

## MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, December 5, 2023  
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held a Special Called meeting on December 5, 2023, at 1:30 p.m. in the Council Chambers in City Hall, 160 6<sup>th</sup> Avenue East, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Vice-Chair, Charles Webb, Kathy Watkins, Chauncey Whiting, Libby Collina, Laura Flores, Lynette Oliver, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney.

Absent:

Chair called the meeting to order at 1:30 p.m.

Approval of the Agenda: A motion was made by Mr. Mowell to approve the agenda. The motion was seconded by Ms. Watkins and passed unanimously.

Approval of the minutes of the September 12, 2023 meeting. A motion was made by Mr. Whiting to approve the minutes as written. The motion was seconded by Mr. Mowell and passed unanimously.

Approval of the Decision for B23-069-VAR (Webb). A motion was made by Mr. Mowell to approve the Decision as written. The motion was seconded by Mr. Whiting and passed unanimously.

### **Variance – Signal Hill Townhomes – (B23-081-VAR).**

Chair swore in all persons to give testimony. Rob Dull, Travis Fowler and Alexandra Hunt were sworn in.

Chair opened the public hearing.

Alexandra Hunt, Planner stated her name and title for the record. She stated The City is in receipt of an application from First Victory Inc. for a variance from the following: A variance to reduce the Minimum Street ROW Requirements in Section 4.03.C.1 of the Hendersonville Subdivision Ordinance for “local” streets from the required 45’ to 30’ in the area identified as Note A on the proposed site plan attached in your packets as Exhibit B; AND a variance to reduce the Minimum Curve Radii Requirements for “local streets” provided in Section 4.03.C.8 of the Hendersonville Subdivision Ordinance from the required 150’ to 90’ in the area identified as Note B on the proposed site plan. However – Since the submission of the Applicant’s variance application, City Council approved an ordinance reducing the Minimum Centerline Radii requirements in the Subdivision Ordinance Sec. 4.03.C8 from 150’ to 90’ during the November 2<sup>nd</sup> meeting. Therefore, this eliminates the need for a variance from this requirement of the Subdivision Ordinance and leaves just the variance to reduce the Minimum Street Requirements in Section 4.03.C.1 The requested variance is part of a proposed Major Subdivision project referred to as Signal Hill Townhomes. This proposed major subdivision project has not yet been submitted to City staff for review under the major subdivision requirements of the Subdivision Ordinance.

Ms. Hunt gave the project background:

The subject property consists of six parcels outlined in red on the GIS Map image with the PINs listed on the screen. She noted for the record that the staff report only listed five PINs of the six PINs. The correct number of PINs are identified here as part of Staff's presentation. The parcels are zoned R-15 Medium Density Residential and are located in the City's ETJ. Based on the submitted site plan the total project acreage is 13.73 acres. The parcels are currently vacant lots and are accessed by two privately maintained roads: Lafolette Street and Amazing Grace Lane.

The Henderson County GIS map was shown and included in the staff report.

The proposed site plan was shown and is included in the staff report. The site plan identifies two areas that reference the two subdivision ordinance sections the applicant is seeking a variance from but we will only be focusing on Note A since the variance request highlighted in Note B is no longer necessary

Looking at Note A on the site plan, the applicant is requesting a variance from Section 4.03.C.1(a) of the subdivision ordinance which requires that the minimum ROW for local streets be 45'. The proposed site plan indicates a 30' ROW on Lafolette Street. The variance application submitted by the Applicant indicates that the existing 30' ROW has inhabited properties on both sides of Lafolette Street and any expansion of the ROW would create non-compliant setback conditions for the existing structures.

Included in your packet is an aerial from Henderson County GIS Maps showing the two existing parcels containing single family homes which abut Lafolette Street.

Section 2.04.J.4 of the Subdivision Ordinance lists the required findings that the applicant needs to demonstrate for a variance to be approved. As you may have noticed, findings 1-4 are the same findings that are required for a variance from the zoning ordinance so they should look very familiar. There is one additional finding here under the subdivision ordinance which is #5. Additionally, there is another difference from the zoning ordinance variance requirements when it comes to what cannot be considered or used as the basis for approving a variance.

Staff suggested motions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

There were no further questions for staff.

Chair asked the applicant to address the Board.

Rob Dull, Architect 305 Pole Creasman Road, Asheville NC stated it is just the right-of-way and it is a very small piece. It is only in front of two adjacent properties. Everywhere else they are able to expand the right-of-way to meet the 45 foot requirement. He pointed out the properties they did not own and therefore are limited to the 30' right-of-way. In working with city staff they are still able to provide the minimum required fire access lane at 24' and a 5' sidewalk to fit within that 30' right-of-way. From conversations with staff this was their best solution.

Homer Howard, PO Box 104 Edneyville, asked if they would be using other neighbors properties. Mr. Dull stated they would not be encroaching on anyone's property. Mr. Dull stated they are not doing anything on that side of the property line. They will not impact him at all.

Mr. Webb asked if there was a road there now. Mr. Dull stated no road, just a right-of-way. Mr. Webb asked if he was turning that into a road or would it still be a private property. Mr. Dull stated that will still remain a private road. The road will get dedicated to the city and built to city standards. It is a public right-of-way now. Mr. Fowler stated they would annex into the city for water and sewer service and that will become a public city maintained road.

Chair asked Mr. Fowler to state his name for the record. Travis Fowler, developer for the project, 542 S. Caldwell Street, Brevard NC stated the property is currently in the ETJ so they would make an application for annexation to have access to water and sewer service so this road would become a public city maintained road and the water and sewer system would be dedicated to the city or accepted by the city so it becomes a public water and sewer system.

Mr. Webb asked if this is annexed by the city will the other properties around them be affected by that and be annexed as well?

Daniel Heyman, Staff Attorney stated no.

Ms. Collina asked if the variance is approved and the right-of-way is 30' would that prohibit NCDOT or the city from taking over the road. Mr. Dull stated it should not from his conversations with Planning staff. The next step for this is a full submittal. He stated the application would go through the Technical Review Committee which would include city staff and NCDOT and any issues they saw would be brought to their attention at that point.

Virginia Haynes, Brevard Knoll Drive stated she is a neighbor of Mr. Howard's. She asked when the entrance comes back on Signal Hill, because we already have so much traffic on that road, will there be a wide turn lane from Lafolette onto Signal Hill or will they have the same problem they have with the storage unit people of traffic backed up on the hill. She is mainly interested on the entrance to Signal Hill and how wide that entrance will be for the traffic? Mr. Fowler stated that would be part of the technical review. NCDOT has standards for site distances as you come over a hill or stack lanes for the number of residents on roads and apartment complexes. They will abide by all of those requirements and standards. He is not an engineer so did not want to give his opinion but they are not that far along with the plan either.

Discussion was made on the 30' right-of-way compared to the 45' right-of-way.

There were no further questions for the applicant.

Chair closed the public hearing for Board discussion.

Mr. Mowell made the following motion: *With regard to the request by First Victory Inc. for a variance from Section 4.03.C.1 Minimum Street Right-of-Way Requirements of the City of Hendersonville Subdivision Ordinance to: Reduce the required 45' minimum street right-of-way provided in Sec. 4.03.C.1 to 30' as presented, I move the Board to find that: 1. An unnecessary hardship **would result** from the strict application of the ordinance. 2. The hardship **results** from the conditions that are peculiar to the property, such as location, size, or topography. 3. The hardship **did not result** from actions taken by the applicant or the property owner. 4. The requested variance **is consistent** with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved. 5. The variance approval **is** the minimum necessary to make possible the reasonable use of the land, building, or structure. For the following reasons: taking 45' would impact on people who already have property there from no fault or action of their own and the 30' still allows for emergency vehicle traffic especially with it having two entrances and exits Ms. Watkins seconded the motion.*

Chair called for the vote. The following vote was taken by a show of hands.

Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. Flores	Yes
Ms. Oliver	Yes
Ms. Watkins	Yes
Mr. Whiting	Yes
Ms. Collina	Yes

The vote was unanimous. Motion approved.

Meeting adjourned at 1:53 p.m.

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Melinda Lowrance, Chair

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Terri Swann, Secretary