



Town of Siler City

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ROBERT SILER
ADAM SMITH

Board of Adjustments Meeting Minutes

February 13, 1995

The Siler City Board of Adjustments met on February 13, 1995 at 7:00 PM in the City Hall courtroom. James L. Cheek, Chairman, called the meeting to order at 7:11 PM. Mr. Cheek called for a motion to approve the minutes from the meeting held on December 12, 1994. Byron Oldham moved to accept the minutes as written and Butch Hudson seconded the motion. The minutes were unanimously approved.

Members Present:

Larry Cheek, Chairman
Butch Hudson, Vice-Chairman
Rick Batts
Louise Adcock
Byron Oldham
Joyce Siler
Cindy Edwards, alternate
Roger Hinshaw, alternate

Members Not Present:

James Edwards

Staff Present:

Joel J. Brower, Town Manager
James H. Graham, Planning Director
Sam Williams, Town Attorney
Charles McLaurin, Building Inspector

Town Board Members Present:

Pem Hobbs

Business Session

Special Use Permit

Mr. Graham opened discussion for a special use permit requested by Mr. Don Raynor to move a 1969 Hill Top mobile home from Lot 406 Center Drive to Lot 432 Center Drive in the Emenheiser Trailer Park. Mr. Graham gave an overview of the special use permit and cited information from the Siler City Mobile Home Park Ordinance that pertained to this particular request.

Mr. Cheek asked Mr. Raynor to stand before the Board and explain his request and be available to answer any questions the Board may have. After being sworn in, Mr. Raynor stated that he wished to move this mobile home, which is 12' x 40', from Lot 406 (a large lot) to Lot 432 (a smaller lot). He also stated that he has already purchased a mobile home, which is 14' x 60', that he wishes to place in the larger lot at 406.

Byron Oldham asked how many units were presently in the park. Mr. Raynor replied 13 units.

Mr. Oldham then pointed out the Inspection Report done by Charles McLaurin, Building Inspector for the Town of Siler City. He stated that he valued Mr. McLaurin's work and if he conducted an inspection and gave a good report then the mobile home must be in fair condition.

Rick Batts commented on the good condition of the mobile home park and he felt this move would create a better looking park.

With no further discussion, Mr. Cheek called for a vote on the Four Required Findings and Mr. Raynor's responses.

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved.

The move of the Hill Top mobile home will not materially endanger the public health and safety in as much as the move will be made to a pre-approved lot within the present boundaries of Emenheiser Trailer Park. The unit to be moved is in good condition and well maintained.

Butch Hudson moved to approve, seconded by Rick Batts with 7:0 in favor.

2. That the use meets the requirements (use, dimensional, parking/loading) established by this ordinance.

The use meets all the requirements, except for age, as evidenced by the submitted survey.

Byron Oldham moved to approve, seconded by Rick Batts with 7:0 in favor.

3. That the use will not constitute a nuisance or hazard from the generation of people, vehicles, noise, or other pollutants, and the use will not be detrimental to the use or development of adjacent properties and will not substantially injure the value of adjoining property, or that the use is a public necessity.

The use will not constitute a nuisance or hazard, or be detrimental to the use or value of the adjacent properties, in as much as the use will be within the present boundaries of Emenheiser Trailer Park, and the surrounding properties are of similar use and/or undeveloped.

Rick Batts moved to approve, seconded by Louise Adcock with 7:0 in favor.

4. That the location and character of use, if developed according to plans submitted and approved, does not adversely affect the general plans for the physical development of the Town as embodied in this ordinance and in any plan or portion thereof adopted by the Planning Board of Commissioners.

The use will not adversely affect the general plans for the development of the Town of Siler City, in as much as the use will be within the present boundaries of Emenheiser Trailer Park.

Butch Hudson moved to approve, seconded by Joyce Siler with 7:0 in favor.

Mr. Cheek stated that the Special Use Permit was approved and did not have to be presented to the Town Board. With no other business, he then called for a motion to adjourn. Byron Oldham moved to adjourn, seconded by Rick Batts. The meeting adjourned at 7:25 PM.


James L. Cheek, Chairman

Attest:


Frita L. Pineda, Recording Secretary

**Board of Adjustment Meeting Minutes
March 13, 1995**

Larry Cheek, Chairman, called the meeting to order at 7:55 p.m.

Members Present

Larry Cheek, Chairman
Butch Hudson, Vice Chairman
Byron Oldham
Joyce Siler
James Edwards
Cindy Edwards, Alternate
Roger Hinshaw, Alternate

Members Absent

Louise Adcock
Rick Batts

Staff Present

Mayor Earl B. Fitts
James H. Graham, Jr., Planning Director
J. Samuel Williams, Town Attorney

BUSINESS SESSION

Hank Graham gave an overview of the variance request application. He also recommended that the Board deny the request in order to keep within the spirit of the ordinance and keep up the appearance of the neighborhood.

Larry Cheek stated he understood that Mr. Graham was new and he was trying to abide by the ordinance, however, the Board had granted these variances in the past and needed to be fair and consistent because a precedent had been set.

Cindy Edwards questioned when the Board would start abiding by the UDO.

Larry Cheek stated they would eventually start but right now they needed to continue to be fair and consistent. He then called the applicant, Johnny Jones, to be sworn.

Mr. Jones used a large drawing to illustrate where he proposed to build his storage shed/garage. He stated he wanted to build this building to have a place to store his boat which would, in turn, free up his current garage for more parking. He stated there was not ample parking space with his boat occupying the current garage and when he had visitors they had to back onto Piney Grove Church Road when leaving. He further stated he felt this was dangerous. Being able to construct this storage shed/garage would eliminate the danger.

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Sam Williams asked Mr. Jones if a storage shed for his boat was the only reason he wanted to construct this building.

Mr. Jones stated it was one of the reasons.

Byron Oldham asked Mr. Jones if he might choose one of the alternative solutions recommended by Mr. Graham in his staff analysis.

Mr. Jones stated he did not want to choose one of the options, that if he couldn't build the storage shed/garage as he wanted then he wouldn't build one at all.

Larry Cheek called Mr. Melvin Womble, a neighbor, to be sworn for testimony on Mr. Jones' behalf.

Mr. Womble stated he had known Mr. Jones for a great length of time and he was a good person. He said he felt the variance request should be granted.

With no further discussion Larry Cheek called for a vote on the required findings.

A. "There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance." The courts have developed three rules to determine whether in a particular situation "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

1) If he complies with the provisions of the ordinance, the property owner can secure no reasonable return from or make no reasonable use of, his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

The building will be used for a garage, woodworking shop, storage, and a recreation room. I do not plan on using this building for reasonable returns.

Vote - Bryon Oldham motion - Butch Hudson second . 6-1 with Cindy Edwards opposed

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2) The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardships suffered by the applicant in common with his neighbors do not justify a variance. Also, unique, personal, or family hardships are irrelevant, since a variance, if granted, runs with the land.)

Due to how my lot lies and to make the building practical for my intended use, I need a variance. (Example: backing a boat into the garage). I have talked to adjacent land owners and none of them object to me constructing this building.

Vote: Butch Hudson motion - Byron Oldham second. 6-1 with Cindy Edwards opposed

3) The hardship is not the result of the applicant's own actions.

In 1973, there was no ordinance for this development. I didn't know then that I would need more storage space, parking space, and that US Highway 421 bypass would be built.

Vote: Byron Oldham motion - Butch Hudson second. 6-1 with Cindy Edwards opposed.

B. "The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit." (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

The building will not detract from the character of the neighborhood. The building will consist of painted wood siding, storm windows, metal garage doors, shingled roof, gutters, and concrete pavement in front, all within a chain fence.

Vote: Butch Hudson motion - Byron second. 6-1 with Cindy Edwards stating that the variance request would detract from the character of the neighborhood and voting in opposition.

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C. "The granting of the variance secures the public safety and welfare and does substantial justice."

(State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

Doors on the building will be closed and locked when not in use. If I am permitted to build this building, this will enable more parking space in front of my home. Since the US Highway 421 bypass was built, there is much more traffic on S.R. 1362. Sometimes family and visitors have to back into the road which is very dangerous since I live almost on top of a hill.

Vote - Byron Oldham motion - Butch Hudson second. 6-1 with Cindy Edwards stating that safety could be achieved without building this storage shed/garage and voting in opposition.

Variance was granted with 6-1 in favor.

With no further business Larry Cheek called for a motion to adjourn at 8:23 p.m. Byron Oldham made this motion with a second from Butch Hudson with unanimous consent of members.


James Larry Cheek, Chairman

ATTEST:

Frita Pineda, Recording Secretary

**Board of Adjustment Meeting Minutes
July 10, 1995**

The Siler City Board of Adjustment met on Monday July 10, 1995. Larry Cheek, Chairman, called the meeting to order at 7:35. Mr. Cheek asked for a motion to approve the minutes of March 13, 1995. The minutes were unanimously approved upon a motion from Byron Oldham and a second from Joyce Siler.

Members Present

Larry Cheek, Chairman
Butch Hudson, Vice Chairman
Byron Oldham
Joyce Siler
Louise Adcock
James Edwards
Cindy Edwards, Alternate
Roger Hinshaw, Alternate

Members Absent

Rick Batts-resigned

Staff Present

James H. Graham, Jr. Planning Director
Terry Green, Public Works Director

Commissioners Present

Pem Hobbs, Town Commissioner

BUSINESS SESSION

AGENDA ITEM: VAR-003-95: MR. & MRS. ERNEST AND BETTY McLAWHORN

Hank Graham gave an overview of the variance request application. On June 23, 1995, staff received a variance application from Mr. & Mrs. Ernest & Betty McLawhorn to allow the construction of a garage. The property is located at 806 North Glenn Avenue, Siler City, NC 27344. The applicants request permission to construct a building within 5 feet of the side property line.

Larry Cheek called the applicant, Mr. Ernest McLawhorn, to be sworn in. Mr. McLawhorn stated he moved here in December of 1981. In 1985 he removed 45 trees in order to make room for the garage. Mr. McLawhorn said there is no other area to place the garage except for the side. A letter written by Mr. McLawhorn's neighbors, Mr. & Mrs. Truman Johnson, was presented stating they had no problem with the building of this garage and they were not in opposition. In asking other neighbors their feelings on the building of the garage, no one had any problems with it per Mr. McLawhorn.

The purpose of this garage is to have shelter for an antique and restored vehicle owned by Mr. McLawhorn. He started preparing for this shelter before the zoning regulations became effective.

With no further discussion Larry Cheek called for a vote on the six (6) required findings.

A variance may be granted by the board of adjustment if it concludes that strict enforcement of the ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.

- 1) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property.

Applicant's response - Due to how my lot lies and to make the building practical for my intended use I need a variance. Example, to be able to get my car housed and not to take up the total back yard.

Butch Hudson motioned to approve- James Edwards seconded. Vote- 6 in favor 1 opposed.

- 2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.

Applicant's response - I have been living at this address for 14 years and do not plan to move.

Butch Hudson motioned to approve- Joyce Siler seconded. Vote- 6 in favor 1 oppose.

3) The hardship relates to the applicant's land, rather than personal circumstances.

Applicant's response - With the landscaping in the back yard, there is only one place to build a garage.

Butch Hudson motioned to approve- James Edwards seconded. Vote - all in favor

4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

Applicant's response - I started having trees removed back in 1984 to make room to build a garage. I had about 45 trees removed and had the stumps taken up in the area that I want to build to let the ground settle. This has been done at some cost to me. Also, I had a drain tile put in for a driveway.

Butch Hudson motioned to approve - Joyce Siler seconded. Vote- 6 in favor - 1 oppose

5) The hardship is not the result of the applicant's own actions, and

Applicant's response - At some time after I started all this work, the ordinance has been put in making this variance request necessary.

Butch Hudson motioned to approve- Byron Oldham seconded. Vote-6 in favor 1 oppose

6) The variance will neither result in the extension of a nonconforming situation in violation of Article VIII nor authorize the initiation of a nonconforming use of land.

Applicant's response - The garage will not distract from the character of the neighborhood. The building will consist of painted wood siding, storm windows, metal garage door, shingled roof, and concrete floor.

Butch Hudson motioned to approve- Byron Oldham seconded. Vote - all in favor

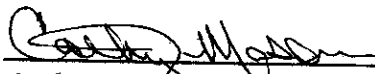
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With no further business Larry Cheek called for a motion to adjourn at 8:01 p.m. Byron Oldham made this motion with a second from Joyce Siler with unanimous consent of members.



Larry Cheek, Chair

ATTEST:



Cathy Mason, Recording Secretary

**Board of Adjustment Meeting Minutes
September 11, 1995**

The Siler City Board of Adjustment met on Monday September 11, 1995. Butch Hudson, Vice Chairman, called the meeting to order at 8:11 p.m. Mr. Hudson asked for a motion to approve the minutes of July 10, 1995. The minutes were unanimously approved upon a motion from Byron Oldham and a second from Joel Hunnicutt.

Members Present

Butch Hudson, Vice Chairman
Byron Oldham
Louise Adcock
Cindy Edwards
Roger Hinshaw, Alternate
Joel Hunnicutt, Alternate

Members Absent

Larry Cheek, Chairman
Joyce Siler
James Edwards

Staff Present

James H. Graham, Jr. Planning Director
Sam Williams, Town Attorney

Commissioners Present

Pem Hobbs, Town Commissioner

BUSINESS SESSION

AGENDA ITEM: SUP-001-95 - Alejandro Venegas

Applicant was not present at the meeting.

Sam Williams motioned to table this item to next meeting and to dismiss Mr. Venegas' application if he is not present at the next meeting.

AGENDA ITEM: SUP-002-95 - Mary Winne Sherwood

Background

Mr. Graham stated on August 28, 1995, staff received a Special Use Permit application from Mary Winne Sherwood who represents Oxford House Development which is a residential recovery program for substance abusers. The property is located at 316 West Third Street between N. Dogwood Ave. and Chatham Ave.

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Mr. Graham stated that the North Carolina building code standards limit/restrict the number of persons for the proposed use to six (6). The Applicant proposes to house eight (8) men in the proposed substance abuse recovery home. If 8 adults are to be housed as opposed to 6, the structure must undergo significant safety and structural improvements.

Mary Winne Sherwood stated she represented Orange, Person and Chatham Mental Health Center. She is the Substance Abuse Program Director. Orange, Person and Chatham Mental Health Center will be the actual owner of the property. Oxford House, a national incorporated organization will operate the house. It is a stable and safe place for people to live while they are recovering. They are required to pay rent and be employed. House residents elect officers to manage the house.

Cindy Edwards questioned if there was someone who lives in the house such as a counselor.

Ms. Sherwood stated there is no professional staff. When it starts an Oxford house resident, who has been stable for a long period, from another house who volunteers to come and get it started. House residents impose self supervision of rules and punishment.

Ms. Edwards asked if these people will have jobs in the county.

Ms. Sherwood stated that is correct.

Sam Williams asked who is on the premises to supervise.

Ms. Sherwood stated it is a self run, self organized. They themselves are in charge. They are all screened and all must have ten days of sobriety before they can be interviewed for entrance program entrance.

Mr. Williams asked if someone gets drunk, who enforces?

Ms. Sherwood stated they will vote that person out of the house.

Joel Hunnicutt asked if potential residents of the house were referred, and if so from where and by whom.

Ms. Sherwood replied AA, family members and friends refer them and they themselves will also refer.

Sam Williams asked if there is any type of insurance for instance, if someone was to fall.

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Ms. Sherwood stated they do have homeowners insurance.

Byron Oldham stated if eight people are needed it may not be able to be approved.

Mr. Graham asked Ms. Sherwood if it was necessary to have eight residents.

Ms. Sherwood stated the Oxford plans are for eight to twelve. They feel that is the best number to run a house properly.

Mr. Williams asked if there was one already operating.

Ms. Sherwood stated there is one in Carboro and some in Raleigh & Durham which she would be glad to arrange to take anyone who is interested to see them.

Mr. Graham stated the actual building requirements or renovations are very costly to the residential structure. The NC building code requires sprinkler systems, additional fire alarms, etc.

Ms. Sherwood stated the grant is a 50 year no interest loan from the NC Housing Agency and we will be able to cover these costs.

Butch Hudson asked if building a new structure would be cheaper than renovating a 50 year old house?

Ms. Sherwood replied she was unsure. This is an affordable house. It has large rooms and a large kitchen. It would accommodate these people very well.

Also present, Herbert and Carol Handley, resident of 312 W. 3rd. Street. They are adjacent property owners to the house in question.

Ms. Handley stated the kitchen is not very large, she has been in this house several times. She stated ten days is not very long for someone to be drug free. Her concern is she has small children and who will guarantee that they will not get intoxicated and come to her house.

Ms. Sherwood stated no-one can guarantee they will not get intoxicated but we have had a great outcome for 20 years now. They will not remain at that house if they do not stay sober and drug free.

Mr. Hudson asked what the average length of time a person will stay.

Mr. Sherwood stated usually it is about two years.

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Joel Hunnicutt asked if there were any referrals from the Department of Corrections.

Ms. Sherwood stated there could be but the requirements are the same that they would have to go through and they have more restrictions because they have been on probation.

Ms. Handley asked how this would affect the property value of her land.

Mr. Graham stated an appraiser should prepare appraisals based on private and adjacent property values, and the value of what the appraised property owns, not on whether a substance abuse home is next door.

Mr. Oldham asked what type of bath accommodations were in the house.

Ms. Sherwood stated there is a handicapped bath on the first floor and another bathroom on the second floor.

Ms. Edwards asked how many bedrooms are in the house.

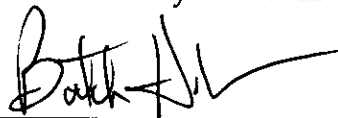
Ms. Sherwood replied there are four bedrooms.

Ms. Edwards motioned to table this item to the next meeting with a second from Byron Oldham. All members voting in favor.

Staff Recommendation

Pursuant to the applicants decision on the number of house residents and subsequent building and UDO requirements, staff recommends approval of the Special Use Permit.

With no further business Butch Hudson called for a motion to adjourn at 8:42 p.m. Byron Oldham made this motion with a second from Cindy Edwards with unanimous consent of members.



Butch Hudson
Vice-Chairman

ATTEST:



Cathy Mason
Recording Secretary

**Board of Adjustment Meeting Minutes
October 9, 1995**

The Siler City Board of Adjustment met on Monday, October 9, 1995 at 7:00 p.m. at the Siler City Community Center. James Larry Cheek called the meeting to order at 7:05 p.m. and Byron Oldham gave the invocation. Mr. Cheek asked for a motion on the minutes of September 11, 1995. Cindy Edwards stated the spelling of Manly was not correct and should be Handley. Byron Oldham moved to approve the minutes as corrected. Butch Hudson added a second to the motion. The Board approved the motion unanimously.

Members Present

Larry Cheek, Chairman
Butch Hudson, Vice Chairman
Byron Oldham
Cindy Edwards
James Edwards
Joyce Siler
Roger Hinshaw, Alt.
Joel Hunnicutt, Alt.

Members Absent

Louise Adcock

Staff Present

James H. Graham, Jr. Planning Director
Sam Williams, Town Attorney
Joel Brower, Town Manager

Commissioners Present

Pem Hobbs, Town Commissioner

BUSINESS SESSION

SUP-001-95 - Alejandro Venegas

Applicant was not present at the meeting.

Butch Hudson moved to dismiss this Item and require the applicant, Mr. Venegas, to re-apply for a SUP. Byron Oldham added a second to the motion. The Board approved the motion unanimously.

SUP-002-95 - Mary Winne Sherwood

Background

Mr. Graham stated on August 28, 1995, staff received a Special Use Permit application from Mary Winne Sherwood who represents Orange, Person, and Chatham Mental

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Health, Oxford House Development, a residential recovery program for substance abusers. The property is located at 316 West Third Street between N. Dogwood Ave. and Chatham Ave.

Mr. Graham stated James Edwards, Larry Cheek and himself had visited an Oxford House facility in Raleigh on October 8, 1995. Mr. Graham commented the house was in a nice neighborhood.

Mr. Larry Cheek stated he had a letter from Attorney, Phil Edwards. The letter stated Mr. Edwards was representing Mr. and Mrs. Herbert Handley but he had a pre-existing appointment and would not be able to attend this meeting.

Mr. Handley stated he had a list of approximately sixty names of people in the area who were against the Oxford House being put in the area. Mr. Handley stated he would like to have his attorney present.

Mr. Sam Williams stated since Mr. Edwards did have a pre-existing commitment, ordinarily it is up to the Board as to whether or not to go ahead with the vote.

Ms. Edwards suggested since the concerned citizens were present to proceed with the hearing of the people.

Mr. Williams suggested voting on hearing the people. Once the Board decided to hear the people, the process would be in or if not, it can be tabled for one month.

Mr. Oldham stated the people would be inconvenienced if it were continued to the next meeting.

Mr. Byron Oldham motioned to vote on the hearing of the citizens with a second from Butch Hudson. Five were in favor and two were against. Majority ruled.

Mr. Larry Cheek stated he had visited the Oxford House on October 8, 1995 and:

- During the visit he saw a video on the Oxford House organization. In the video a resident stated he could not remain in the same environment and overcome his problem.
- Mr. Cheek stated that Oxford House establishments have a 75% success rate.
- Mr. Cheek asked if they had female visitation rights. The Oxford House resident stated they are allowed female visitors.

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- Mr. Cheek asked how the Oxford House was set up as far as rules and regulations. They stated they make their own rules and regulations.
- Mr. Cheek asked who furnishes the furniture. The response was the residents furnish their own furniture.

Mr. Cheek stated a neighbor said the only problem he had was the fact that they were not notified of the Oxford House being set up in the neighborhood before hand and there has been trash left in the yard. Another neighbor also stated they were not notified of the Oxford House being set up in the neighborhood. Other than these complaints, there were no major problems.

Mr. James Edwards stated he realized people need a way to get help with their problems, but he is not sure Siler City is ready for an Oxford House facility. No public transportation exists for potential residents to get to and from work.

- Ms. Mary Winne Sherwood, representing the Oxford House was then sworn.

Mary Winne Sherwood stated she represented Orange, Person and Chatham Mental Health Center. She has been with them since 1980 and she has been the Substance Abuse Program Director since 1988. Orange, Person and Chatham Mental Health Center will be the actual owner of the property. Oxford House, a national incorporated organization will operate the house. It is a stable and safe place for people to live while they recover. They are required to pay \$50.00 rent a week and be employed. There is a lot of guidance and the men here really love the home and they share a brotherly love for each other.

- Ms. Ann Green of 421 Staley-Snowcamp Road was sworn.

Ms. Green stated she had a family member in an Oxford House. She has visited him frequently and she has been very comfortable in the house. Her family member was required to pay rent, buy his own groceries and maintain a job. If he was to get behind on rent he would have two weeks to leave. They all have chores and help each other. If one is suspected of drugs or alcohol he is kicked out immediately.

- Mr. Ed Spence of 68 Pine Wood Dr. was sworn.

Mr. Spence stated it had been eight years since he first realized the drug problem in Siler City. He took someone to the Oxford House and he has not had a relapse. Mr. Spence visited the Oxford House in Durham. This house was a home, not a house. Mr. Spence stated there is a lot of difference between a house and a home. Mr. Spence also

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stated he knew there was a house located 100 to 150 feet from this house in Siler City which is or was a drug house. Mr. Spence also mentioned if they suspected a member of the house had been doing drugs, they had eight minutes to leave. They could come back later for their furniture, etc. Mr. Spence would like to see this house in Siler City and "it's one of the things the government does not control."

Mr. Handley stated he is concerned for the health and safety of the citizens. Mr. Handley stated the transportation is bad and there are not enough parking spaces for these people. Mr. Handley said he had approximately 60 names on a petition who do not want the Oxford House at this location. He also questioned if this property was zoned for this use.

- Ms. Betty Phillips of 505 N. Dogwood Ave was sworn.

Ms. Phillips spoke against the Oxford House stating she just does not think Siler City needs this type of facility.

- Jimmy L Andrews of 215 N. Dogwood Ave. was sworn.

Mr. Andrews stated Siler City is overpopulated and jobs and transportation are scarce for potential house residents.

- Ms. Jennie Beal of 409 W. 3rd. Street was sworn.

Ms. Beal stated by past experience she knows there are thieves on this street and the street is overcrowded. She feels 3rd. Street needs to be straightened out before allowing any substance abuse houses.

Mr. Bill Thorpe asked what kind of crime rate do these men have and who is responsible for their actions.

Ms. Sherwood stated some of the men will have a crime record but it is due to their drug habit. They are responsible for their own actions, if they do not abide by the rules of the house, they will be kicked out.

Mr. Vann Thorpe questioned if the men will only come from Orange, Chatham and Person counties.

Ms. Sherwood stated they will come from all over the state.

Mr. James Edwards asked how long do they normally stay.

Ms. Sherwood stated most of the time they stay a little over a year, sometimes longer.

Mr. Edwards questioned if any crime is related to the Oxford House.

Ms. Sherwood said she was unaware of crime related to Oxford House facilities. There had never been any trouble in the past.

Mr. Butch Hudson asked Ms. Sherwood how many Oxford Houses had she helped to establish.

Ms. Sherwood stated this was the first. There are six homes in Durham, six in Raleigh, one in Carrboro and 500 throughout the United States.

Mr. Sam Williams asked if they could be considered to be a resident of the home if they have a crime record.

Ms. Sherwood stated they could but they have to be interviewed by the house residents and accepted or denied by vote.

Mr. Williams questioned if there were restrictions on their visitation rights.

Ms. Sherwood stated only single men could live in the house and they would set their own restrictions as to whether there were too many visitors at one time.

Ms. Cindy Edwards mentioned to Mr. Handley, since he did not receive a copy of the Unified Development Ordinance, she had found in the UDO where it permits this type of home.

Mr. Handley stated it was only for handicapped.

Ms. Edwards proceeded to read the section permitting a substance abuse halfway house.

Mr. Handley questioned the zoning designation.

Mr. Graham stated the zoning is Residential-10 (R-10).

Mr. Williams asked if there was a liability insurance for house residents.

Ms. Sherwood stated the Oxford House does carry a liability policy.

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Mr. Williams stated if item (A) "That the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved" does not pass the vote, the request will be denied.

Mr. James Edwards motioned it would not endanger the public health. With no second on the motion the request was denied.

Mr. Spence stated that he with the help of some other residents of Siler City getting together and find a proper place for the home.

VAR-004-95 - Robert Bruce Hall

Mr. Graham stated on September 25, 1995, staff received a variance request application from Mr. Bruce Hall to build within the front property building setback area. The property is zoned Residential (R-10) and is approximately 1.26 acres in size. The property is located on the western side of S. Sixth Avenue between E. Elk Street and E. Finch Street. The property has frontage of 300 feet and a depth of 250 feet.

The applicant proposed to construct three single-family residential units on the property. However, the site has a state and county designated intermittent stream which flows from north to south bisecting the property into eastern and western halves. The applicant received an Army Corps of Engineers permit to impact (alter, pipe, or fill) the stream. However, the variance is to construct three proposed homes with similar setbacks as existing houses on the street. UDO requirements call for a 35 foot front setback. There is a house on the corner of E. Elk St. and S. 6th Ave. that does not meet the existing front yard setback requirements. Mr. Hall is asking for the same setback as the house on adjacent property.

There are six requirements that must be met in order to pass the variance request:

- A) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property.

A wet weather branch runs through the center of this property, therefore, the land between the road and the branch can not be used if the ordinance which requires building 35 feet off of right of way is not varied.

- B) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.

I have plans to clean up this property and make suitable building lots.

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- C) The hardship relates to the applicant's land, rather than personal circumstances.

The wet weather branch running through the center of the property makes much of the land unusable.

- D) The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

All other property owners were able to build houses between the road and the wet weather branch according to the former right of way ordinance.

- E) The hardship is not the result of the applicant's own actions, and

I consulted with Ms. Jean Manuele with the U.S. Army Corps of Engineers, Raleigh, N.C. and she advised me to change the flow of the wet weather branch to the ditch at the road which would have given me full use of the property. After speaking with Joel Brower he advised me against this because he believes the flow of water in the wet weather branch at times during the year will direct too much water to the road.

- F) The variance will neither result in the extension of a non-conforming situation in violation of Article VIII nor authorize the initiation of a non-conforming use of land.

My plans are to build spec houses on this property which will not distract from the character of the neighborhood and will be comparable to the housing in this neighborhood at the present time.

Mr. Oldham stated the surrounding homes of this property were set forty years ago and they were planned by what they were comfortable with. Mr. Oldham questioned what the distance from the stream to the house would be if the house was 15 ft. from the front property line.

Mr. Hall stated from the stop at the right of way to the center of the creek is approximately 90 feet. Mr. Garland Bray's setback is 22 or 23 feet. Mr. Hall stated he was trying to keep it in line with Mr. Bray's house. This would give 15 to 20 feet behind the house to the center of the creek.

Mr. Oldham questioned if Mr. Hall could center the house and come back closer to the creek putting the center of the house in the center of the property. A pipe or a dam could be put in and the house could come back closer to the creek. Mr. Oldham asked Mr. Hall how wide the house would be.

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Mr. Hall stated it would be approximately 24 or 28 feet.

Mr. Hudson questioned if Mr. Hall could set the houses on lots 2 and 3 behind the creek and meet the requirements stating it is 230 feet deep.

Mr. Hudson stated if Mr. Hall put the houses 10 feet on the other side of the creek he would be in excellent shape. The only piping to worry about would be beside Mr. Bray's house.

Mr. Hall stated a piece of pipe would need to be put in across the dam. He is not going to pipe the whole creek.

Mr. Hudson stated it is 230 feet deep on the middle one and 150 feet on the bottom.

Mr. Hall stated from the center of the creek, if the far corner is 150 ft. deep and the lot is behind the creek it would be 75 ft. in the first corner and go out to 150 ft.

Mr. Hudson stated the middle lot has plenty of setback all the way around. The only lot that needs a variance is the first lot.

Ms. Edwards questioned if Mr. Hall had given any thought in setting the houses in the back.

- Mr. Hall of 3845 McLaurin Rd. was sworn.

Mr. Hall stated if the houses were in a row with Mr. Bray they would have a much better appearance.

Ms. Edwards stated she is concerned with the flooding in this area.

Mr. Hall stated even with the houses set back the land would still flood because of the slope.

Mr. Oldham stated it is hard to receive a variance on one lot and three lots are much harder.

Mr. Hudson stated he was not in favor of this because he sees too much potential in moving two houses to the back of the property.

Mr. Sam Williams suggested a vote be made on all six requests at one time.

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Mr. Joel Hunnicutt asked Mr. Joel Brower what his thoughts were as far as the potential for flooding.

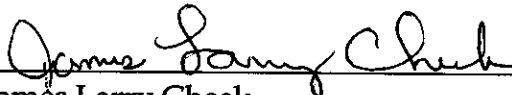
Mr. Brower stated to reroute the flow and bring it out to the edges of the street could cause a problem. There would be a possibility for erosion or a car running off the edge of the road into the ditch. Mr. Brower stated he did not think it was appropriate.

- Attorney, Ben Albright of Rt. 4, Siler City was sworn.

Mr. Albright, representing Mr. Garland Bray and Mr. Albright's parents, stated he knows the land well. The ditch does flood and it is a serious problem. It would be virtually a river reaching 50 to 60 feet wide. It still backs up 2 or 3 times a year. Mr. Albright is concerned with the health and safety of the people. Also, the road is too close which makes a dangerous situation. Mr. Albright presented pictures taken by Mr. Bray showing the flooding problem. Mr. Albright stated he has seen it flood up to the steps of his parents house. Mr. Albright stated the variance fails to meet item (A) -the house is on the back side. It would severely damage upstream property owners.

Ms. Edwards moved to deny variance since item (A) does not meet requirements with a second from Butch Hudson. All in favor. Variance denied.

With no further business, Byron Oldham called for a motion to adjourn at 8:37 p.m. Cindy Edwards moved to adjourn with a second from Butch Hudson. The meeting was adjourned by unanimous consent of members.



James Larry Cheek
Chair

ATTEST:

Cathy Mason
Recording Secretary

**Board of Adjustment Meeting Minutes
November 13, 1995**

The Siler City Board of Adjustment met on Monday, November 13, 1995 at 7:00 p.m. in the Siler City Court Room at City Hall. James Larry Cheek called the meeting to order at 7:36 p.m. Mr. Cheek asked for a motion on the minutes of October 9, 1995. Mr. Butch Hudson stated the minutes showed as Mr. Williams making a motion to table SUP-001-95. The motion was made by Butch Hudson. Mr. Byron Oldham motioned to approve the minutes as corrected with a second from Butch Hudson. The Board approved the motion unanimously.

Members Present

Larry Cheek, Chairman
Butch Hudson, Vice Chairman
Byron Oldham
Cindy Edwards
James Edwards
Louise Adcock
Roger Hinshaw, Alt.
Joel Hunnicutt, Alt.

Members Absent

Joyce Siler

Staff Present

James H. Graham, Jr. Planning Director
Sam Williams, Town Attorney

Commissioners Present

Earl B. Fitts, Mayor
Pem Hobbs, Town Commissioner

BUSINESS SESSION

VAR-006-95 - Mr. & Mrs. Reggie and Margaret Rakes

Mr. Graham stated that on October 26, 1995, staff received a variance request application from Mr. & Ms. Reggie and Margaret Rakes to build within 5 feet of their side yard property boundary. The property is zoned Residential-10 (R-10) and is approximately .38 acres in size. The property is located at 314 Eden Hills Road on the eastern side of the street. The property has frontage of 90 feet and a depth of 180 feet.

Surrounding land uses include single family residential. The applicant proposes to construct a storage utility building on the property. However, the applicant claims there is a hardship due to meeting existing unified development ordinance regulations for two reasons 1) the costs of tree and stump removal, and 2) the possible relocation of their existing septic system.

Mr. & Mrs. Rakes were sworn in.

Mr. Rakes stated there are two reasons they would like to move the building closer to the line 1) the costs of moving the trees would be very high and 2) it is major concern of running into the septic line. If he moves it 15 foot over he feels sure he will hit one of the septic lines.

Mr. Sam Williams stated, in order to have a sworn testimony to make a decision, each of the six required findings need to be discussed and addressed to the board.

Ms. Rakes stated they do not have any room in their house for music equipment. The removal of the trees and stumps in the yard would be too expensive. They would have to get another loan in order to pay for the expense. The septic tank was put in 30 feet from the property line and the concern of the lines being damaged is a concern. Ms. Rakes stated the septic system drainage field will be breached. It would be a home improvement to have a nice building instead of storage in the carport but there is not enough lot area to place the building.

Ms. Edwards questioned how they know the building would sit on the septic lines.

Ms. Rakes stated she has had the septic lines dug up in the past.

Ms. Edwards asked if anyone from the health department had come out to show where the septic lines are.

Ms. Rakes stated she had someone come out years ago.

Ms. Edwards questioned if the size of the roof would fit building setback requirements.

Mr. Graham stated yes it would.

Ms. Rakes stated if the building was set closer to the house it would be too close to the porch.

Mr. Hudson stated looking at number one of the required findings, there are twenty-two lots who have the same problem. Also, looking at number two, the hardship includes the other twenty-two lots suffer with the same problem.

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Ms. Rakes the other neighbors have buildings set.

Mr. Hudson stated when Mr. & Mrs. Rakes were taken into the ETJ (Extra Territorial Jurisdiction) they did not have a building. Anyone who wants to build one has to go through the same process.

Mr. Hunnicutt asked if there were any comments from the property owner on the east side.

Mr. Rakes stated on the left side there is an eight foot wooden fence and on the right side there is shrubbery down the line. The neighbor has a building three foot from the property line.

Mr. James Edwards asked if the home was built or if Mr. and Ms. Rakes Purchased the home already built.

Ms. Rakes stated the home was purchased already built.

Mr. Cheek called for a vote beginning with finding requirement A) If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property.

Ms. Edwards motioned if the applicant complies strictly with the provisions of the ordinance, he can make reasonable use of his property. Mr. Byron Oldham added a second to the motion.

With five in favor and two against, majority ruled. The variance was denied.

Mr. Sam Williams explained by law each one of the required findings has to pass by 80%. The motion was made within the negative which did pass by majority. The variance was therefore denied.

Other Business

Mr. Graham stated that he is still participating in the Municipal and County Admin., at the Institute of Government, the dealings with special use permits. Mr. Graham has been speaking with the instructors in reference to the special use permit on some possible issues which may need to be reviewed. We need to look at the response to the vote on the special use permit requested in October. Mr. Graham will be speaking

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with the Institute of Government staff on some detailed questions Mr. Graham and Mr. Williams have.

With no further business, Mr. Larry Cheek called for a motion to adjourn at 8:01 p.m. Byron Oldham moved to adjourn with a second from Joel Hunnicutt. The meeting was adjourned by unanimous consent of members.



James Larry Cheek
Chair

ATTEST:

Cathy Mason
Recording Secretary