

**Board of Adjustment
Minutes
Thursday, February 8, 2001**

The Blowing Rock Board of Adjustment met in a special session Thursday, February 8, 2001 at 7:30p.m. Chairperson, Virginia Stacks called the meeting to order at 7:32 p.m. Members present were Lowell Thomas, Barbara Wright, Charles Hardin, and Lisle Snyder. Staff present was Wayne Green, Zoning Officer and Sonya Long, Administrative Assistant. Mr. Allen Moseley, Town Attorney was also present.

For the record Mr. Charlie Clement, attorney for the applicant, First Union Nation Bank, Trustees of the CA Cannon Trust for Mary Bost Gray and Mr. Richard Porter, adjoining property owner was also present.

Public Hearing

Board of Adjustment's Decision for Appeal Case Number 2000-01

Chairman Stacks stated that the Board would discuss the case with each other and then would be able to ask questions to the Town Attorney. During the meeting, there could not be any comments made from the audience, due to the case being closed. Chairman Stacks asked that each board member explain why they voted the way they did.

Mr. Thomas stated that he had spent a lot of time reviewing the exhibits and information that had been provided to him. He explained to the Board why he came to his decision. He first explained that he reviewed the definition of a lot as stated in the town code. It should be considered a lot for the following reasons. Watauga County and the Town of Blowing Rock have moved to tax the property, Lot 107 has barrens and distances, all other streets and roads within that subdivision are named, and the deeds refer to it as a lot. It should be considered a road for the following reasons. Watauga County has never issued a tax identification number for Lot 107, the building permit (Exhibit 3) references Lot 107 as an unapproved street, the agreement marked Exhibit 6 states "that the area is to be served as a right of way for a road, plus the attachment states "willingness to create a public road at a future date," Exhibit 8 (deed) restricts the square footage, and Exhibits 8,9, and 10, (deeds) restricts residential structures, out buildings and landscaping with limitations while Lot 107 is never mentioned in that deed. He explained that in exhibits 6, 8, 9, and 10 it is very clear that the intent was for Reserved Lot 107 to be a street or a road.

In his conclusion, with the narrow shape of the lot and by the restrictions set forth on Reserved Lot 107 it was intended to be a street or road.

Page 2
February Special Meeting Minutes cont.

Mr. Snyder stated that by all intentions, Lot 107 looks like a road. The bigger issue would be the setbacks. It would be hard to design a house with 40-foot setbacks from both Green Hill Road and Reserved Lot 107. He discussed with the Board the possibility of giving the adjoining property owners a blanket variance of 20 feet from the Reserved Lot 107. Mr. Moseley stated that in the Town Code, page 82 paragraph E, stated “whenever a private road that serves more than three lots or more than three dwelling units or that serves in a non residential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary; then: (1) If the lot is not also bordered by a public street, buildings and free standing signs shall be setback from the centerline of the private road just as if such road were a public street. (2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.”

Mr. Moseley went on to explain that if the Board determined Lot 107 was a road, because it does not meet the definition of a street by the town code, they should pay attention to the part of the code that talks about the traveled portion of a road, which would be the inside boundaries.

Chairman Stacks pointed out to the Board that they needed to determine if the Reserved Lot 107 was a road or a lot, they could not make decisions regarding the setbacks.

Ms. Wright stated that in her opinion she would determine that Reserved Lot 107 is a lot.

Mr. Hardin explained that in earlier deeds, it was never mentioned in writing that Lot 107 was a road until much later. All the original deeds and all the Exhibits label it as “Reserved Lot 107.” It was really never specified what its purpose was. It is labeled like all the other lots. He pointed out that in most subdivisions, they will have some type of common area or green area, and that this lot resembled that type of use. In his opinion, Lot 107 is a lot. He also pointed out that all adjoining lots had another way of access.

Chairman Stacks stated that after hearing all the evidence, and looking over the maps that were submitted, it doesn’t show or say anything about a road. Her conclusion was that it is a lot.

Chairman Stacks asked that the Board proceed with voting on the decision.

Board members voting that Reserved Lot 107 is a road were, Mr. Thomas and Mr. Snyder.

Board members voting that Reserved Lot 107 is a lot were; Ms. Stacks, Ms. Wright and Mr. Hardin.

Mr. Moseley stated that the Board needed to make a motion that either reverses or affirms Mr. Green’s decision.

Mr. Hardin made a motion to uphold the Zoning Officers decision, seconded by Ms. Wright. For the motion were Mr. Hardin, Ms. Wright and Ms. Stacks. Against the motion were Mr. Thomas and Mr. Snyder. Motion passed.

Page 3
February Special Meeting Minutes cont.

Mr. Moseley stated that the Board would need to put in writing the final decision and serve that to Mr. Clement. Once he receives the written decision, the applicant would have thirty days to appeal the Boards decision to the Superior Court. Mr. Moseley stated that he would draft the letter and have the Chairman sign it.

Adjourn

With no further business, Mr. Snyder made a motion to adjourn at 8:04 p.m., seconded by Mr. Hardin. All were in favor of the motion.

Chairman, Virginia Stacks

Minutes Recorded by:
Sonya Long, Administrative Assistant