



**Board of Adjustment
Regular Board of Adjustment Meeting
Minutes**

January 8, 2019 - 6:30 PM

Town Hall

A. Roll Call, Determination of Quorum

Quorum was determined, and Chairman Welch called the meeting to order.

Regular Members in attendance: B. Welch, Chairman, D. Brewer, E. Cecil, S. Genenbacher, J. Kluttz, and W. Smith. J. Loucks was called upon to participate as a Regular member.

Regular Members absent: T. Primiano

Alternate Members in attendance: J. Bradshaw, J. Loucks, and P. Jacobson

B. Approval of Minutes

C. Hearing of Cases

Prior to testimony the following individuals were placed under oath: Meredith Nesbitt, Senior Planner, Sierra Saumenig, Planner I, and Andrew Falls.

The Chairman read the disclosure statement to the members: The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she/he has a fixed opinion about the matter, a financial interest in the outcome of the matter, an undisclosed *ex parte* communication with a party, or a close relationship with an affected person. Does any board member have any partialities, *ex parte* communication, financial interest, or a close relationship with affected persons to disclose and recusal to offer? There were none.

1. DA18-01: 16225 Stinson Cove Road

Sierra Saumenig, Planner I (also referred to herein as "staff") presented, and entered the Staff Report into the record through verbal testimony as indicated below, and written documentation, which is attached hereto as Exhibit A, and incorporated herein by reference. The applicants, Andrew and Kristen Falls, are requesting a Density Averaging Certificate to allow 836 square feet of impervious development rights to be transferred from 13719 Hagers Ferry Road to 16225 Stinson Cove Road. This action is possible via Article 3.3.3-A, i, (Paired-Parcel Averaged-Density Development) of the Huntersville Zoning Ordinance.

BACKGROUND:

1. The receiving property, 16225 Stinson Cove Road is zoned General Residential (GR) and is located in the Lake Norman Watershed Critical Area (LN-CA). The giving property, 13719 Hagers Ferry Road, is also zoned General Residential (GR) and is also located in the Lake Norman Watershed Critical Area (LN-CA).
2. The lot at 16225 Stinson Cove Road (owned by Andrew and Kristin Falls) has a total maximum allowable Built-Up Area ("B.U. Area") of 4,951 square feet. This is based upon the recorded final plat for the property. Currently, the

lot has 5,484 square feet of impervious coverage, which is not compliant, as it exceeds the permitted impervious amount by 533 square feet.

3. The lot located at 13719 Hagers Ferry Road owned by Cory and Arricka Brouwer has a total maximum allowable B.U. Area of 7,097 square feet. This is based upon the recorded final plat for the property. Currently, the lot has 6,078 square feet of impervious coverage, which is compliant and has an additional 1,019 square feet B.U. Area for future development.
4. The applicant proposes to transfer 836 square feet of impervious rights from 13719 Hagers Ferry Road to 16225 Stinson Cove Road. This will give the property at 16225 Stinson Cove Road a total of 5,787 square feet of B.U. Area (an excess of 303 square feet for future development).
5. If granted, the Density Averaging Certificate would bring this property, 16225 Stinson Cove Road, into compliance with the Town of Huntersville Zoning Ordinance.

STAFF FINDINGS:

In considering this Density Averaging request, the following Paired-Parcel Averaged-Density Development (Article 3.3.3-A,i) must be addressed with findings of fact:

- 1) The application has been processed as one development request.
- 2) The lot at 16225 Stinson Cove Road is zoned General Residential (GR) and it located in the Lake Norman Watershed Critical Area (LN-CA). The giving property, 13719 Hagers Ferry Road, is zoned General Residential (GR) and is also located in the Lake Norman Watershed Critical Area (LN-CA). The 836 square feet proposed for 16225 Stinson Cove Road combined with the proposed permitted square footage for 13719 Hagers Ferry Road, will not exceed the total impervious allowed for both parcels, which is 12,048 square feet.
- 3) The paired-parcel lot at 16225 Stinson Cove Road is residential zoned and may be further developed for residential purposes. The lot at 13719 Hagers Ferry Road is residential zoned and may be further developed for residential purposes.
- 4) There are no perennial streams, which would require buffers, on either parcel.
- 5) In order to comply with this requirement, a 836 square feet metes and bounds description of an undisturbed vegetated buffer area will be reserved in perpetuity for the parcel at 13719 Hagers Ferry Road. This area will be recorded on a subdivision plat and property deeds at the Mecklenburg County Register of Deeds.
- 6) The owners of both paired-parcels submitted an application for a Density Averaging Certificate. If granted, the plats will be recorded with a copy of the Density Averaging Certificate, and revised deeds. The necessary parties will be notified, and given a copy of the recorded information.
- 7) The surveys provided demonstrate conformity to the intent and requirements of this Article and Section, and the proposed agreement does not adversely affect the public interest.
- 8) If the Density Averaging Certificate is granted, the applicant will prepare a revised deed and plat for both properties. Then be responsible for recording the Density Averaging Certificate for both properties with the appropriate deeds and plats.

- 9) On August 27, 2018, Mecklenburg County Storm Water staff visited and inspected the lot at 16225 Stinson Cove Road. County staff determined the applicant is taking proper precautions, and controlling storm water runoff to the maximum extent practicable through vegetative conveyance.
- 10) Both properties are in a low-density development area.
- 11) There have been no watershed variances granted for either parcel.
- 12) The applicant has complied with all applicable criteria for a Density Averaging Certificate.

STAFF CONCLUSIONS

Based on all of the above findings, staff recommends approval of a Density Averaging Certificate. Based upon finding of facts, staff concludes the criteria as outlined in Zoning Ordinance Article 3.3.3.A.i (Paired-Parcel Averaged-Density Development) has been satisfied.

The Chairman called the applicant to testify to which he declined. The Chairman called for questions. Dennis Brewer asked staff how the property became non-compliant, and staff explained that in 2017 there would have been a CO from Mecklenburg County and all that was built was a driveway pad, so obviously they had to build out to the road. That is when the applicant reached out to Meredith Nesbitt. The Chairman closed the public hearing for Board discussion. Ed Cecil asked if the setbacks were affected on the giving parcel. Meredith Nesbitt noted that it does not affect the setback as the area will be indicated as a conservation easement. There was no further discussion, and the Chairman called for a Motion.

Joe Kluttz made a Motion to Approve. In considering the findings of fact for DA18-01, a request by Andrew and Kristen Falls for a Density Averaging Certificate, the Board of Adjustment recommends approval based on staff's recommendation. Wilbur Smith seconded. Ed Cecil amended the Motion to Approve to include staff's recommendation of 60 days for the receiving parcel to come into compliance with the Zoning Ordinance. Joe Kluttz seconded the amended Motion. The vote was unanimous (7-0).

D. Other Business

D.1. Election of Vice Chairman

Joe Kluttz nominated Ed Cecil as Vice Chairman, and Jonathan Bradshaw seconded. There were no other nominations. The vote was unanimous.

E. Adjourn

Approved this ____ day of _____ 2019.

Chairman or Vice Chairman

Board Secretary