

Fairview Town Council Meeting
August 8, 2011
7:00 p.m.

The following members were present, constituting a quorum: Mayor Elizabeth Long, Bradley Purser, B.B. Haigler and Bill Thomas. Jerry Clontz was not present at the beginning of the meeting.

Others present: Joe McCollum, Attorney; Ed Humphries, Land use Administrator/Town Clerk; and Darrell Baucom, Finance Officer

Mayor Long asked that a discussion regarding “Town Services” be added to Old Business.

Bradley Purser made a motion to approve the agenda with the addition. B.B. Haigler seconded the motion. Councilmen Haigler, Purser and Thomas voted yes.

Comments / Presentations

John Potoskey, the Tax Administrator for Union County, presented to the Council the percentage of taxes collected by Union County for the last fiscal year (2010-2011) – 97.56%.

Bill Thomas made a motion to accept the “Settlement of taxes collected by Union County for Fairview”. B.B. Haigler seconded the motion. Councilmen Thomas, Haigler and Purser voted yes.

B.B. Haigler made a motion to accept the “Charge to collect Fairview tax for the fiscal year 2011-12”. Bradley Purser seconded the motion. Councilmen Thomas, Purser and Haigler voted yes.

Reports

Darrell Baucom gave the financial report.

Bill Thomas presented a report on the Highway 218 bridge. Thomas stated that he met with approximately 15 people to look and talk about the bridge’s condition. The bridge is planned to be improved and extended in length with a start date of June, 2013.

Ed Humphries gave planning and zoning permit report.

Jerry Clontz has now joined the meeting at 7:30 p.m.

Old Business

Mayor Long updated the council on several bills in the NC House of Representatives that could affect Fairview. Mayor Long asked the following members of Council to do research on possible services that the town could be involved with, and to report back to the Council

- B.B. Haigler to obtain information on services of a Horticulturist Agent.
- Bill Thomas: research participating with the county or other towns on a transportation planner
- Jerry Clontz: a community park and/or playground equipment
- Bradley Purser: options on additional security for Fairview with the Sherriff's department

Town Services will be placed on the September agenda.

Mayor Long opened the **Public Hearing** for:

Permit #RZ-11-034 – A request from Vickie McAlister to rezone Parcel #0186009B from RA-40 to B4.

Ed Humphries explained that Vickie McAlister wanted to use the 1500 square foot building on the property (formally Fairview Florist). McAlister wanted to lease the building for retail sales.

Carlin Plyer, 8009 Concord Highway – an adjacent property owner addressed the Council with concerns of what could to on the property, and possibly traffic concerns.

Bill Thomas questioned why the request was not on a conditional basis. Ms. McAlister stated that she preferred a B-4 zoning because of the options it gave for the future.

Hearing no other comments, Mayor Long closed the Public Hearing.

Mayor Long opened the **Public Hearing** for:

Permit #CUP 11.036 – a request by Mary A. Rash to put a Class A manufactured home on a five acre lot Parcel #08183005 with a Conditional Use Permit.

This hearing is quasi-judicial procedure.

Mary Rash was sworn in.

Ed Humphries explained the request by Mary Rash as a replacement of a manufactured home that had been on Parcel #08183005 in the past. This double-wide will be put on a five acre lot and be owned by Rash. The following conditions of the Conditional Use Permit are as follows:

Mary Rash #CUP-11-036

The conditions for the CUP are as following:

1. The applicant will follow all the requirements in the Fairview ordinance in setting up a double wide manufactured home the Parcel#08183005.

2. The applicant will subdivide Parcel # 08183005
Creating a five acre lot for the home and the zoning permit will be subject the survey being properly recorded.
3. The applicant is requesting to use a well, septic tank and drive way already on the property.
4. The applicant is requesting that she be allowed to use the foundation that is on the property that was used for a previous home. The underpinning of the new home will be brick.
5. The applicant will provide the new lot with proper easements to access a public road (Old Dutch –East).
6. The applicant is requesting that the Double Wide face the interior of the property with the established driveway.
7. The applicant is requesting the size of the manufactured home be 1066 square feet rather than the required 1200 square feet. The home being replaced was approx this size.

There was no public comment. Mayor Long closed the Public Hearing.

Mayor Long opened the **Public Hearing** for **Permit #DUP-11-38**, a request by James Robert Paneque to put a manufactured home (Class B) on Parcel #08261003B.
This is a quasi-judicial procedure.

James R. Paneque was sworn in.

Ed Humphries explained the request by Paneque to put a single-wide manufactured home on a two acre lot (parcel # 08261003B) with the following conditions:

Conditions- CUP 11-038-Paneque

- a) All manufactured homes, whether located inside or outside of manufactured home parks, must have a continuous curtain wall, un-pierced except for required ventilation and access, installed under the home after placement on the lot and before occupancy. With respect to class A and class B manufactured homes located outside of manufactured home parks, a permanent masonry curtain wall shall be required, however if stucco is used, it shall be applied to a masonry foundation only. In all other circumstances, a curtain wall or skirting composed of vinyl, masonite, fiberglass, treated lumber, or similar weather resistant material shall be acceptable; however stucco alone is unacceptable.

As indicated on the Table of Permissible Uses, class C and D manufactured homes are not allowed in any zoning district (except as a legitimate, nonconforming use).

- b) The table of Permissible Uses indicated that certain classes of manufactured homes are permissible within certain districts only pursuant to a conditional use permit. Notwithstanding the provisions of Sections 54 and 55, the Town Council may not issue a

conditional use permit for such uses unless it makes an affirmative finding that the proposed use will not substantially injure the value of adjoining or neighboring properties. The burden of proof on this issue lies with the applicant. However, if the applicant presents a petition, signed by the owners of all properties entitled to receive notice of the hearing on the application pursuant to Section 102(b), and stating that such property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the board may make the required finding.

- c) All manufactured home roof structures shall provide an eave projection of no less than ten (10) inches, which may include a gutter.

- d) All manufactured homes shall be set up in accordance with the standards set by the North Carolina Department of Insurance. Furthermore, stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the primary structure and anchored securely to the ground.

- e) All manufactured homes shall be orientated on the site in such a manner that the side having the main entrance, and by design intended to be the front of the manufactured home is generally parallel to a public street abutting the site.

- f) The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;

- G) An up to date survey showing the easement to Indian Trail Road-Fairview Road and the location of the well, septic tank and the Manufactured Home

Hearing no other comments, Mayor Long closed the Public Hearing.

Mayor Long opened the **Public Hearing** for **Text Amendment #TC-10-010**, adding requirement to Section 161 "Special Events" under (D) which are:

"No permit is required if: it is determined by the Land use Administrator, with proper documentation that the organization is NOT FOR PROFIT and the event is 24 hours or less in duration".

Ed Humphries explained the need for the amendment, stating that the change would indicate who did not need a permit.

Hearing no other comments, Mayor Long closed the Public Hearing.

New Business

Decision: on a request by Vickie McAlister to rezone Parcel #0818609B **Permit #RZ-11-034** from RA-40 to B4.

Bradley Purser made a motion to send the request back to the Planning Board and have Ms. McAlister consider requesting a Conditional Use Permit for the rezoning. B.B. Haigler seconded the motion. Councilmen Thomas, Haigler, Purser and Clontz voted yes.

Decision: on a request by Mary A Rash to put a Class A manufactured home on a five acre lot on Parcel #08183005 **Permit #CUP 11-036**.

Findings:

1. Jerry Clontz made a motion stating the proposed conditional use will not materially endanger the public health or safety because this is a replacement of a manufactured home that was there previously. B.B. Haigler seconded the motion. Councilmen Thomas, Haigler, Purser and Clontz voted yes.
2. Jerry Clontz made a motion stating the proposed conditional use will not substantially injure the value of the adjoining or abutting property because of the large size of the lot and that it is owned by the applicant. B.B. Haigler seconded the motion. Councilmen Haigler, Thomas, Purser and Clontz voted yes.
3. Jerry Clontz made a motion stating the proposed conditional use will be in harmony with the area in which it is to be located because of the rural location and size of the lot. Bradley Purser seconded the motion. Councilmen Purser, Clontz, Thomas and Haigler voted yes.
4. B.B. Haigler made a motion stating the proposed conditional use will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plans because it conforms to the Land Use Plan. Jerry Clontz seconded the motion. Councilmen Haigler, Clontz, Purser and Thomas voted yes.

Motion to approve:

Jerry Clontz made a motion to approve Permit #CUP 11-03 with the following conditions:

Mary Rash #CUP-11-036

The conditions for the CUP are as following:

1. The applicant will follow all the requirements in the Fairview ordinance in setting up a double wide manufactured home the Parcel#08183005.
2. The applicant will subdivide Parcel # 08183005 creating a five acre lot for the home and the zoning permit will be subject the survey being properly recorded.

3. The applicant is requesting to use a well, septic tank and drive way already on the property.
4. The applicant is requesting that she be allowed to use the foundation that is on the property that was used for a previous home. The underpinning of the new home will be brick.
5. The applicant will provide the new lot with proper easements to access a public road (Old Dutch –East).
6. The applicant is requesting that the Double Wide face the interior of the property with the established driveway.
7. The applicant is requesting the size of the manufactured home be 1066 square feet rather than the required 1200 square feet. The home being replaced was approx this size.

and including this statement:

The proposed conditional use permit under consideration is found to be reasonable and consistent with the recommendations of the Town’s adopted comprehensive plan, the Town of Fairview Land Use Plan(Revised September 13, 2010), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

B.B. Haigler seconded the motion. Councilmen Haigler, Thomas, Clontz and Purser voted yes.

Decision: on a request by Robert Paneque to put a Class B manufactured home on a two acre lot Parcel #08261003B with **Permit CUP 11-038**.

Findings:

1. Jerry Clontz made a motion stating the proposed conditional use will not materially endanger the public health or safety due to zoning requirements. Bradley Purser seconded the motion. Councilmen Clontz, Purser, Haigler and Thomas voted yes.
2. B.B. Haigler made a motion stating the proposed conditional use will not substantially injure the value of adjoining or abutting property because the applicant provided a petition signed so stating by all but three of these adjoining neighbors (500’). Bradley Purser seconded the motion. Councilmen Clontz, Purser, Thomas and Haigler voted yes.
3. Jerry Clontz made a motion stating the proposed conditional use will be in harmony with the area in which it is to be located due to other manufactured homes in the area. B.B. Haigler seconded the motion. Councilmen Thomas, Clontz, Haigler and Purser voted yes.
4. Jerry Clontz made a motion stating the proposed conditional use will be in general conformity with the Land Use Plan, Thoroughfare Plan or other plan because it is residential. Bradley Purser seconded the motion. Councilmen Thomas, Purser, Clontz and Haigler voted yes.

B.B. Haigler made a motion to approve Permit #CUP 11-038 (request by James R. Paneque) with the following conditions:

Conditions- CUP 11-038-Paneque

- a) All manufactured homes, whether located inside or outside of manufactured home parks, must have a continuous curtain wall, un-pierced except for required ventilation and access, installed under the home after placement on the lot and before occupancy. With respect to class A and class B manufactured homes located outside of manufactured home parks, a permanent masonry curtain wall shall be required, however if stucco is used, it shall be applied to a masonry foundation only. In all other circumstances, a curtain wall or skirting composed of vinyl, masonite, fiberglass, treated lumber, or similar weather resistant material shall be acceptable; however stucco alone is unacceptable.

As indicated on the Table of Permissible Uses, class C and D manufactured homes are not allowed in any zoning district (except as a legitimate, nonconforming use).

- b) The table of Permissible Uses indicated that certain classes of manufactured homes are permissible within certain districts only pursuant to a conditional use permit. Notwithstanding the provisions of Sections 54 and 55, the Town Council may not issue a conditional use permit for such uses unless it makes an affirmative finding that the proposed use will not substantially injure the value of adjoining or neighboring properties. The burden of proof on this issue lies with the applicant. However, if the applicant presents a petition, signed by the owners of all properties entitled to receive notice of the hearing on the application pursuant to Section 102(b), and stating that such property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the board may make the required finding.
- c) All manufactured home roof structures shall provide an eave projection of no less than ten (10) inches, which may include a gutter.
- d) All manufactured homes shall be set up in accordance with the standards set by the North Carolina Department of Insurance. Furthermore, stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, and attached firmly to the primary structure and anchored securely to the ground.
- e) All manufactured homes shall be orientated on the site in such a manner that the side having the main entrance, and by design intended to be the front of the manufactured home is generally parallel to a public street abutting the site.

- f) The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- G) An up to date survey showing the easement to Indian Trail Road and the location of the well, septic tank and the Manufactured Home

This motion also includes this statement:

The proposed zoning amendment under consideration **is** found to be reasonable and consistent with the recommendations of the Town's adopted comprehensive plan, the Town of Fairview Land Use Plan(Revised September 13, 2010), and the Town of Fairview Land Use Ordinance (effective July 1, 2005)

Jerry Clontz seconded the motion. Councilmen Clontz, Purser, Thomas and Haigler voted yes.

Decision: on Text Amendment #TC 10-010 on adding requirements to Section 161 "Special Events" under D; changes are: "it is determined by the Land Use Administrator, with proper documentation, that the organization is NOT FOR PROFIT and the event is 24 hours or less in duration.

Bradley Purser made a motion to send the amendment back to the Planning Board to make clear what documentation will be used to determine "with proper documentation". B.B. Haigler seconded the motion. Councilmen Thomas, Haigler, Purser and Clontz voted yes.

Council Comments

Mayor Long will contact the Union County School Board about clearing the Hall and temperature of the meeting building.

Bradley Purser made the statement that he thought the meeting place should be moved.

Mayor Long does not want to at this time.

B.B. Haigler asked if Mr. Clontz had met with the Fire Department Committee. B.B. Haigler also wants the Council to consider putting up a volley ball net.

Mayor Long stated the County is still working on the solid waste agreement between the County, Unionville and Fairview.

Jerry Clontz made a motion to approve the minutes of the July 11, 2011 meeting with corrections. Bill Thomas seconded the motion. Councilmen Clontz, Thomas, Haigler and Purser voted yes.

Joe McCollum stated that he had attended the Conference for Attorneys and a lot of changes had occurred. One change would be that a town would pay attorney fees if found guilty of an unauthorized practice. Another change is that there cannot be a moratorium on residential property.

B.B. Haigler made a motion to adjourn. Jerry Clontz seconded the motion. Councilmen Clontz, Haigler, Thomas and Purser voted yes.

Respectfully submitted,

Ed Humphries
Town Clerk

Elizabeth Long
Mayor

Approved this 12 day of Sept, 2011.