Board members present: Mark Spence

David Neel

Martha Chastain

Robert Sulaski

Board members via Zoom: Arrington Cox

Danny Sharpe

Board members absent: Eleanor James

Town staff present: Scott Adams, Zoning Administrator

Angie Murphy, Town Clerk

Ben Blackburn, Interim Town Manager

Kayla DiCristina, Zoning Administrator

Mr. Spence, as Chair, called the meeting to order at 5:00 p.m., and led the group in a moment of silence. Mark Spence certified that a quorum was present. Chair Spence reviewed the purpose of the meeting.

The meeting was recorded and posted to the Town website on the YouTube Channel which can be found at the following link:

<https://www.youtube.com/watch?v=7vWTictmWcU&t=6s>

**Evidentiary Hearing Continued**

A. **Appeal of Zoning Administrator’s Determination –** Lot 778, in Montreat’s Extraterritorial Jurisdiction (ETJ)-PIN# 072111773600000 (Wade Burns, property owner); appeal by James Hamilton, neighboring property owner at 780 Foreman Siding Rd. (PIN# 072111874200000).

A memo from Town Attorney Susan Taylor Rash was distributed to the Board of Adjustment members, Mr. Burns and Mr. Hamilton. A five minute recess occurred for the memo to be reviewed. Robert Sulaski moved to admit into evidence the memo from Town Attorney Susan Taylor Rash into evidence. Danny Sharpe seconded and the motion carried 6/0.

Mr. Hamilton asked for two 30 second videos to be shown of heavy stream flow from a recent rainfall. Mr. Hamilton stated the videos show that there can be significant flow from a normal thunderstorm and that flow will carry with it silt and polluted stormwater into Flat Creek. Mr. Hamilton paraphrased from a memo he submitted in which he reviewed Section 305 of the Montreat Zoning Ordinance. Mr. Hamilton feels that the Board of Adjustment has the discretion of whether or not it will apply the 30 foot setback to the ephemeral stream.

Mr. Burns stated that his proposed home will be directly adjacent to the top of the stream bank which consists of large boulders that he placed there to protect the stream. Mr. Burns also stated that he submitted a variance request to the Board of Adjustment to move the home five feet from the stream bank but withdrew the application when Mr. Hamilton expressed opposition.

Mr. Adams took a moment to provide some additional information for the Board members. Mr. Adams reiterated the Appeal Summary as follows: the zoning administrator determined that per Section 305 of the Montreat Stormwater Ordinance a 30’ vegetated stream buffer is not required on the subject property, given an NCDEQ Stream Determination of Ephemeral. The Appellant counters that a 30’ vegetated stream buffer is required on the subject property since the stream centerline is shown on NCDEQ maps. Mr. Adams briefly summarized the memo from Town Attorney Susan Taylor Rash. Ms. Rash stated that the Zoning Administrator, as Stormwater Administrator, interpreted the application of the Montreat Stormwater Ordinance for the Lot 778 project. In the Final Zoning/Development Compliance Certificate the Zoning Administrator Staff Findings included the following: “As proposed, this project meets all relevant requirements of the Montreat Stormwater Ordinance.” Procedurally, James Hamilton has appealed the decision of the Zoning Administrator and in hearing this appeal, the Board of Adjustment can reverse, affirm or modify the Zoning Administrator’s decision.

Zoning Administrator Kayla DiCristina stated that she received communication from two members of the public: Ms. Jean Norris and Mr. John Crawford. The Board of Adjustment voted 5/1 with Danny Sharpe voting against the motion to accept as evidence. Mr. Hamilton stated that Ms. Jean Norris was in attendance and asked if she could speak to the Board. Chairman Spence stated he had no objections if the other members of the Board did not. Mr. Danny Sharpe did object stating that he did not feel as if this information was relevant to the property in question.

Ms. Arrington Cox felt that if a house was built that close to a stream it would definitely have an impact and she strongly believes it is an environmental hazard. Mr. Danny Sharpe agrees with the NC Statute and Montreat Ordinance working together that it does not give the Board the authority to make a decision to deny the ephemeral status and put the setback requirement on the property. Mr. Sulaski moved to deny an Appeal (and affirm the Zoning Administrator) to reverse the Zoning Administrator’s determination that Sec. 305 of the Montreat Stormwater Ordinance does not require a 30’ stream buffer along a stream section determined “Ephemeral Stream” by NCDEQ. Mr. Danny Sharpe seconded and the motion carried 5/1 with Arrington Cox voting against the motion. Ms. Cox stated that she voted against the motion because building a house that close to a stream would have an environmental impact on Flat Creek.

Ms. Jean Norris of 192 Mississippi Road stated she reads a lot about watersheds and ecological communities. In her opinion the entire valley is a watershed and if residents do not protect what they have they run the risk of ever increasing polluted runoff. Ms. Norris feels as if this decision was not the best for Montreat.

Mr. Eric Nichols of 527 Suwanee Drive asked if the Board had base their answers on seven state mandated questions. The Board advised those questions were for deciding on a variance.

**Adjournment**

Martha Chastain moved to adjourn the meeting. Robert Sulaski seconded and the motion carried 6/0.

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| Eleanor James, Acting-Chair |  | Angie Murphy, Town Clerk |