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TOWN OF HOLLY RIDGE BOARD OF ADJUSTMENT MEETING MINUTES July 27, 2021 6:00 P.M.

Call to Order

The meeting was called to order at 6:00 PM. Board members present were Toni Hardin, Verne Jones, and Dave Mosey. Also present were Nathan Rhue, Community Development Director and Marsha-Gray Kircher from the Community Development Department. Applicant Thomas and Janice Knott, and son James Knott were also present.

Pledge of Allegiance

Chairwoman Toni Hardin led the Pledge of Allegiance.

Adoption of Agenda (Additions and/or Deletions)

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to adopt the agenda as is. *All Agreed.*

Adoption of Minutes (Additions and/or Deletions)

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to adopt the minutes from March 23, 2021. *All Agreed.*

New Business

Special Use Permit : 720 Popkin Road – Resuming Non-Conforming Use

Chairwoman Toni Hardin announced the case for Thomas and Janice Knott and the request for a Special Use Permit. Chairwoman Toni Hardin explained that the hearing on this request is judicial in nature and will be conducted in accordance with special due process safeguards. Chairwoman Toni Hardin asked all persons wishing to testify in this case to sign the sign-in sheet, and anyone wishing to testify to go to come up to the front to be sworn in and then return to their seat.

Applicant Thomas Knott, James Knott, Holly Ridge resident Russell Sparrow and Nathan Rhue were sworn in before the hearing, administered by Board Chairwoman Toni Hardin.

Chairwoman Toni Hardin gave all Board members the opportunity to reveal possible conflicts and to withdraw from the proceeding if necessary. There were no Board members with any conflicts. All Board members were then asked by the Chairwoman if any of them had any information or special knowledge about the case that may come out at the hearing, and if so to please describe that information for the record so that any interested parties will know and can respond. There were no Board members with any information or special knowledge.

Chairwoman Toni Hardin stated that in this hearing, we will first hear from the Staff and other Town witnesses, then from the applicant and their witnesses, and then from opponents to the request, if any. Parties may cross-examine witnesses after the witness testifies when questions are called for. Chairwoman Toni Hardin explained that if anyone wants the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. Chairwoman Toni Hardin expressed that the Board cannot accept reports from persons who are not present to testify. It was also expressed that if any Attorneys who speak should not give factual testimony but may summarize their client's case.

Chairwoman Toni Hardin opened the hearing on case Thomas and Janice Knott – Special Use Permit, 720 Popkin Road and asked for testimony from Town Staff. Nathan Rhue presented the Board with the staff packet explaining that applicant Thomas and Janice Knott have applied for a Special Use Permit to resume a non-conforming use on property that is identified as 720 Popkin Road, parcel number 034783 and map number 735-31.1. Nathan Rhue asked that the staff report which was received previously by the board and applicant to be submitted into evidence as exhibit 'A'. Staff report was admitted as exhibit 'A'.

Nathan Rhue stated that the request is to resume a non-conforming use by replacing an existing manufactured home within an R-20 district. Currently under the Town Ordinance, manufactured homes are not permitted within the R-20 district, therefore the existing manufactured home would be considered legal non-conforming – it existed prior to there being any regulations or requirements. Nathan Rhue presented the property/parcel card for the property which identifies two existing manufactured homes on the property in addition to an old camper. Nathan Rhue asked that the property card be submitted into evidence as exhibit 'B'. Property card was admitted as exhibit 'B'.

Nathan Rhue explained to the Board that the existing manufactured homes on the property have not been used or occupied for over 180 days. A special use permit is required as per the Town ordinance, Section 7-6-4, in order to resume a non-conforming use which was unused or unoccupied for a continuous period of 180 days or more. Nathan Rhue informed the

Board that per the application received, it is the intent of the applicant to replace the existing manufactured home with a newer model. Within the R-20 district the setbacks would be 35 feet front, 25 foot rear, 12 foot sides and have a minimum lot size of 20,000 sq ft – which this would comply with. Nathan Rhue stated that if approved, the new manufactured home would need to comply with these setbacks and a plot plan would need to be submitted to ensure setbacks are met, in addition to utility confirmation prior to permit issuance.

Verne Jones asked if there had been a submission for this same kind of request before. Nathan Rhue responded not to his knowledge. Verne Jones asked what else is on the property – there is a lot of woods on the property and is curious what else is there. Nathan Rhue explained that the special use permit would go with the property therefore if the use is to allow a manufactured home to resume due to it being unoccupied, the home would need to comply with the setbacks for that district. Nathan Rhue stated that per the parcel card there is two manufactured homes and a camper on the property, but that it may be a question to ask the applicant when it becomes their time to present evidence and explain their intentions for the property. Dave Mosey asked for clarification of Verne Jones's question – is he asking if there are any other structures on the property in addition to the current mobile home. Verne Jones explained that he was meaning in the area, same type of structures in that area. Chairwoman Toni Hardin informed the board that per the property card there is two manufactured homes and a camper.

Nathan Rhue displayed the map for the property and explained that the gravel road next to the property is the emergency access for The Home Place, and the subdivision located to the southeast is the Neighborhoods of Holly Ridge. For consideration of this special use permit, per Town Ordinance, section 7-5-10 requires that the board of adjustment makes a positive finding in order to issue a special use permit for the standards that are found to exist, and it is the applicant's responsibility to offer the burden of proof to establish that each of those standards are being addressed.

Nathan Rhue explained the first standard to the board; that the use will not materially endanger the public health or safety, if located where proposed and developed according to the plan submitted and approved. A plan has not been submitted at this time though the applicant's intentions are to replace an existing manufactured home. The use of the property has existed prior to the Town having regulations associated with permitted land uses within the zoning districts. Along with the required building permit application, a site plan is required to be submitted to ensure compliance with current setbacks. Additionally, approval for connections of utilities from the respective entities will also need to be submitted. Being that is the case, Staff is not aware of any additional immediate dangers to public health as a result of this proposal.

Nathan Rhue explained the second standard to the board; that the use meets all required standards set forth in this Ordinance. The proposed use does not meet all the required standards of this ordinance, being that manufactured homes are not permitted in zoning district R-20. However, if a Special Use Permit is approved to resume the non-conforming use and prior to issuance of a building permit the applicant will be required to provide the following:

- a) Site plan illustrating the location of the new proposed structures;
- b) Approval of water/sewer availability from ONWASA;
- c) Evidence that the existing manufactured home is being replaced by a newer home;
- d) Verification of compliance for all, if any, additional reasonable conditions posed by the Board.

If the proposal is approved, the conditions above should be included.

Nathan Rhue explained the third standard to the board; that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity. The adjoining properties are all zoned for residential uses. If the Town supports resuming the use of the property for the replacement of an existing manufactured home, then the proposed use could be considered a public necessity.

Nathan Rhue explained the fourth standard to the board; that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Holly Ridge Comprehensive Plan. Being as the use of the property has existed prior to the Town having current regulations in place, the legal non-conforming use is permitted to remain. Though the use of the manufactured home has ceased to exist within the allotted time period, the applicant is expressing his intentions to replace the current home with a newer version. The Town's Future Land Use map contained in the Comprehensive Growth Strategy Plan identifies this property for future Low-Density use. The request for the Special Use Permit is not pertaining to the density of the property and would therefore remain as low density. The proposal for replacing the existing manufactured home would be in general conformity with the Holly Ridge Comprehensive Plan.

Nathan Rhue discussed that in addition to the standards previously mentioned regarding issuance of Special Use Permits, Section 7-6-5 states that "after taking evidence and testimony, the Board of Adjustment shall find whether the proposed alteration, expansion, change or rebuilding of the non-conforming use will have a substantial adverse impact upon adjacent properties, the neighborhood or the public. If it finds that a petition will not have a substantial adverse impact, the Board of Adjustment may grant a Special Use Permit and may impose reasonable conditions and safeguards on the issuance of such permit. If the Board of Adjustment finds that a petition will have a substantial adverse impact, it shall consider:

- A. The possible detriment or benefit to the owner of the non-conforming use from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as submitted;
- B. The possible detriment or benefit of the owners of adjacent or neighboring properties from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested; and
- C. The possible detriment or benefit to the public from refusing to issue the permit, issuing it but requiring, either wholly or partially, that the non-conforming use be brought into compliance, or issuing it as requested and furthermore consideration of setting a precedent for other areas of the Town".

Verne Jones asked how many acres there were on this particular parcel in question. Nathan Rhue answered 2.84 acres. Nathan Rhue went on to remind that Board that with all special use permits, they must be recorded within 90 days with the register of deeds as special use permits go with the property, not the owner. Work must be started under the conditions of the special use permit within 12 months of approval, or it is automatically void, and if work is started and ceases for 12 months it becomes void, and failure to follow the terms should any be placed under the special use permit it would become void.

Verne Jones asked what brought this to the forefront now as the property is in the ETJ and the manufactured home has been there for years. Nathan Rhue responded that the applicant can answer those questions. Chairwomen Toni Hardin asked if there were any questions from any parties present for Staff. Thomas Knott asked if the special use permit is issued, can it change hands – he currently owns the property with his wife Janice, also present, but would like to transfer the property to his son, James. Nathan Rhue responded that the special use permit will be assigned to the property itself, they are not given to individuals, but rather the property, which

is why there is the requirement to record it at the register of deeds. Regardless of who owns the property, that special use permit would still be tied to it. Russell Sparrow, owner of the adjacent property in Neighborhoods of Holly Ridge, asked if this is going to turn into being multiple mobile homes on this property. Nathan Rhue answered that per the Town Ordinance, if you were to have more than one manufactured home then that would be defined as a mobile home park – that is not addressed here, this special use permit would not permit that on this property. Chairwoman Toni Hardin asked if there were any additional questions for staff. There were none.

Chairwoman Toni Hardin asked for the applicant to testify. Applicant James Knott, explained to the board that his mother, Janice Knott, lived in the dwelling for many years but it became uninhabitable. The intent is to put a newer mobile home on the property, a singlewide mobile home, for his family to live in – himself, wife, and son. James Knott mentioned to the Board that he does not have the finances available to build a house or purchase a modular home to put on the property, that he is asking permission to put a newer mobile home on the property. Dave Mosey asked for clarity, that he is not intending to put a modular home on the property. Applicant James Knott replied that it would be a manufactured home. Dave Mosey asked if it is going to be a recent model. James Knott expressed that it will be a newer model, but does not have one yet, just wanted to start the process and make sure he has permission before making the purchase. Dave Mosey asked what year, will it aesthetically fit with the area. Chairwomen Toni Hardin asked if there was any limit on the age of the manufactured home allowed.

Nathan Rhue responded that some jurisdictions do put an age on mobile homes, but the general assembly and general statutes have dictated to municipalities that you cannot put an age limit or be bias on manufactured homes based on an age limitation. The only requirement that can be allowed would be that it be newer than 1976 when HUD standards were associated with manufactured homes. James Knott expressed to the board that it would be a lot newer than 1976, that he would like to find at least a 2000 model or newer. Chairwoman Toni Hardin asked if he plans on replacing what is already there with something newer and increase the value of the property. James Knott responded that he is planning on moving the two older mobile home and camper off the property and bringing in a newer mobile home. Verne Jones asked if R-20 was for stick-built homes. Nathan Rhue responded that stick-built or modular are permitted, the difference of manufactured and modular being that modular homes are built to the state building code like a stick-built house, and a manufactured home is HUD standards.

Chairwoman Toni Hardin asked if the newer mobile home will be in the same place as the existing one. James Knott responded that it would not be going any closer to the rear property line, that it would be going closer to the direction of Highway 17. Chairwoman Toni Hardin mentioned to the applicant that one of the standards that needs to be met is that it is not going to endanger the public health or safety; that the applicant is planning on resuming a use. Applicant James Knott responded that this is just going to be a place for himself and his family to live. Chairwoman Toni Hardin asked if the applicant is ok with all the requirements, plot plan, utilities etc, and complying with the rules. James Knott responded he is fine with that, and that there is an existing well and septic tank on the property. Chairwoman Toni Hardin asked what the requirements would be for those. Nathan Rhue responded that water and sewer availability are required, and that it will be dependent on Onslow County Health Department for the septic – number of bedrooms is based on current septic tank there now and documentation would need to be provided. Dave Mosey asked if these documents would be required from the County. Nathan Rhue answered that is correct. James Knott mentioned that currently there is a 3-bedroom singlewide on the property, and he would replace it with a 3 bedroom. Dave Mosey expressed to the applicant that documentation regarding the utilities will need to be provided – that the

County Health Department has certified the septic is appropriate and that the water is still drinkable, that these would be part of the prerequisites required.

Verne Jones expressed that it is his understanding that the mobile home that is currently on the property was there before Holly Ridge took that area and made it R-20. Nathan Rhue responded that it may have been before this particular property had any zoning designation. Chairwoman Toni Hardin discussed how that is more than likely the case especially if the mobile home is over 40 years old. Applicant James Knott told the board that the mobile home has been there at least 40 years, and that his parents have owned it since 1984.

Chairwoman Toni Hardin asked if there were any questions from any other parties present for the applicant. Russell Sparrow had a question for the applicant; he wanted to make sure that the property is not going to be clear cut before the newer mobile home is put on the property – as they would lose some of their privacy, their property in the neighborhoods backs up to this property and they have a lot of dogs, and their fence is right there. Applicant James Knott expressed that he is planning on leaving the wooded area at the back of the property there. Chairwoman Toni Hardin explained that a special use permit would not restrict them from removing their trees. Nathan Rhue mentioned that it would be appropriate for the Board if they desire as part of the conditions for the special use permit to include a 20-foot buffer for example in between the adjoining properties should the applicant agree to that. Applicant James Knott stated he had no problem with that.

Chairwoman Toni Hardin asked if there were any additional questions for the applicant. There were none. Chairwoman Toni Hardin asked if there were any additional parties that wish to speak. There were none. Nathan Rhue asked if there were two mobile homes on the property. James Knott responded that there is. Nathan Rhue asked if the intent is to move both existing mobile homes off the property. James Knott stated that both will be removed and most likely the camper also, it is currently used for storage, and putting just one mobile home back on the property. Dave Mosey expressed that the Board cannot tell the applicant where he can place the mobile home, only ensure that it is within the required setbacks. James Knott stated that he plans on putting the new home approximately 200-300 feet from the border of the neighborhood. Russell Sparrow stated that would be great; that they own the house right there on Belvedere, and just want to make sure that they will have some form of a buffer for privacy, that privacy is a good thing and that is why they bought that house.

Chairwoman Toni Hardin asked if there were any additional questions for the applicant or staff. There were none. Chairwoman Toni Hardin asked if there were any parties who wish to speak opposing the applicant's request. There were none.

Chairwoman Toni Hardin summarized the evidence for the standards for the board; staff report has been submitted as evidence along with testimony from the applicant, James Knott; planning on putting a mobile home back in the same location as the existing mobile home, there would be no additional danger to public health or safety; applicant would be happy to comply with all requirements to include plot plan, utilities, setbacks, and 20 foot buffer between adjoining properties; applicant is planning on removing existing structures, purchasing a newer model mobile home and cleaning up the property which would not injure the value of his property or the adjoining properties; this property is currently zoned as a low density and the use would remain a low density so it would be in general conformity with the Holly Ridge Comprehensive Plan. Chairwoman Toni Hardin asked if there were any further discussion from the Board regarding the standards required and affirmative finding required for issuance. There was none.

Chairwoman Toni Hardin read the standards. Number 1: that the use will not materially endanger the public health or safety, if located where proposed and developed according to the plan submitted and approved. Chairwoman Toni Hardin asked if there were any questions or discussion. There were none. Number 2: that the use meets all required standards set forth in this ordinance. Chairwoman Toni Hardin asked if there were any questions or discussion. There were none. Number 3: that the use will not substantially injure the value of adjoining or abutting property, or that the use is in a public necessity. Chairwoman Toni Hardin asked if there were any questions or discussion. There were none. Number 4: that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Holly Ridge comprehensive plan. Chairwoman Toni Hardin asked if there were any questions or discussion. There were none.

A motion was made by *Verne Jones* and seconded by *Dave Mosey* for an affirmative vote that the first standard has been met based on evidence submitted. *All Agreed.*

A motion was made by *Verne Jones* and seconded by *Dave Mosey* for an affirmative vote that the second standard has been met based on evidence submitted with stipulations on included conditions to include 20-foot buffer. *All Agreed.*

A motion was made by *Verne Jones* and seconded by *Dave Mosey* for an affirmative vote that the third standard has been met based on evidence submitted. *All Agreed.*

A motion was made by *Verne Jones* and seconded by *Dave Mosey* for an affirmative vote that the fourth standard has been met based on evidence submitted. *All Agreed.*

Community Development Director, Nathan Rhue will prepare a decision granting with conditions as outlined in item number 2 with additional stipulation, the special use permit.

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to close the hearing. *All Agreed.*

Board Questions/Comments

Chairwoman Toni Hardin asked the Board if there was any questions or comments to discuss before adjourning the meeting. There was none. Chairwoman Toni Hardin asked Nathan Rhue if he had anything he would like to discuss with the board. Nathan Rhue mentioned the email that was sent in reference to the upcoming training being offered by School of Government. There were two dates offered, with all Board members being available on either date. August 24th would be the next scheduled meeting for the Board, and training is available on that date from 1pm – 3:30pm, and to possibly move the meeting time up after training. It was decided that availability of the applicant for next months meeting would be verified and then an email would be sent out to the Board with time of the next meeting. Training will be on Tuesday, August 24th, 1pm – 3:30pm. Development activity was discussed; permits for Home Place, Buckhorn, The Landing at Stump Sound, and receipt of the stormwater permit for Circle K.

Adjourn

A motion was made by *Verne Jones* and seconded by *Dave Mosey* to adjourn the meeting at 7:00 PM. *All Agreed.*



Toni Hardin
Chairwoman



Marsha-Gray Kircher
Community Development Department