



Chatham County Planning Board Agenda Notes

Date: November 1, 2011

Agenda Item: VI.

Attachment #1

☒ **Subdivision - Variance** ☐ **Conditional Use Permit** ☐ **Rezoning Request**
☐ **Other:**

Subject:	Request by Ricky Spoon for a variance from the Subdivision Regulations, Section 7.4 B (3) to allow a fifth (5 th) lot on a private perpetual easement within Henry's Ridge Subdivision, specifically for Lot 8, parcel #83686, to be allowed to use Henry's Watch Lane for access to Henry's Ridge Road versus constructing a separate driveway.
Action Requested:	See Recommendations
Attachments:	<ol style="list-style-type: none">1. Variance Request Application with findings2. Copy of Plat Slide 2010-1333. Copy of Plat Slide 2006-1424. Section 7.4 B (3), Arrangement, of the Subdivision Regulations5. Section 1.13 A, Variances, of the Subdivision Regulations6. Section 7.2 D (2), Private Roads & (3) Design and Construction Standards for private Roads

Introduction & Background: On June 7, 2010 staff approved a minor subdivision for the applicant consisting of five (5) lots, Lots 41—45. Lots 41-44 are served by a private, perpetual easement off a public road, Henry's Ridge Road and Lot 45 has direct frontage on Mt Gilead Road, SR-1700. Mr. Spoon obtained a commercial driveway permit from NCDOT for the private easement connection to the public road. The minor subdivision plat is recorded in Plat Slide 2010, Page 133, see attachment # 2. Lot 8 was created when Henry's Ridge, Phase 1 (Lots 6—40), was approved by the Board of County Commissioners as a major subdivision. See attachment #3. As shown on Plat Slide, 2006-142 and 2010-133, Lot 8 was proposed to have its own individual driveway out to the public road. When the minor subdivision was approved in 2010, the survey map included a revision of lot lines to existing Lots 8 & 9 to accommodate the new perpetual easement serving Lots 41 - 44. The applicant has made a request to NCDOT for road maintenance of the public road, Henry's Ridge Road. The road has not yet been accepted by NCDOT for maintenance. The initial and repair area for Lot 8 is off-site and is located on the adjacent Lot 41. This request will not

affect the septic area.

Discussion & Analysis: Section 7.4 B (3) of the Subdivision Regulations states in part “Three (3) subdivision lots may be allowed provided that every lot has frontage on a perpetual easement not less than thirty (30) feet in width that meets a public road. If found to be desirable to the road design, up to four (4) lots may be served by the thirty (30) foot easement, provided a portion of the easement is built to county private road standards (16 foot wide travelway with four inches of crush and run stone).....If additional subdivision lots are to be created and served by the easement, it shall be sixty (60) feet in width and meet other standards required unless a variance is granted....” See attachment #4 for the complete language. When an applicant proposes to have four (4) lots served by a perpetual easement, the roadway is required to be built to the higher standard of a 16 foot wide travelway with 4 inches crush and run stone and certified by a licensed surveyor, engineer, etc., prior to approval and recordation of the minor subdivision plat. Mr. Spoon constructed the private easement to the required standards and Van Finch, Land Surveys, P. A. certified that the road was constructed to the standard. Mr. Spoon later paved the roadway.

The request before the Board now is to allow Lot 8 to use Henry’s Watch Lane, paved easement, for access instead of constructing a separate driveway out to the public road. Aesthetically and for safety reasons, limiting driveway connections onto the public road may be a better situation, however, the Subdivision Regulations only allows four (4) lots to be served by a private easement without a variance request being granted or the roadway being upgraded to a higher standard. Per the Regulations, a private roadway that serves more than four lots would have to be reviewed as a major subdivision, and the road would be required to meet the county private road standards which includes a 60 foot wide right-of-way, a 16 foot wide travelway with four inches of crush and run stone, 4 foot wide shoulders, a road maintenance agreement, etc. and would require a three (3) acre minimum with a five (5) acre average lot size, or the road would have to be upgraded to a public road. See attachment #6 for the complete design standards for private roads.

In order for a variance request to be granted, the applicant must be able to meet the four findings as required in Section 1.13. This section states in part “Where the Planning Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may recommend variances to these subdivision regulation to the Board of County Commissioners.....” See attachment # 5 for the complete language. The applicant has addressed the findings in his application. Section

1.13 B, Conditions, states “In approving variances, the Board of Commissioners may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.” If the Board is inclined to grant the variance, staff recommends that the five lots served by the private easement have a road maintenance agreement to meet the standards set out in Section 7.2 D (2), see attachment #6. Staff also recommends that a deed restriction be placed on Lot 8 stating that the access to Lot 8 is by Henry’s Watch Lane only and that no additional driveway is allowed to be constructed within the flag portion of Lot 8 out to Henry’s Ridge Road.

Recommendation: The Planning Department does not think the four findings have been met and does not recommend approval of the variance request based on not meeting the findings of fact. If the Planning Board recommends granting approval of the variance request, staff recommends the following conditions:

1. The five lots served by the private easement have a road maintenance agreement to meet the standards set out in Section 7.2 D (2) of the Subdivision Regulations.
2. A deed restriction shall be placed on Lot 8 stating that the access to Lot 8 is by Henry’s Watch Lane only and that no additional driveway is allowed to be constructed within the flag portion of Lot 8 out to Henry’s Ridge Road.