

**MINUTES
PLANNING BOARD
TUESDAY, AUGUST 18, 2015
7:00 PM
HOOD ROOM, MATTHEWS TOWN HALL**

PRESENT: Chairman Steve Lee; Vice-chair Rob Markiewitz; Members Eric Welsh, Gary Turner, Barbara Dement and Michael Ham; Alternate members David Wieser and David Barley; Town Attorney Craig Buie; Planning Director Kathi Ingrish, Zoning Administrator/Planner II Mary Jo Gollnitz and Zoning Technician/Deputy Town Clerk Betty Lynd.

ABSENT: Town Attorney Charles Buckley; Member David Pratt; Youth Voice Sarah Ward

CALL TO ORDER

Chairman Steve Lee called the meeting to order at 7:02 p.m.

Mr. Welsh made a motion to appoint Mr. Wieser as a voting member for tonight's meeting. Mr. Ham seconded the motion and the motion carried unanimously.

APPROVAL OF MINUTES

Mr. Welsh made a motion to approve the July 28, 2015 minutes as submitted. Mr. Ham seconded the motion and the motion carried unanimously.

PUBLIC IMPROVEMENT VARIANCE- 1503 Home Place, Delay Installation of Sidewalk

Ms. Gollnitz explained that the property owner, Mr. Kenneth Dykstra, is requesting to delay the construction of the portion of sidewalk required on his property until the contiguous properties are evaluated for sidewalk installation. A building permit was issued to Arcadia Homes for the construction of the principal structure on September 29, 2014. There was a conditional note on the building permit that stated contact must be made with the Public Works Director concerning installation of a sidewalk per the recorded plat. Planning Staff was notified of the missing sidewalk when Arcadia Homes submitted a driveway permit application and subsequently Public Works recognized the missing sidewalk from researching the building permit. The adjacent property, 1517 Home Place, was created by Lots 2 and 3 on the recorded subdivision plat being recombined. The sidewalk is noted on the recorded subdivision plat as required. 1517 Home Place was constructed in 2008 and was able to receive their Certificate of Occupancy without the sidewalk being installed. Mr. Dykstra's family is moving from Kansas and are asking for a delay in order to obtain a Certificate of Occupancy and move in. Ms. Gollnitz stated that a representative with Arcadia Homes, Mr. Shawn Johnson, was available for questions along with staff.

Mr. Welsh inquired about the current status of 1517 Home Place. Ms. Gollnitz stated that staff will begin working with the property owner of 1517 Home Place concerning the installation of their portion of sidewalk.

Mr. Ham asked if the property owner knew about the required sidewalk installation. Ms. Gollnitz stated that the sidewalk is described on the recorded deed and should have been placed on the survey and building permit as well. Mr. Ham asked if the sidewalk should have been installed before the house construction was completed. Ms. Gollnitz stated this was correct.

Mr. Welsh asked about the length of the delay. Ms. Gollnitz stated that staff cannot answer to the length of the delay without having initiated discussions with 1517 Home Place. The property on the other side of Mr. Dykstra's property will not be required to put in a sidewalk until it is redeveloped. Mr. Welsh asked if the delay included the second property as well. Ms. Gollnitz stated that if the board's recommendation is for 1517 and 1503 Home Place, that is what the property owner will follow.

Mr. Barley inquired about a bond. Ms. Gollnitz stated staff is not aware of a bond that has been created for sidewalk installation. Mr. Ham stated that the board could recommend a bond be placed or an estimate obtained for the sidewalk.

Mr. Turner asked what type of leverage staff has to force 1517 Home Place to install their portion of sidewalk. Ms. Gollnitz stated a notice of violation could be issued. Mr. Turner asked what the means of enforcement could include short of litigation. Ms. Ingrish stated there is nothing specifically stated in subdivision processes like there is in zoning processes. Mr. Turner asked if that meant this is a delay for a sidewalk portion that could potentially never happen. Ms. Gollnitz stated that staff will work with the property owner, but there is a potential for refusal.

Mr. Shawn Johnson with Arcadia Homes, at 6428 Bannington Road Suite A, Charlotte came to the podium to represent Mr. Dykstra.

Mr. Lee asked that since Arcadia Homes built both 1503 and 1517 Home Place, is Arcadia Homes coming forward to complete the sidewalk installation. Mr. Johnson stated that 1517 Home Place was built some years ago and he was not the builder on that property. Mr. Johnson stated that as he was building 1503 there was a hold on the property, but due to no sidewalk being installed at 1517 Home Place and the subsequent corner property, he did not think it meant installation. Sometimes the hold is placed there due to possible damage to the curb during construction of the home. Mr. Johnson stated that Mr. Dykstra does not have an issue with installing a sidewalk, but that putting it in without the completion of a sidewalk on 1517 Home Place's property would not be advantageous. However, without the installation of the sidewalk, Mr. Dykstra is unable to obtain a Certificate of Occupancy and Arcadia Homes cannot get gas installed in the home. Mr. Johnson stated that it was his belief Mr. Dykstra would be willing to post a bond to guarantee installation. Mr. Johnson stated that there has been discussion with graders, etc. for the future installation, but slope would be an issue.

Ms. Dement asked if there was a cost calculated for the sidewalk installation on 1503 Home Place. Mr. Johnson stated that it depended on the engineer's plans and where the actual sidewalk would be placed due to the grading. There are several utility meters in the way at 4 feet into the property. Mr. Ham noted that meandering the sidewalk would place the sidewalk further into Mr. Dykstra's property.

Ms. Dement asked if there was a sidewalk across the street. Mr. Johnson confirmed that was correct. Mr. Barley asked if Arcadia Homes was the seller of the lots to the property owner. Mr. Johnson stated they were not. Arcadia Homes was approached by the property owners to construct homes.

Mr. Ham stated that this issue has come up too many times. He inquired if there was a discussion that could be held with Mecklenburg County inspectors. Ms. Ingrish stated that looking for sidewalk holds is an issue that was reinforced after the previous case in Streamside.

Ms. Dement stated that this case has a particular hardship due to the medical issues and out of state move. It is unfortunate that this was not caught during construction. Ms. Dement stated that she interpreted the request to include both 1517 Home Place and the adjacent property on the other side. She asked if the recommendation could include both properties being evaluated for sidewalk installation.

Mr. Lee stated he was in agreement about hardship, but there should be discussion of timeframe and bond. Ms. Dement stated a bond could be appropriate. Mr. Welsh stated his agreement on the hardship, but 1517 Home Place has created a huge problem, because it could be a requirement in the recommendation, but the sidewalk may never be installed. Mr. Welsh stated that he believed the corner property on the other side of Mr. Dykstra should not be included because there was no timeframe for development on that property. However, he believed placing a deadline on the request would be a way to enforce the sidewalk on 1517 Home Place.

Mr. Ham stated that he could agree on the request due to a sidewalk being present on the other side for current pedestrian use. He also said that he believed a bond would put necessary pressure on the residence to ensure installation. Ms. Dement stated a need for time limit. Mr. Lee stated that the neighborhood is well connected currently. Mr. Ham stated the sidewalk needs to go in no matter who installs the sidewalk, whether it ends up being the Town. It creates a walkable community.

Mr. Markiewitz stated that involving 1517 Home Place in 1503 Home Place's bond could create a conflict between property owners.

Mr. Markiewitz asked about the builder paying for the installation of the sidewalk on 1517 Home Place. Mr. Johnson stated that the homeowner, Mr. Dykstra will pay for 1503 Home Place's sidewalk because a sidewalk was not included in Arcadia Homes' contract. Mr. Johnson stated he could not answer for Arcadia Homes paying anything for 1517 Home Place. Mr. Johnson also stated that he has had contact with 1517 Home Place's owners about the upcoming need for sidewalk installation. Mr. Markiewitz asked if Arcadia Homes would be able to take point on mediating a solution for 1517 Home Place's sidewalk. Mr. Johnson stated he would discuss it with his supervisors, but could not speak for them on their obligations. He also stated that he did not know if an answer could be determined in time for Monday's Town Board meeting. Ms. Gollnitz reminded the Board that this meeting was moved up to accommodate the August 24, 2015 Town Board meeting and to render a decision quickly due to Mr. Dykstra's hardship.

Mr. Turner asked if staff knew if the sidewalk condition was on the permits for 1517 Home Place. Ms. Gollnitz stated that permit had not been pulled by staff. The recorded deed did have a sidewalk for both properties.

Mr. Lee stated that a year seemed like a reasonable timeframe for the delay. Mr. Welsh stated that he did not see a resolution for 1517 Home Place by Monday's Town Board meeting. Mr. Johnson stated that he was present to represent Mr. Dykstra, but would be willing to discuss potential solutions with Arcadia Homes. Mr. Johnson asked what the cost of the bond would be. Mr. Lee stated it would be a percentage of the project. Mr. Barley stated if there was a bond placed it should be enough to cover the project, should the bond be defaulted on.

Mr. Wieser asked for confirmation that the homeowner of 1503, Mr. Dykstra, is paying for his portion of sidewalk. Mr. Johnson stated that was correct. Mr. Lee stated it would be difficult to make Arcadia Homes pay for 1517 Home Place's sidewalk when it is the property owner who is paying on 1503 Home Place. Mr. Ham stated that he had no issue with giving 1503 Home Place the variance to obtain the Certificate of Occupancy, as long as a bond is guaranteed for the sidewalk.

Mr. Welsh asked if there was any penalty or fines that could be enforced upon 1517. Ms. Gollnitz stated that a notice of violation could be issued. If the property were to be sold, there would be a notice of violation on the property. Mr. Turner asked if a lien could be placed on the property. Ms. Gollnitz stated that could not happen. Mr. Turner stated he had a hard time making the bond or delay contingent upon 1517 Home Place with no way to force 1517 to install a sidewalk.

Mr. Ham made a motion to recommend approval of the variance to allow a delay in the sidewalk construction and allow a Certificate of Occupancy to be issued for 1503 Home Place, with the condition that the homeowner place a bond to guarantee the sidewalk installation be completed not later than one year from the date of approval. Mr. Welsh added clarification that Arcadia Homes initiate contact with the homeowner of 1517 Home Place and report at Monday's Town Board meeting whether or not Arcadia Homes will pay for 1517 Home Place's sidewalk. There was some discussion on who would be responsible for the bond.

Mr. Ham restated his motion to recommend approval with the condition that a bond be placed to guarantee completion of the sidewalk within one year of the approval date. The Planning Board also recommends that the developer, Arcadia Homes, works with the property owner of 1517 Home Place for completion of their sidewalk and if possible, Arcadia Homes be the bond holder for 1503 Home Place. Mr. Markiewitz seconded the motion. The vote was 5-2, with Mr. Turner and Ms. Dement in opposition.

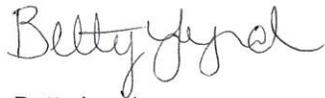
SET SCHEDULE TO REVIEW YOUTH VOICE APPLICATIONS FOR SCHOOL YEAR 2015-16

Ms. Ingrish stated that the deadline for student Youth Voice applications is Thursday, August 20th, therefore there may be a few additional applications beside what has already been received. Ms. Dement asked how many have been submitted. Ms. Ingrish stated the department has received one application. She also explained that in the past, the Planning Board has met with potential applicants. Because the Planning Board is not scheduled to meet again until the end of September, a special meeting would need to be held in order to meet with applicants. Mr. Lee suggested a small subcommittee of members could meet with the applicants once they agreed on a time and date.

ADJOURNMENT

Mr. Ham made a motion to adjourn the meeting at 8:01 p.m. The motion was seconded by Mr. Wieser and the motion carried unanimously.

Respectfully submitted,

A handwritten signature in cursive script that reads "Betty Lynd".

Betty Lynd
Zoning Technician/ Deputy Town Clerk