



**OAK RIDGE PLANNING & ZONING BOARD MEETING
NOVEMBER 18, 2021 - 7:00 P.M.
(The meeting was held electronically via the Zoom platform)**

This meeting was conducted remotely under N. C. Gen. Stat. § 166A-19.24 by use of simultaneous communication using the Zoom online platform and in which Planning & Zoning Board members participated by simultaneous communication. Planning & Zoning Board members were joined and participated in the entire meeting, unless otherwise noted.

MINUTES

Board Members Present

Nancy Stoudemire, Chair
Jason Streck, Vice Chair
Patrick Fiorentino
Larry Stafford
Tammy Gardner
Rick Schlaginhaufen, Alternate (Sitting)
Megan Dyson, Alternate (Sitting)

Staff Present

Sandra Smith, Town Clerk
Sean Taylor, Planning Director

Board Members Absent

Ron Simpson
Patti Paslaru
Maureena Shepherd, Alternate

1. CALL TO ORDER

The meeting was called to order by Chair Nancy Stoudemire at 7:00 p.m.

2. APPROVE AGENDA

Jason Streck moved to approve the agenda, and Patrick Fiorentino seconded. Via roll-call vote, the motion was passed unanimously (7-0).

3. APPROVE MINUTES

Jason Streck motioned to approve the minutes of the October 28, 2021 meeting, and Patrick Fiorentino seconded. The motion was passed unanimously (7-0).

4. NEW BUSINESS

SP-21-03: Happytail Puppies. The Kanoy Properties LLC (Bill Greco or Chris Rohr, Land Solutions, representatives) has submitted a site plan for approval of a 3,858-square-foot Retail Sales "not otherwise classified" structure. The property is located on Oak Ridge Road, 200 feet east of the intersection of Oak Ridge Rd and E. Harrell Road at 2909 Oak Ridge Road. It is Guilford County Tax Parcel 163015, consisting of approximately 3.4 acres (zoned CZ-LB and CZ-NB (Conditional Zoning-Limited Business and Conditional Zoning-

Neighborhood Business), Greensboro (GW-III) Overlay, Scenic Corridor Overlay. It is owned by Kanoy Properties LLC.

Planning Director Sean Taylor read the property address into the record and presented the staff report, which is hereby incorporated by reference and made a part of the minutes. He said that no lighting or landscaping plan had been submitted, and a driveway permit from NCDOT is required.

Stoudemire pointed out that this was not a public hearing.

Fiorentino asked what type of business was located at the site, and Taylor said it was basically animal retail which sells boutique-type puppies.

Fiorentino asked how many dogs were anticipated at the site, and Streck pointed out that a business was already operating at the site. Taylor said that the business originally opened in two buildings on the site, but an issue arose because they added outside storage buildings without site plan approval. He said the applicant is trying to come into compliance and obtain an approved site plan for the additional buildings. He said the board is also to determine if the built-upon area is satisfactory.

Rick Schlaginhaufen asked if any additional buildings were being requested, and said he knew there would be a larger parking lot. Taylor said the site plan showed buildings that were already there, but some were not in compliance.

Fiorentino asked if the buildings were erected without the proper approval. Taylor said approving the site plan would give the applicant an opportunity to come into compliance without having to be cited for not requesting a new site plan be approved.

Megan Dyson noted the vinyl fence in front of the primary building and asked if it was permissible in the Scenic Corridor. Taylor said that was debatable and could be up to interpretation. He said his opinion was that it was not. He said fencing between the two major buildings was allowed, but he did not think it was permissible in front of them and particularly as close as it is to the building. However, he said the primary building is actually the one on the left side of the property, which sits slightly in front of the other major building, so in that sense it meets the ordinance, although it may not meet the Scenic Corridor requirements.

Stoudemire recalled another case recently when the property owner was trying to install a fence in the Scenic Corridor. Taylor said there had been a case that had gone to the Board of Adjustment to get a variance for a privacy fence in the front of the front building line of the major structure. Stoudemire asked if that request had been denied, and Taylor said yes.

Dyson said she noticed the applicant's fence every time she drives by and she wondered if the applicant might be able to accomplish what they wanted in a different way. Schlaginhaufen said he thought the fence in front of the buildings sticks out like a sore thumb, and Dyson agreed.

Bill Greco of Land Solutions, who was representing the applicant, said there were no plans for lighting. If that changes, the applicant can return to the Board and ask for permission. He said his firm does not handle lighting. Regarding the fence, he said the page 2 of the site plan showed landscaping that would be added at the front, which he said was currently a "sea of gravel." He said he felt the plantings would screen the fence. He said the fence serves a practical purpose in providing privacy, but agreed that having the fence in its current location was a gray area in the ordinance. Greco said he felt pretty confident that the site would have a completely different look when the requested changes are made.

Stoudemire said the site plan indicates the existing fence is 5 feet tall, but it does not indicate the height of the fence on the right side of the property. Greco said it was a short picket fence.

Dyson said she was curious to know if the business would be considered a high-volume breeder and if it met all requirements. Taylor indicated that the applicant had obtained all the necessary permits through the USDA and the state, and said that was who inspected them. He said complaints received by the Town have been passed along and the applicant had always passed inspections.

Stoudemire said that judging by the number of cars at the business, she would call them a high-volume breeder.

Streck said a lot of questions had come up about this business and people had expressed concerns about puppy mills. He said the business had installed fencing to mitigate people coming and looking into the windows. Streck said as a veterinarian, that he is not a huge fan of this type of business, but it is not up to the Board to decide whether it likes the kind of business, but whether it meets the ordinance requirements. He said it looked like the applicant was going to put in lots of landscaping. He said that to him, the current white vinyl privacy fence is an eyesore that sticks out. He said his hope was that the business was going to try to come into compliance with the Town's ordinance and that a bad situation could be made better. He said it looked like the business was trying to come into compliance.

Stoudemire summarized that it sounded as if the business had done something it should not have, and it was now trying to make that right.

Tammy Gardner said it sounded to her like the business was trying to get its site made right so it does not get shut down.

Dyson asked if there was anything in the ordinance about the setbacks of the sheds. Taylor said not as long as they were situated behind the front building lines. Taylor said he also is not a fan of this type of business, but if changes were made and the business happened to go out of operation, at least the Town would have a property that had been nonconforming that would now be conforming. He noted that most of the parking would be removed from the front and moved to the side of the property, and that landscaping would help with buffering.

Streck said if the Board denies the request, that does not mean the company will go out of the business. It just means it might have to move some of the storage

buildings or other things to come into compliance. Taylor agreed, saying that if the site plan were denied, the business would need to submit a new site plan. He said the type of business was a use by right according to the ordinance.

Stoudemire summarized that the main issue was regarding the fencing and whether it meets the Scenic Corridor guidelines.

Bill Greco said the fencing was something that was negotiable with the applicant and was a matter of subjectivity. He asked if the entire board needed to negotiate the issue or if it could be done with staff. He said when the plan is completed and the current view was greatly changed, he thought the business would then meet the Scenic Corridor ordinance.

Streck asked if there were an alternate way to address the issue if the fence were removed, since the applicant had a concern about privacy. Greco said he thought fencing was allowed in the Scenic Corridor. He said currently, there was gravel in front and people used to peer inside the building. He said customers are actually limited to the western part of the property, which includes a small patio and a fenced area that allows customers to meet potential pets. He said if the fence is moved into the street yard, it would be more easily seen and harder to conceal. He said his first inclination was to ask the Board to allow the landscaping to be installed and see how the site looks then.

Fiorentino said he was fine with Taylor making the decision, but he thought the Board should look at the property again when construction has been completed. Greco said that could be a condition as part of the motion to approve the site plan. He said the Board could instruct the applicant to work with staff and then come back before the Board.

Stoudemire asked to summarize the criteria in the Scenic Corridor ordinance. She said she understood the parking shown in the front of the building was allowed. Taylor said since much of the front of the property is located in the right of way, the majority of parking has to be on the sides and rear of the property. He said buffers are required between the business and adjoining residences. He said the major structures meet the overall design criteria and are essentially grandfathered. He said the outbuildings are similar in style to the major buildings, so they meet the architectural requirements.

Streck asked if fencing was subject to approval of the material it is made of, the height, and so on. Taylor said not really, but the Board might suggest landscaping.

Dyson said if the front fencing is allowed to stay and landscaping does not live, the Town would still be left with an ugly fence. Taylor said he agreed with Greco that the Board could negotiate about approval for the fence, perhaps after landscaping has been installed. He said the Board may need to look at the Scenic Corridor ordinance at some point in the future and perhaps suggest changes. Dyson asked if a Board would have approved the site plan before work had been done, adding that she did not think it was the Board's concern that the request was not submitted in the beginning. Taylor said Dyson had a good point. He said a legitimate question

would be whether the building was a main feature of the site and its architectural features were being blocked by the fence.

Streck said if he were looking at the plan as Dyson suggested, he thought the Board would probably approve the plan with the exception of the fence. He said if that is what the Board decides, the business would have to figure out something else for privacy. He asked if there might be a better or different or better way to accomplish their goal for privacy, such as a different color fence, a different material, or no fence at all. He said planting prickly bushes in front of the windows might keep people from peering into them or there were other solutions. He said he was leaning toward conditional approval without the fence.

Taylor said there were other options for privacy, such as putting blinds on the windows or installing two-way mirror glass.

Fiorentino said he was leaning toward conditionally approving the site plan with an alternate solution for the fence. He said that might even include a shorter fence with a hedge planted in front of it.

Dyson said with a 24-space parking lot on the side, it looked as if people could walk right up to the side of the building, so the fence was not really needed for privacy.

Stoudemire asked if the sheds were considered manufactured structures that should not be visible from the road. Taylor said no, because they are not mobile homes. He said the applicant would have to get approval from him for sheds and would also have to get approval from Guilford County. Gardner said any building with a wall 12 feet or greater had to be approved by Guilford County, and Taylor agreed.

Stoudemire clarified that the business did not get building permits for the sheds, and Taylor said they could not get them until they have an approved site plan. He said although the Town had received many complaints about this business, the one about whether changes to the site plan had been approved was the one that could result in changes. He added that he conducts investigations based on complaints, and he had not received any complaints about this business recently, even though the fence was installed over a year ago.

Fiorentino asked how people would access the building, with parking forced to the side and plantings required in front. Taylor noted that the right of way is shown on the site plan. He said there would be a grassy area where now there is simply one big gravel parking lot.

Stoudemire asked about the location of the handicapped parking spot, and Schlaginhaufen agreed that it seemed odd.

Greco agreed that the handicapped space should be in the smaller parking lot. He said the business has an incredibly large staff, and most of the cars in the parking lot belong to them.

Dyson asked if the sheds were considered permanent structures, and Taylor said no, but they would be once they are permitted. Dyson asked if it was possible to move

them. Taylor said he thought that placing them together in a row might be a fire concern, but he was not a building inspector.

Dyson said the buildings were an eyesore, and Streck pointed out they are currently behind the fence. Dyson said that the tops were still visible. Greco said some separation of the buildings is required due to fire concerns, but the building inspector could look at their use and make that call.

Taylor said his biggest concern with the property was the built-upon area since only a certain percentage of impervious surface is allowed. He said the applicant was adding land to the property so it can meet the built-upon area requirements. He said those regulations have to do with stormwater.

Streck referred back to Dyson's concern about the storage buildings. He said if the building inspector determined they did not meet the requirements, the applicant would have to return to the Board with a different site plan. Dyson said she just wondered if the applicant had come to the Board with the site plan before any storage buildings were added, would the Board have wanted the buildings in their current locations.

Taylor said the Scenic Corridor adds a little "muscle" to the requirements, but it does not really address building placement.

Stoudemire said now the list of items to be addressed were fencing, lighting – which there does not appear to be any – building permit issues, and moving the handicapped space to the other parking lot. She said it sounded to her as if the biggest concern was with the fencing. She said she thought the Board members were saying it would be OK to conditionally approve the site plan as long as it has the final say on the fencing.

Fiorentino said he would like for the Board to have the final say before the applicant does any work, but Schlaginhaufen said it sounded to him like the applicant was requesting permission to install the plantings first and then the Board would make a decision. Fiorentino said it would not be in the applicant's best interest to spend money if they were not sure the plantings would be approved.

Greco said they would be required to install the street yard plantings. He said 27 shrubs and three trees would be installed there. He said large, blank expanses were not allowed in the Scenic Corridor, but that had more to do with buildings. He said no colors were stated in the ordinance. He said although they were required to install street yard plantings, it did not have to be exactly as shown on the plan; the Board could ask that the plants be shifted so they are all between the two entrances.

Regarding colors, Stoudemire said the ordinance uses the term "earth tones."

Taylor added that property was being taken from lot 2 and added to lot 1 in order to meet the built-upon area.

After additional discussion, Jason Streck made a motion to conditionally approve SP-21-02 with the following exceptions:

- *That the handicapped parking space needs to be moved to the smaller lot on the west*
 - *That the existing fence that blocks sheds 3, 4, and 5 needs to be removed*
 - *A lighting plan must be approved if additional lighting is added*
- Patrick Fiorentino seconded. Via roll-call vote, the motion was passed by a 5-1 vote (Tammy Gardner voting in opposition, connection with Larry Stafford lost).*

5. PUBLIC COMMENTS

None

6. ADJOURNMENT

Jason Streck moved to adjourn the meeting at 8:10 p.m., and Rick Schlaginhaufen seconded. Via roll-call vote, the motion was passed unanimously (6-0) (connection with Larry Stafford lost).

