

MINUTES
ANDERSON COUNTY BOARD OF ZONING APPEALS
JANUARY 14, 2025

Members Present

Jerry White, Chairman
Archie Burress
Mark Skove
Jim Ferguson
Carl Wright

Members Absent

Others Present

David Crowley, Plan Consultant
Lisa Crowley
Other interested parties

ETDD Staff Representative: Joe Barrett

CALL TO ORDER AND APPROVAL OF AGENDA AND MINUTES

Chairman White swore-in interested parties that would be addressing the board. Chairman White then called the meeting to order at 5:30 P.M. on January 14, 2025 at the Anderson County Courthouse. The minutes from the December meeting were reviewed. A motion was made by Mark Skove and seconded by Archie Burress to approve the December 10, 2024 Minutes as written. The motion passed unanimously.

REQUEST FOR SPECIAL EXCEPTION FOR CONCRETE FINISHING BUSINESS, TAX MAP 06, PARCEL 5.00, THOMAS & ROXANNE MOORE

The item has been withdrawn from the agenda by the applicant.

ACTION TAKEN:

No action taken at this time.

REQUEST FOR VARIANCE FROM SECTION 05-070 ALLOWING ONLY ONE PRINCIPAL BUILDING ON A LOT, TAX MAP 89, PARCEL 68.00, TERRY DAVIS

A variance request was considered by the board for the requirement of one principal building per lot. The applicant stated that a variance had been granted to him in the past by the board for a second dwelling. This request would result in three dwellings on the lot. The applicant is requesting the variance to build an additional house for his daughter. Staff stated that the lot is over 22 acres and ideally subdividing the lot would be a better option. The applicant stated that there was minimal road frontage on Herrell Lane. The applicant would still have the option of establishing a joint permanent easement to subdivide. Staff recommended denial of the variance request due to being a self-created situation and does not meet the criteria for granting a variance.

ACTION TAKEN:

Following further discussion, a motion was made by Mark Skove to approve the request; motion failed. A motion was then made by Archie Burress to deny the request, which was seconded by Jim Ferguson. The motion passed by majority vote with Mark Skove and Carl Wright voting against the motion to deny the request.

REQUEST FOR SPECIAL EXCEPTION FOR PLANNED DEVELOPMENT, TAX MAP 32, PARCELS 77.00 & 77.02, MARGIE THOMAS & OTHERS

The board considered a special exception for a planned development off Mountain Road within an A-2 District. The applicant addressed the board regarding the proposed development. Staff stated the board is considering whether this type of use, a planned development, is permitted as a special exception in the A-2 District. The specific planned development will be reviewed by the planning commission at a later date to ensure the standards and conditions are met (Section 44-111) for this type of development. Staff confirmed that a planned development is listed as a permitted use under special exceptions for the A-2 District.

ACTION TAKEN:

Following further discussion, a motion was made by Archie Burress and seconded by Mark Skove to grant the special exception as a planned development. This action approves the use, but does not approve a specific plan; which is the authority of the planning commission for plans review and approval. The motion passed unanimously.

A motion was then made by Carl Wright and seconded by Archie Burress to attach the legal opinion of the Anderson County Law Director on minimum lot sizes to the minutes. The motion passed unanimously.

At 6:15 PM, with no further business the meeting was adjourned.


Secretary

2-11-24
Date

ATTACHMENT:

James W. Brooks Jr.

OFFICE OF THE COUNTY LAW DIRECTOR
ANDERSON COUNTY, TENNESSEE

101 South Main Street, Suite 310
Clinton, Tennessee 37716

TELEPHONE: (865) 457-6290
FACSMLE: (866) 457-3775
EMAIL: j_brooks@andersoncountyttn.gov Law Director

MEMORANDUM

To: Danny Phillips

FROM: James Brooks Jr., Law Director

DATE: December 10, 2024

RE: Zoning Districts

Danny,

You have requested the opinion of this office with respect to the following matter:

QUESTION

1. Does the General Lot Restrictions contained in paragraph (c)(3) in Section 05-070 of the Anderson County Zoning Resolution as amended apply to all zoning districts which permit residential construction?
2. Are the General Lot Restrictions subordinate to the restriction on lot sizes set forth for Districts A-I, A-2, R-1 and R-I-S?

OPINION

1. Yes.
2. Yes.

ANALYSIS

The General Lot Restrictions contained in Section 05-070 of the Anderson County Zoning Resolution establish the minimum acceptable square footage for residential building lots, which is applicable when both public water and public sewer are provided to the lot AND there is not a more restrictive regulation in place for the specific zoning district. The more specific restrictive regulations must be followed when there is a conflict with the general restrictions]. This rule of construction for reconciling conflicts in the language of an enacted law is recognized by the courts in Tennessee. See, State ex. rel. Cordova Area Residents for Environment v. City of Memphis, 862 S.W.2d 525 (Tenn. App. 1992).

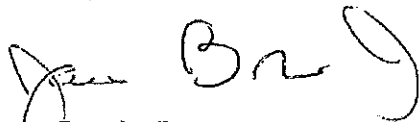
Additionally, the word "shall" is used to establish the lot size restriction applicable to zoning districts A-I, A-2, R-1 and R-I-S. The word "may" is used in reference to the General Lot Restriction. The word "shall" means mandatory compliance. The word "may" means permissive². The restrictions applicable to zoning districts A-I, A-2, R-1 and R-I-S are mandatory.

CONCLUSION

Consequently, it is my opinion that the General Lot Restriction set forth in paragraph (c)(3) of Section 050-070 cannot be utilized to reduce the mandatory restriction on lot sizes for districts A-I and A-2 unless the property is rezoned or a variance is granted or utilized to reduce the mandatory restriction on lot sizes in district R-1 without a variance.

I hope this is responsive to your request. Do not hesitate to contact me if you have any questions.

Sincerely,



James Brooks Jr.
Law Director

esBrooks Jr.

¹ Section 05-040. Interpretation. Where the conditions imposed by a provision of this resolution are less restrictive than comparable conditions imposed by any other provision of this resolution or any other resolution or regulation, the provisions which are more restrictive shall govern. ² Definitions. Section 010-010. Scope