
TOWN OF MARSHVILLE

est. 1877

Marshville Board of Adjustments Minutes

March 27, 2023

In Attendance: Chair Rusty Johnson, Vice Chair Susan Drake; Board Members Tom Appenzeller, Nancie Mandeville, Tracy Stancill

Staff Attendance: Planning and Zoning Administrator Jonathan Wells and Town Clerk Ashlie Vincent

Call to Order/Invocation/Pledge of Allegiance: Chair Johnson called the meeting to order at 7 pm and gave the invocation. All shared the Pledge of Allegiance.

Determination of Quorum: A quorum was present.

Consent Agenda: A correction to the August 22, 2022 minutes – Susan Drake is not the vice chair; Tom Appenzeller is the vice chair. A motion to adopt the consent agenda with the correction was made by Member Stancill and seconded by Vice Chair Appenzeller—all ayes.

V-23-01 Lee Shubert - 113 Church Street (parcels 02309056 & 02309056A) Request Appeal of Planning & Zoning Administrator's decision regarding the recombination of the two subject parcels

Open Public Hearing: Chair Johnson called the public hearing open

a) Sworn In

- Johnathan Wells – Planning and Zoning Administrator
- Jeremy Gillard - Surveyor
- Phillip Woods - Citizen
- Lee Shubert – Land Owner

b) Public Hearing

- Jonathan Wells: Mr. Wells apologized for the confusion he may have caused by suggesting the applicant submit a variance application to appeal the planning administrator's decision. He was not able to find an appropriate form to be used. Three weeks ago, Mr. Gillard submitted a subdivision application for two parcels (**02309056 & 02309056A**) within the town limits. Mr. Wells posted a memorandum on March 5th describing the rationale for subdivision.

The bases of the Planning & Zoning Administrator's denial were the following:

- (a) created "flag lots" must have a minimum "pole" width of 25 feet, whereas the proposed width is 14 feet (Article 16.2-3(M)), and
- (b) the minimum "flag" lot size shall be 2.5 acres, and
- (c) required minimum lot size of the lot fronting on Church Street (zoned CIV – Civic) is 40,000 square feet. The existing lot size at 20,388 square feet is already substandard/non-conforming, and the proposed subdivision would further decrease that by 2,780 square feet (14 percent), and
- (d) The required minimum lot width of the above parcel is 200 feet (CIV zoning) and the existing 98-foot width is already substandard/non-conforming. The proposed subdivision would further decrease that by 15 feet (15 percent).

It should be noted that the rear parcel (proposed "flag lot") is zoned MSP (Main Street Periphery) and at approximately 13,000 square feet conforms to the minimum lot size (4,000 s.f.) of that zoning district, although as noted above does not meet the minimum 2.5 acres for a "flag" lot.

Under the current development ordinance adopted in 2016, Mr. Wells felt he couldn't authorize the approval.

- Jeremy Gillard: The church donated three lots to Habitat for Humanity. The parcels were recombined by deed in 2008. Habitat for Humanity sold the properties to an investment company. Jeremy presented the Board with a tax map and deed of the land to be put into evidence. Jeremy stated that he divided the parcels by the deed.
 - Phillip Woods: Mr. Woods explained the history of ownership of the properties. The church owned four pieces of land. Those four pieces were sold to Mike Duke. He had plans to build an event center. Mike Duke sold two parcels to a family. The family built a home on one of the parcels and rented the church out. The two remaining parcels were later sold to an investment company.
 - Lee Shubert: Mr. Shubert is looking to appeal the decision made by the zoning administrator. He was not aware that the parcels were not in compliance with the development ordinance. The three parcels would be out of compliance even if recombined. The goal of the subdivision would allow to reconfigure and have two separate deeds. Mr. Shubert said the Town of Marshville has expressed interest in the parcels he currently owns. The town would do a parcel swap of equal value. Mr. Shubert does not have a use for the land as it currently stands; it was an opportunity he took advantage of. The goal is to keep parcel **02309056A** without the flag lot and give parcel **02309056** and the flag lot to the town.
- c) **Consider Approval or Denial:** A motion to affirm the ruling of the zoning administrator decision was made by Vice Chair Appenzeller and seconded by Member Mandeville—all ayes.

Jonathan Wells informed the board that the updated zoning map is on the county website.

Adjourn: A motion to adjourn the meeting was made by Member Stancill and seconded by Member Drake—all ayes.