



OAK RIDGE BOARD OF ADJUSTMENT MEETING
MAY 12, 2011 – 7:00 P.M.
OAK RIDGE TOWN HALL

Members Present:

Wendell Ott, Chair
Jay Cumbus
Beth Walker
Alex Papp

Staff Present:

Heather Birch, Town Clerk
Michael Thomas, Town Attorney
Bill Bruce, Town Planner

Members Absent:

Nancy Stoudemire
Danny Yanusz
Jim Kinneman

1. CALL TO ORDER

The Board of Adjustment meeting of May 12, 2011 was called to order by Chairman Wendell Ott at 7:00PM.

2. ROLL CALL

The roll was called by Wendell Ott. Only Wendell Ott, Jay Cumbus, Beth Walker, and Alex Papp were present. Nancy Stoudemire, Danny Yanusz, and Jim Kinneman were absent.

3. APPROVE AGENDA

Jay Cumbus made a **motion** to approve the meeting agenda. **Beth Walker** seconded the motion and it was passed unanimously (4-0).

4. APPROVE MINUTES OF OCTOBER 14, 2010 MEETING

Beth Walker made the **motion** to approve the minutes of the October 14, 2010 meeting. **Alex Papp** seconded the motion and it was passed unanimously (4-0).

5. PUBLIC HEARING:

- **Case No.11-03-OVRN-00023:** Spencer Bowman is appealing an Interpretation of an Enforcement Officer's decision contained in an Initial Notification letter dated March 23, 2011 ordering the removal of a single wide manufactured home on a lot not zoned for any type of manufactured homes in accordance with Sections 30-331(a), 30-253 (4), and 30-253 (6) of the Oak Ridge Development Ordinance. The property is owned by Spencer Bowman and is located at 2900 Oak Ridge Road, Tax Parcel 010056105000039, Oak Ridge, NC 27310 and zoned HI.

Wendell Ott explained that there are only four members present and to reverse the decision that is before us, there will need to four affirmative votes of approval. Ordinarily the appellant would have to obtain four out of five if all five voting members of the Board were present. Wendell Ott notes that this will be a disadvantage to the appellant and offered the appellant an opportunity to move for a continuance until next month when there would possibly be more voting members. The Bowmans agreed to continue with only four voting members.

Spencer G. Bowman and Spencer E. Bowman, Bill Bruce Oak Ridge Town Planner, Bruce Oakley Oak Ridge Town Administrator, Carol and Tim Collins introduced themselves and were sworn in.

Bill Bruce took the podium to give the Town's summary:

- In March of 2011 the Guilford County Planning Department received a complaint that a manufactured home had been placed on the subject's property without a permit
 - Zoning enforcement officer acted on behalf of the complaint and visited the site. Confirmed that the manufactured home had been placed on the property without a permit.
 - Tiffany Burch issued by letter dated March 23, 2011 an initial notification of the zoning violation that a manufactured home is not permitted on that lot
- Development ordinance section that was referenced 30-331(a) which indicates that the scenic corridor overlay zone does not permit singlewide class A/B or C manufactured homes in the scenic corridor
 - This violation was communicated to the applicant; applicant chose to appeal the decision of the enforcement officer

Wendell Ott asked the Bowmans if they owned the property jointly. The Bowmans' do own the property jointly.

The testimony of Spencer G. Bowman is summarized as follows:

- Bought property in 1972
- Had it zoned HI
- He presented documents that he claimed he could have mobile home sales, move and store things on the property, contractor, building maintenance, own a garage and dealer
 - Dealer of mobile homes, planes, boats
- A few years ago we took some mobile homes apart and Guilford County came out said we were in violation
- This mobile home has underpinning so we can remodel
 - For sale and pictures showing no one is living in it
 - Neighbors call the authorizes when we hook a hose to the trailer to work on it
- Owned the property for 40 years
- Neighbors call and everyone comes out: Heath Dept., Duke Power, etc.

S.G. Spencer presented documents #1-#3. Document #1 predated the incorporation of Oak Ridge. The document showed the permitted uses of the HI zoning. The copy was obtained Guilford County in 1998.

Document #2 according to S.G. Bowman is a document showing that the property is HI from the Town of Oak Ridge dated 2000. The document was 5 pages, but S.G. Bowman said he has the entire book of HI uses.

Documents #3 are pictures of the inside of the mobile home, specifically showing what is being remodeled S.E. Bowman said he took the photographs today.

Document #4 is presented. It is plat of the deed of our property and marking by S.G. Bowman signifies where the mobile home is.

S.G Bowman said that his property that is currently classified as HI.

S.G. Bowman said the names of the businesses he and his son operate on the subject property are B&B Welding incorporated and S.G. Bowman Customs. The mobile home has a bill of sale and is under B&B Welding.

S.G. Bowman said the mobile home has been on the property for three years. It has been sitting vacant for some years. The primary purpose for owning it is to have it there for resale.

The mobile home is not tied down and the tongue was still on the trailer. It is also for sale. The trailer is located in the woods; more than 100 ft off the road.

Since the town was incorporated there have been two mobile homes on the property.

Spencer E. Bowman said explained that he was frustrated with the situation and that no one is living in the mobile home. He also noted that there is no water, no sewer and it's empty.

Board Member Jay Cumbus noted that he just realized he worked with S.E. Bowman's girlfriend and felt it was appropriate to make it known. He did not think that factor would influence his objectivity in deciding this case. Neither the appellant nor the Town of Oak Ridge objected to Jay Cumbus serving for this case.

Town Attorney Michael Thomas explained that the Bowmans' are in the scenic overlay zone and they are also zoned HI. The Bowmans did not realize the Town had adopted a scenic overlay zone.

Michael Thomas called Bill Bruce to testify. He questioned Bruce about the definition of the AA, A/B/C manufactured homes. Thomas asked if Bruce has been able to determine how long this home has been on the property. Bruce said the only way we were able to guesstimate is pull up older aerial photographs. The aerial photos of 2008 do not show a mobile home at that location. The photos from 2010 and the personal investigation show the mobile home.

Thomas asked about the actual use of the mobile home. Bruce said the language simple states class A/B or C manufactured dwellings are not permitted in the scenic corridor. We did not differentiate whether it was lived in or used for storage because it appeared to meet the definition of a manufactured dwelling.

Beth Walker asked about 1,500ft boundary of the scenic corridor. If the trailer was outside the scenic corridor but within the property limits. If the mobile home was used for storage outside the scenic corridor, then it would be assumable that they could obtain a permit for that use.

Michael Thomas asked Bruce Oakley if he was the custodian of Town records, and Oakley said yes. Thomas asked a series of questions regarding the scenic corridor. It was originally adopted in January of year 2000. The scenic corridor has included language prohibiting d class A/B and C manufactured dwellings.

There was discussion about how the Town advertises for changes in ordinances. Oakley said we publish in the newspaper that we will have public hearings. S.E. Bowman claims he was not notified directly that there was a scenic overlay ordinance.

Thomas said the Town believes the use is irrelevant, what is relevant is the classification of this structure. It is a class A/B or C manufactured dwelling in the scenic corridor overlay district. The scenic corridor overlay makes it an improper use on the property. He reads Section 30-253(4) "use in violation" in the officer's citation letter. The Town argues this is maintaining a building or structure in violation of the ordinance in the scenic corridor. You can do anything permitted in HI with the scenic corridor except have class A/B or C manufacture homes, billboards, or radio station or antenna use. The reason is it is not proscribed in this scenic overlay district zoning.

Carol Collins entered 3 documents into her testimony (labeled opposition document #1, #2, #3)

Document #1 is a Guilford County GPI map. She was not sure what day it was taken. Collins walked to the dais and explained the pictures.

The Bowman property has accumulated things (i.e. vehicles or other materials) on the since Carol Collins and her husband moved beside them. Collins said she also has pictures of the outside of the mobile home that included a deck with chairs, hot tub, lights, etc.

Collins said she has seen people coming and going from the mobile home day and night. I have a picture of a drainage pipe going into the ground. I did see people living there.

Ott comments that the ordinance permits everything that is in HI except certain things one is class A/B or C manufactured dwellings. You can challenge the scenic overlay ordinance if you think it's not legally applicable to your property. It doesn't seem to me that the case turns on how long it had been there or how it has been used. It was placed there well after the scenic corridor ordinance was adopted.

Public hearing is closed.

Jay Cumbus said he read the scenic corridor prohibition of "dwelling" to imply residence. I don't believe that a manufactured home is a dwelling until it is attached to the ground which this does not seem to be. Walker seems to concur with Cumbus.

Beth Walker contemplates the definition of dwelling unit in the ordinance that pertains to the case. The board continues to discuss, moving toward a consensus that the scenic corridor prohibition of mobile home applied only to mobile homes that were occupied or intended for occupancy as a dwelling units.

Alex Papp made the **motion** overrule the officer's citation. **Jay Cumbus** seconded the motion and it was passed unanimously (4-0).

NOTE: THE FOREGOING IS A SUMMARY OF THE ESSENCE OF THE TESTIMONY AND DISCUSSION FROM THE PUBLIC HEARING. IF THE BOA DECISION IS APPEALED, THE OFFICIAL RECORD OF THE PROCEEDING WILL BE A VERBATIM TRANSCRIPT PREPARED BY THE COURT REPORTER IN ATTENDANCE CONFIRMED BY THE ELECTRONIC RECORDING TAKEN AND MAINTAINED BY THE COURT REPORTER.

6. NEW BUSINESS

- Reelect BOA Chairman
 - Beth asked wait until everyone from the board is present before any decision is made

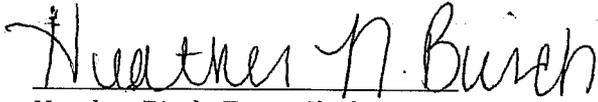
Beth Walker made the **motion** to postpone the decision until we have more members present. **Jay Cumbus** seconded the motion and it was passed unanimously (4-0).

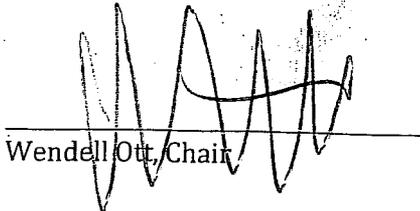
- Recommendation of BOA Vacancies
 - Jay Cumbus
 - Danny Yanusz

Beth Walker made the **motion** that both of the alternates be reappointed by Town Council as alternates. **Alex Papp** seconded the motion and it passed unanimously (4-0).

7. ADJOURNMENT

Alex Papp made the **motion** to adjourn at 9:16PM. **Jay Cumbus** seconded the motion and it was passed unanimously (4-0).


Heather Birch, Town Clerk


Wendell Ott, Chair