overlay to the subject property to allow a new, multi-section manufactured home on the property. Again, this is a conventional, rezoning request.

Therefore, all uses permitted within the underlying LDR Zoning District and the proposed MH-2 Overlay would be allowed on subject property if approved. The Planning & Zoning Commission should consider all of the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County. With that, I'll try to answer any questions if you have any.

The Chair asked the Board if anyone had any questions.

Mr. Corley asked, so no use table changes, no density changes? Just simply allowing manufactured housing assuming they conform to 4-28?

Mr. Collins said, right, that's correct.

The Chair asked if there were any other questions. There being none, the Chair called on the applicant to speak.

Ms. Cheryl Baxter, 2422 Miami Church Road, Concord, NC 28025 approached the podium. The land that we have, we want to buy a manufactured home for my daughter and her family and my grandbabies. One is autistic and we're a close-knit family. We want to be together so we can help each other. A manufactured home is what we can afford and that's it.

The Chair asked the Board if there were any questions for the applicant. There being none, the Chair opened the public hearing. There being no one from the audience wishing to speak in favor or against the request, the Chair closed the public hearing. The Chair then opened the floor for discussion.

The Chair asked if anyone had any comments or questions at this time.

The Chair said, I can start by saying it's not going to increase the density in the area so that would be one reason to approve this. There are also existing mobile homes in that area. I think that is something to consider also. The Chair asked if anyone else had a comment.

Mr. Corley said, I think the use and character of the proposed use of this property is generally consistent with what is surrounding. No increase in density, no change in uses. Just allowing supplemental standards to be applied to the specific type of home (multi-section manufactured).

The Chair asked if there were any other comments to help build the record. The Chair said, Adam, what do you think?

Mr. Dagenhart said, I mean you and Jeff already hit it all. They're not really asking for much infrastructure other than water. There's no zoning change.

The Chair asked if there were any other comments. There being none, the Chair explained they would be making two separate votes.

Mr. Jeffrey Corley **MOTIONED, SECOND** by Brent Rockett to **APPROVE** RZON2024-00006 Request to apply Mobile Home Overlay (MH-2) to Low Density Residential (LDR) zoned property. The vote was unanimous to **APPROVE**.

CONSISTENCY STATEMENT

The Chair said, at this point, we need to make a consistency statement as it relates to the land use plan. We need to create the consistency statement so that we won't have any issues down the road. At this time, we probably need to come up with some reasons that could be the same for our consistency statement. I will go back to the density level. It doesn't increase the density and there are also surrounding properties that are the same like and make (manufactured homes).

The Chair asked if there were any other comments.

Mr. Jeffrey Corley said, similar to my comments before, that we're not changing the character of the underlying district. We're just applying an Overlay to allow for the type of structure they wish to use and the supplemental standards of 4-28 to be applied.

The Chair asked if there were any other comments.

Ms. Holly Edwards said, we could just say there's no additional infrastructure or water needed for those (manufactured homes).

The Chair asked if there were any other comments. There being none, he asked if there was a motion to approve.

Ms. Holly Edwards **MOTIONED, SECOND** by Mr. Mohammed Idilibi to **APPROVE**. The vote was unanimous to **APPROVE** the consistency statement for RZON2024-00006.

The Chair said, I would say you got your request.

LEGAL UPDATE

The Chair called on Attorney, Evan Lee to present a legal update.

Mr. Evan Lee said, I do have a couple of things to update the Board on. One, you may have noticed some of the stuff in the news about the Helene Recovery Bill that also had the provision in there about expanding the definitions of down zoning and applying a hundred-and eighty-day retroactive change. It's not going to really affect anything in our ordinance right now. It will just kind of hold things in the status quo. It's been a bigger issue I think for cities than it has been for counties. It's just something to monitor. There's a lot of rumors about what it does and doesn't do. There's a lot of uncertainty. My understanding is that it's going to be addressed either in a Bill or part of a bigger Bill in the longer session. I've talked to Ms. Morris about it, I've been on calls with other jurisdictions about it and things like that.

Really nothing to say other than stay tuned on what it may mean. Just kind of means no new changes to the Development Ordinance right now, no new legislative changes to the Development Ordinance. It won't change things like the zoning request that came before you tonight, because that's a consensual request.

The other thing is, I know some of this Board was part of this. Some of the Board was not. Back in 2021, it's been so long ago. In 2021, there was the Appeal from the Arstarks on Hahn-Scott Road. That came to this Board. This Board issued Findings upheld by a couple of Notices of Violations. That was appealed to Superior Court. Then the Superior Court back in January of last year upheld this Board's Findings of Fact and Conclusions of Law. That was appealed to the North Carolina Court of Appeals. I briefed that case.

There was no oral argument or anything. New Year's Eve, a decision from the Court of Appeals was issued upholding the Board's decision in its entirety and essentially adopting the county position. There is a companion zoning enforcement case that has been filed against Ms. Arstark to keep the issue ripe. I am working with her attorneys right now to settle that and everybody is going to walk away with hopefully, things in status quo. I did want to update the Board on that. That we got it right the first time, and that was affirmed by the Court of Appeals. That case has been very interesting for a lot of people, and I'll leave it at that.

That's all I have from a legal update standpoint. You guys will still continue to see me some, too. Even though I'm in private practice now, Rich and I are going to continue on with the way split things up. I'll be here some, he'll be here some. That's it.

The Chair asked if there were any questions.

The Chair asked, one aside question. You're in private practice doing what? Real estate or anything like that?

Mr. Lee responded, I do land use for developers, but also municipalities. Primarily, my clients are municipalities. I still represent Cabarrus County. I represent Chatham County, City of High Point, Town of Ranlo and a couple of other towns in Gaston County.

The Chair asked Ms. Susie Morris for any comments.

DIRECTOR'S REPORT

Ms. Morris said, just one comment. You'll see a new face. This is Ms. Lisa Johnson; she is our new Administrative Specialist/Planning & Zoning Clerk. I will make sure that you have her contact information, in case you are unable to attend a meeting. If you would continue to let me and her know. That way, we can line up alternates if we need to and make sure that we have a quorum and the vote that we need and enough people to vote, if it is a Board of Adjustment item. As you're aware, if it is a Board of Adjustment item, if it's not a full complement of the Board, we do extend the offer to the applicant to table until a full complement of the Board is available.

Like Evan said, with that legislation, there are several associations that are working on that from the government side. Hopefully, it will get back on the agenda because what it means with a down zoning is, if you all remember when we did the Central Area Plan, everybody said we want this to be lower density, lower density, lower density. So, the county initiated that rezoning. Well now, a government entity cannot initiate that type of a rezoning unless every single person agrees to it. So, that's one.

Number two, is you cannot change a zoning district to a more restrictive district, unless everybody agrees to it. For example, we have been talking about how AO and CR have some of those commercial uses peppered in there, which then becomes inherent conflicts. We no longer have the ability to remove those uses. We only have the ability to add to it. It really has created some challenges for local government and hopefully they will reconsider that language because it was tacked on at the end of the Helene Bill. It was last minute and people were saying, this is not transparent, it was just tacked on there. It was specifically related to a case somewhere else, which should have been dealt with as local legislation, if they really wanted to reverse it or do something with it.

Stay tuned on that one, but for now, those of you who are on the Text Amendment Committee, we're probably not going to be moving forward with that project for now.

The Chair asked if there were any other questions or comments.

There being no further discussion, Mr. Adam Dagenhart **MOTIONED, SECOND** by Ms. Holly Edwards, to adjourn the meeting at 6:56 p.m. The vote was unanimous.

APPROVED BY: Charles Paxton, Chair

Charles Paxton

SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission

Lisa Johnson

ATTEST BY: Susie Morris, Planning & Development Director

Susie Morris