

**TOWN OF WEDDINGTON
REGULAR TOWN COUNCIL MEETING
MONDAY, OCTOBER 13, 2014 - 7:00 P.M.
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Regular Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on October 13, 2014, with Mayor Bill Deter presiding.

Present: Mayor Bill Deter, Mayor Pro Tem Don Titherington, Councilmembers Michael Smith, Pamela Hadley and Barbara Harrison, Attorney Anthony Fox, Finance Officer Leslie Gaylord, Town Planner Julian Burton and Town Administrator Amy McCollum

Absent: None

Visitors: Leslie Boyd, Cheryl Sain, Bill Price, Jennifer Romaine, A. Scott, Locke Stuart, Jean Stuart, Rob Dow and Wilch Caldwell.

Mayor Bill Deter offered the Invocation prior to the opening of the meeting.

Item No. 1. Open the Meeting. Mayor Deter called the October 13, 2014 Regular Town Council Meeting to order at 7:02 p.m.

Item No. 2. Pledge of Allegiance. Mayor Deter led in the Pledge of Allegiance.

Item No. 3. Determination of Quorum. There was a quorum.

Item No. 4. Public Comments. Ms. Leslie Boyd – I live in Waxhaw, NC. I am running for the Board of Education At-Large which means that anyone in the County can vote for me. I am from a small town in Virginia. My family has lived here for the past 10 years. I have a son and two daughters. I graduated from Radford University with a Business Management Degree and I have worked for the Federal Government for the past 23 years. I work in Facilities Contracting and as a program manager for the Department of Homeland Security. I have a passion for volunteering in the community. I have been on the Board of Directors for Turning Point for four years and I have served as the Board President for the past two. I also volunteer in the classroom with my children and I co-led my daughter's Girl Scout Troop. I live in Waxhaw but I would like to run at large because I want to be the voice for all children. I am not necessarily running for my children. My children are going to be okay. My husband and I are both educated and we have resources to help them but what about the children across the County? If we help our children now it will enrich their lives later. I have been going to speak at the other towns and most people have not seen a Board of Education person at their meeting. I would like to liaise with the Town to help you when you are making your decisions regarding new developments that impact students and maybe we can do a five-year plan together. I want to work together and I am here as a support. I am a fresh independent new person. My group is the children of Union County. I want to help to work and support and retain our teachers because we are losing them and they are the backbone of our education system. I want to work to maintain our excellence that we have here. I want to encourage policies that evaluate growth and be proactive and not reactive when we are deciding what to do. That is what I do every day at work. I feel that with my board experience and my work experience that I am the most qualified for the job. I appreciate your time and your support.

Item No. 5. Additions, Deletions and/or Adoption of the Agenda.

A. Additions, Deletions and/or Adoption of the Agenda. Councilmember Michael Smith moved to add an item to the agenda to introduce the new Town Deputies. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington

NAYS: None

Mayor Pro Tem Don Titherington moved to approve the agenda as amended. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

B. Introduction of Town Deputies. Councilmember Smith – We recently received two new deputies. Deputy Chris Black has served here in Weddington before. Deputy Louie Rodriguez has been with the Sheriff's Department for 10 years but he has 35 years of police experience. He was a police officer in Florida. We are very happy to have him. Louie was a School Resource Officer and is very proactive in the community.

Deputy Rodriguez - I am happy to be back because I was the School Resource Officer at Weddington High School for four years. I have an extensive background in crime prevention and bottom line it is all about communication. The Town Hall has my contact information.

Item No. 6. Approval of Minutes.

A. August 28, 2014 Special Town Council Retreat Minutes. Councilwoman Pamela Hadley moved to approve the August 28, 2014 Special Town Council Retreat Minutes with corrections as discussed. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

B. September 8, 2014 Regular Town Council Meeting Minutes. Councilwoman Hadley moved to approve the September 8, 2014 Regular Town Council Meeting minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

C. October 6, 2014 Special Town Council Meeting Minutes. Councilwoman Hadley moved to approve the October 6, 2014 Special Town Council Meeting minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

Item No. 7. Consent Agenda (Public Hearings to be held November 10, 2014 at 7:00 p.m. the Weddington Town Hall).

A. Call for Public Hearing to Review and Consider Proposed Text Amendments – Temporary Use Permit (Section 58-13 (3) b) – Referencing Checklist/Application and Updating Checklist to Include Emergency Services. The Town Council received a copy of the proposed text amendment. Councilwoman Barbara Harrison moved to call for a public hearing to review and consider proposed text amendments to Section 58-13 (3) b). The public hearing is to be held November 10, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

B. Call for Public Hearing to Review and Consider Proposed Text Amendments – Drainfields (Section 46-40 (a) (1) i) – Ensuring that Only One Septic Drain Field and Repair Area can be Located on Each Lot. The Town Council received a copy of the proposed text amendment. Councilwoman Harrison moved to

call for a public hearing to review and consider proposed text amendments to Section 46-40 (a) (1) i). The public hearing is to be held November 10, 2014 at 7:00 p.m. at the Weddington Town Hall. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

C. Consideration of Authorization to Charge Off Taxes over 10-Year Limitation. The Town Council received the following document from Tax Collector Kim Woods:

North Carolina General Statute 105-378 (a) establishes a continuing ten year statute of limitations against enforcement remedies provided by law for the collection of taxes or the enforcement of any liens. The ten year period is measured from the September 1st due date.

In accordance with General Statutes 105.378 (a), I am hereby requesting authorization to charge off 2002, 2003 and 2004 personal property taxes. The balances are as follows:

2002	\$82.07
2003	\$129.05
2004	\$122.90

Councilwoman Harrison moved to authorize to charge off taxes over the 10-year limitation. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

D. Consideration of Proclamation – October 2014 as Domestic Violence Awareness Month. Councilwoman Harrison moved to approve Proclamation P-2014-07:

**TOWN OF WEDDINGTON
PROCLAMATION
DOMESTIC VIOLENCE AWARENESS MONTH
P-2014-07**

WHEREAS, domestic violence affects all Union County residents, and far too many people suffer abuse at the hands of a spouse, partner, parent, child, or sibling; these victims can be of any age, race, religion, or economic status and the resulting damage is inflicted not only on the victims, but their children, families, and communities; and

WHEREAS, domestic violence includes not only physical but also mental abuse, emotional abuse, financial abuse, sexual abuse, and isolation; and

WHEREAS, domestic violence is widespread, including one in three Americans who have witnessed an incident of domestic violence with an annual cost to US companies of \$3.5 billion in lost work time, increased health care costs, higher turnover, and lower productivity; and

WHEREAS, according to the North Carolina Coalition Against Domestic Violence, there have been 819 women, men, and children murdered as a result of domestic violence since January 1, 2002 in North Carolina; and

WHEREAS, according to the North Carolina Council for Women, domestic violence programs across the state responded to over 114,034 crisis calls and provided services to over 57,000 victims last year; and

WHEREAS, the key to prevention is education, community awareness, having zero tolerance for domestic violence, and requiring accountability by the abuser; and

WHEREAS, Union County recognizes the importance of having collaborations by multiple partners to promote social norms, policies and laws that support gender equity and foster intimate partnerships based on mutual respect, equality, and trust; and

NOW, THEREFORE, be it resolved that I, Bill Deter, Mayor of the Town of Weddington, do hereby proclaim October 2014 as Domestic Violence Awareness Month and urge all citizens to support this observance. I further urge our citizens to increase their awareness and education of this destructive force which deeply affects a large number of families in Union County each year and to become part of the efforts to stop violence in families.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Town of Weddington to be affixed this the 13th day of October, 2014.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

Item No. 8. Public Hearing and Consideration of Public Hearing.

A. Public Hearing to Review and Consider Proposed Text Amendments to Sections 58-232, 58-233, 58-234, 58-235, 58-236 and 58-237 – Board of Adjustment. The Town Council received a copy of the proposed text amendment. Mayor Deter opened the public hearing.

Town Planner Julian Burton - In the 2013 Session, the North Carolina General Assembly revised General Statute 160A-388 to clarify and modernize statutes regarding the Zoning Board of Adjustment. The text in front of you modifies our ordinances to bring them into compliance with those revisions. Both Board of Adjustment Attorney Bill Brown and Attorney Anthony Fox have reviewed these changes.

With there being no one wishing to speak, Mayor Deter closed the public hearing.

B. Consideration of Ordinance Adopting Text Amendments to Sections 58-232, 58-233, 58-234, 58-235, 58-236 and 58-237 – Board of Adjustment. Councilmember Smith moved to adopt Ordinance O-2014-10:

**AN ORDINANCE TO AMEND SECTIONS 58-232, 58-233,
58-234, 58-235, 58-236 AND 58-237
OF THE CODE OF ORDINANCES
OF THE TOWN OF WEDDINGTON
O-2014-10**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT SECTIONS 58-232, 58-233, 58-234, 58-235, 58-236 AND 58-237 OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

Sec. 58-232. Administrative appeal.

The board of adjustment shall hear and decide appeals **decisions** from and review any order, requirement, decision, citations (with or without civil penalties), or determination made by an administrative official charged with the enforcement of this chapter **and may hear appeals arising out of any other ordinance that regulates land use or development**, and apply such interpretation to the

particular fact situations. **The board of adjustment shall follow quasi-judicial procedures when deciding administrative appeals.**

(1)

~~A written appeal may be taken by any person who has first requested and received a ruling from the zoning administrator. An appeal to the board of adjustment shall be made within ten days of receipt by the applicant of the written decision made by the zoning administrator.~~ **Any person who has standing under G.S. 160A-393(d) or the town may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the town clerk. The notice of appeal shall state the grounds for the appeal.**

(2)

~~A written appeal may be taken by any person aggrieved or by an officer, department, or board of the town, within ten days of a written decision made by the zoning administrator. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.~~

The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(3)

~~A duplicate written application for an appeal, specifying the grounds thereof, shall be filed with the zoning administrator and with the town clerk on behalf of the board of adjustment. The town clerk shall immediately transmit all papers constituting the record to the board of adjustment, said record to include the application, the zoning administrator's decisions, and the written application for appeal.~~

The owner or other party shall have 30 days from the receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(4)

~~The board of adjustment must review the appeal of the zoning administrator's decision within 40 days of receipt of the notice of appeal and any required fees, except with consent by the appellant for additional time.~~

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision” or “Subdivision Decision” in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

- (5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the applicant is not the owner. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- (6) Notice of the proposed hearing of the appeal shall be mailed to the person or entity whose appeal is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to

any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of way. ~~given to the applicant and the zoning administrator by first class mail, which mailing must be made at least seven days prior to the date of the hearing.~~

- (7) Subject to the provisions of section (5), the board of adjustment shall hear and decide the appeal within 30 days of the hearing, except with consent by the appellant for additional time. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.
- (8) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160S-393(k).
- (9) The parties to an appeal that has been made under this section may agree to mediation or other forms of alternative dispute resolution.
- (10) The decision of the board of adjustment shall be in writing and shall be mailed by certified mail or hand delivered to the appellant, with a copy delivered to the zoning administrator or secretary of the board to be placed in the zoning files.
~~The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination with reference to the appeal.~~

Sec. 58-233. Variances.

(a)

Under no circumstances shall the board of adjustment grant a variance to allow a use of land or structures not permitted under the terms of this chapter in the district involved or for a use expressly, or by inference, prohibited in said district. No variances shall be granted by the board of adjustment for the following:

(1)

Setbacks for signs and areas and/or height of signs.

(2)

Setbacks for essential services, class III.

(3)

To change the uses that are permitted on the property in question.

No variance for setbacks shall be granted which allows the applicant to reduce the applicable setback by more than 50 percent.

(b)

The board of adjustment **shall follow quasi-judicial procedures when deciding requests for variances. The board of adjustment,** before granting a variance, shall make the following findings based on substantial, competent and material evidence in the record before them:

(1)

~~That there are practical difficulties or unnecessary hardship~~ **would result from the strict application of the ordinance.** ~~s in the way of carrying out the strict letter of this chapter. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property~~ **It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.** This shall be construed to mean:

~~If the property owner complies with the provisions of this chapter, he can secure no reasonable return from, or make any reasonable use of his property;~~

a .

The hardship results from the application of this chapter;

b .

The hardship **results from the conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)** ~~is suffered by the applicant's property;~~

c .

The hardship is not the result of **actions taken by the applicant or the property owner. (The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.)** ~~the applicant's own action; and~~

~~The hardship is peculiar to the applicant's property.~~

(2)

That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.

(3)

That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done.

(4)

That the reasons set forth in the application and the hearing justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

(c)

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

(d)

Any order of the board of adjustment in granting a variance shall expire if a zoning permit, or certificate of occupancy for such use if a zoning permit is not required, has not been obtained within one year from the date of the decision.

Sec. 58-234. Variance application procedure.

The following regulations apply to all applications submitted to the board of adjustment:

(1)

Before a petition for an interpretation, appeal, or variance shall be considered, a completed application of a form provided by the town, accompanied by a fee (as established by the town council), shall be submitted to the zoning administrator. No application shall be considered complete or processed by the zoning administrator unless accompanied by said fee; provided, however, that the fee shall be waived for any petition initiated by the zoning administrator. The application shall contain the name, address and telephone number of the applicant, and property owner (if different from applicant), and a description of the subject property with reference to the deed book and page. The application shall also contain a list of names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from the subject property. This information shall be based upon the current year Union County and Mecklenburg County tax records. The application shall be accompanied by a map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property.

(2)

The filing of any application stays all proceedings unless the zoning administrator certifies to the board of adjustment that a stay in his opinion will cause imminent peril to life or property, or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this chapter. In that event, proceedings shall not be stayed, except by a restraining order, which may be granted by the board of adjustment, or by a court of record, on application, on notice to the zoning administrator, and on due cause shown.

(3)

The board of adjustment shall hold a hearing on all complete applications no later than 40 days after the application has been filed with the zoning administrator unless consented to by the applicant.

(4)

Before the board of adjustment holds a public hearing with regards to a variance, the board of adjustment shall give notice of the public hearing by sending notices by first class mail to the **person or entity whose appeal is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of way.** parties to the hearing and to all property owners contiguous or adjacent to the property. Said notices shall be mailed at least seven days prior to the public hearing. In addition, a clearly visible sign shall be placed in a conspicuous location on subject properties indicating the nature of the public hearing and date, time and place at which it is to occur. Said sign shall be placed on the properties at least seven days prior to the public hearing and shall remain standing until the board of adjustment has reached its final decision.

(5)

A written application for a variance must also demonstrate in detail, the following:

- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
- b. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
- c. That said circumstances do not result from the actions of the applicant.
- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
- e. That no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance.

(6)

In all matters before the board of adjustment, the applicant shall have the burden of providing substantial, competent and material evidence in support of the application.

(7)

The board of adjustment shall have no authority to issue a variance for a waiver of a setback or bulk requirement for a building or structure if the applicant had not first submitted a foundation survey, in accordance with subsection 58-208(8), subsequent to the construction of the foundation and prior to the application for a certificate of compliance.

Sec. 58-235. Board of adjustment action.

(a)

The concurrent vote of four-fifths of the members of the board of adjustment, not otherwise vacant or excused, shall be necessary ~~to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to grant any variance from the provisions of this chapter.~~ **A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.** At least one of the sitting members shall be the chairman or the vice chairman. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite ~~super~~majority if there are no qualified alternates available to take the place of such members.

(b)

Any member of the board who declares that a potential conflict of interest may exist with respect to any petition or application before the board may be excused and replaced by an alternate. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. In the event fewer than three members remain, no reversal of any prior decision may be made.

(c)

The board shall determine contested facts and make its decision ~~All decisions of the board of adjustment shall be made~~ within 30 days of the hearing, unless consented to by the applicant. **Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies.**

(d)

All decisions of the board of adjustment shall be filed with the zoning administrator and a written copy thereof shall be ~~sent~~ **delivered by personal delivery, electronic mail, or by first-class mail** to the applicant, **property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.** ~~by certified mail, return receipt requested, or hand delivered within 14 days following the decision.~~

Sec. 58-236. Appealing of decision by board of adjustment.

(a)

A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of the written decision of denial of the original application. In addition, specific information to enable the board of adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, or graphically. A rehearing shall be denied by the board, if, in its judgment, such change in facts, evidence, or conditions has not been proven. In the event that the board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.

(b)

Upon the denial of the original application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the final application.

(c)

Every **quasi-judicial** ~~decision of the board of adjustment shall~~ **decision shall** be subject to review by the superior court division of the general courts of justice of the state by proceedings in the nature of certiorari. Any petition for review by the superior court shall be duly verified and filed with the clerk of superior court within 30 days after the decision of the board is filed with the secretary of the board, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board of adjustment at the time of its hearing of the case, whichever is later. The decision of the board of adjustment shall be delivered to the aggrieved party either by personal service or by certified mail, return receipt requested.

Sec. 58-237. Administration of oaths to witnesses and Subpoenas.

The chairman of the board of adjustment, the town clerk, ~~the board's attorney~~ or any member temporarily acting as chairman is authorized in his official capacity to administer oaths to witnesses in any matter coming before the board. **Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.**

The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Adopted this 13th day of October, 2014.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

Item No. 9. Old Business.

A. Review and Consideration of the Preliminary Plat for Tuscan Ridge. The Town Council received the following memo from Town Planner Julian Burton:

Jim Lineberger Land Acquisitions submits a subdivision preliminary plat application for a 13 lot Conventional Subdivision on 15 acres located off Shagbark Lane. Two lots will be accessed off Stirrup Court.

Application Information:

Subdivision Name: Tuscan Ridge
Date of Application: July 25th, 2014
Applicant/Developer Name: Jim Lineberger Land Acquisitions
Owner Name: William and Kathryn Gruhn
Parcels 061-47-005, 061-47-019, 061-47-020G
Property Location: Shagbark Lane
Existing Zoning: R-40
Proposed Zoning: R-40
Existing Land Use: Traditional Residential (no change required)
Existing Use: Single Family Residential; Vacant
Proposed Use: Single Family Residential Subdivision
Parcel Size: 14.98 acres

Project Information:

The Tuscan Ridge Subdivision is a proposed 13 lot subdivision on 15 acres comprised of three parcels. 11 lots are located on and accessed by Shagbark Lane (2 accessed by Stirrup Court), and is being proposed as a conventional subdivision.

A conventional subdivision is permitted by right in the R-40 zoning district per the *Weddington Zoning Ordinance*. A conventional subdivision requires a minimum of 40,000 square foot lots with a minimum of 10% open space.

Background Information:

- Public Involvement Meetings were held on Tuesday, July 15th on-site from 9:00am-11:00am and Wednesday, July 16th at Town Hall from 5:00pm-7:00pm
- The Zoning Administrator approved the Sketch Plan on July 28th, 2014.

Preliminary Plat Information:

- The minimum lot size is 40,000 square feet. The smallest lot proposed is lot 10 at 40,201 square feet.
- The applicant is required 10% or 1.498 acres of open space. The applicant has provided 10.83% or 1.62 acres of open space. The 15 foot strip between lots 4 and 13 will provide a walking path connecting lots 11 and 12 to Shagbark Lane.
- The existing stream and wetlands located at the rear of lots 5, 13, and 4 will remain undisturbed.

R-40 Minimum Yard Regulations:

- Front Yard Setback—50 feet
- Rear Yard Setback—40 feet
- Side Yard Setbacks—15 feet
- Lot Width—120 feet as measured at the front yard setback
- Applicant has met all required setbacks per the *Weddington Zoning Ordinance*.

Additional Information:

- The Council previously approved a modification from the subdivision ordinance to allow an extension to the length of the existing culs-de-sac, Shagbark Lane. At the meeting, councilmembers voiced concerns about an increase in impervious development in relation to the existing topography, and explained that storm water runoff would be a concern when reviewing the preliminary plat.
- On September 8th, the Council tabled the preliminary plat application requesting additional information on the subdivision's storm water impact on adjoining development. The applicant coordinated with USI, and submitted a document providing additional storm water information to Bonnie Fisher and to Town Staff (Included in the Council Packet). Bonnie Fisher reviewed the document, and concluded that the storm water impact and storm water management plan were acceptable (Included in the Council Packet.)
- Following approval of the Preliminary Plat, the applicant will have two years to apply for the Final Plat. The Final Plat can be submitted in multiple phases.
- Tuscan Ridge is to be served by Union County Public Water, and individual septic systems. Except Lots 11-12 which will be served by Union County wells and septic systems. Union County is currently processing final permits and septic locations for the subdivision.
- The existing house (Lot 13) will switch from well to Union County public water.
- The water line extension up Shagbark Lane from Hemby Road will contain capacity for all existing residents living on Shagbark Lane.
- Both hydrants shown on the preliminary plat are proposed hydrants.
- NCDOT is currently reviewing the roadway plan.
- The North Carolina Department of Environment and Natural Resources (NCDENR) is reviewing the erosion and sedimentation control plan.

Recommended Conditions of Approval

1. Development subject to review and approval/permitting of construction documents, driveways permit(s), etc. by NCDOT;
2. Development subject to review and approval of construction documents by Town's Engineering Consultant, US Infrastructure;
3. Development subject to review and approval/permitting of construction documents by Union County Public Works;
4. Development subject to review of erosion and sedimentation control plan by NCDENR.

5. Covenants, Conditions and Restrictions (CCRs) and Maintenance Plan and Maintenance Agreement shall be reviewed (by Town Attorney) and executed prior to Final Plat approval by Weddington Town Council;
6. Plans for any subdivision entry monument to be approved by the Planning Board;

Planning Board Action: August 25th, 2014

Recommend Approval with above-listed conditions (UNANIMOUS)

Town Council Action: September 8th, 2014

Council tabled the preliminary plat application, requesting additional information on the subdivision's storm water impact on adjoining properties.

The Town Council also received the following:

- Overall Site Plan, Existing Conditions and Demolition Plan, Site Plan, Grading and Drainage Plan, Erosion Control Plan – Initial and Final Phase, Site Profile and Details, Site Details and Soils Map.
- Storm Drainage and Erosion Control and Overall Storm Analysis
- USI Review Letter dated October 8, 2014

Town Planner Burton - On September 8 the Town Council tabled a decision on this Preliminary Plat application requesting additional information on the subdivision's storm water impact on adjoining development. The applicant has coordinated with USI, our engineering consultant, and submitted a document providing additional storm water information to Bonnie Fisher and to Town staff that is included in your packet. Engineer Bonnie Fisher did review the document and calculations and concluded that the storm water impact and storm water management plan were acceptable. That letter is included in the Council packet. I wanted to add the following condition to the list above – That the applicant provide as built plans for the storm water management plan to be approved by USI before any performance bonds are released to ensure or confirm that everything was built according to what they submitted.

Mayor Pro Tem Titherington – Our engineer outlined a few things she wanted cleared up. Should we make that part of the conditions?

Town Planner Burton - I believe that has already been taken care of in our conditions because she has to give a final approval on the construction documents.

Councilwoman Hadley moved to approve the Preliminary Plat for Tuscan Ridge with the conditions as noted in the memo above along with the condition to provide as built plans for the storm water management plan to be approved by the Town's engineer before any performance bonds are released.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

Item No. 10. New Business.

A. Review and Consideration of Quotes/Proposals for Asphalt and Painting Work to be Completed at Providence VFD. Mayor Deter - When we closed with the fire station part of our discussions with Providence VFD is we identified a number of items not to exceed \$48,000. They are to have the work for these items completed by December 31, 2014 and we have asked them to bring three quotes on each item.

Painting

Advance Painting and Roofing Contractors	\$16,500
Clean Cut Construction, Inc.	\$19,385

360 Painting Proposal

\$19,767

The Town Council received the paint specifications for the project.

Councilwoman Hadley - Advance Painting and Roofing Contractors has a 5-year guarantee and we have had conversations whether that would be paint and or labor and it will be both. That can be made part of the contract. They will paint based on the specifications that were provided.

Mayor Pro Tem Titherington moved to approve the Town entering into a contract with Advance Painting and Roofing Contractors in an amount not to exceed \$16,500 to paint all three buildings to specifications and to clarify in the contract that the five year warranty includes paint and labor. The contract is also to be reviewed and approved by the Town Attorney.

All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

Asphalt

H&S Paving, LLC	\$16,800
Blythe	\$37,278.80
RAM Pavement Services, Inc.	\$40,720.20

Councilwoman Hadley - When I was working with NCDOT on this paving, \$17,000 was their estimate to do the work. I feel that H & S's quote is in line with the estimates I heard and also with the depth of the asphalt.

Mayor Pro Tem Titherington questioned the different types of asphalts quoted.

Councilwoman Hadley - What they are proposing is what the general contractor has recommended during construction.

Councilwoman Hadley moved to accept the bid from H & S Paving with a contract not to exceed \$16,800 and the contract to be reviewed by the Town Attorney. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

B. Consideration of Releasing Bond Money - Sanctuary at Weddington. The Town Council received the following memo from Town Administrator Amy McCollum:

The Town is holding a Letter of Credit in the amount of \$12,500.00 for road maintenance for the Sanctuary at Weddington Subdivision. The Town approved Resolution R-2014-02 on June 10, 2014 for Eliah Drive and Park Rose Lane to be added to the State Maintained Secondary Road System. On September 11, 2014 the Town received a letter from NCDOT advising that these roads were added to the State Maintenance System by the Board of Transportation on September 4, 2014. Please vote to release the Letter of Credit back to The Lovett Companies.

Councilmember Smith moved to approve the release of the road maintenance Letter of Credit in the amount of \$12,500 for the Sanctuary at Weddington. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

C. Consideration of Authorizing Use of Transportation Engineer for Text Amendments Associated with Traffic Impact Analysis. The Town Council received examples of a Traffic Impact Analysis from Wesley Chapel and Huntersville and the following memo from Planning Board Vice-Chairman Rob Dow:

The Council and Planning Board have shown an interest in updating the Traffic Impact Analysis (TIA) requirements in the Town Ordinances. Recently, a subset of the Planning Board and the Town Planner have researched examples of TIAs from other municipalities and met with Justin Carroll and John Underwood for feedback on their preferences regarding TIA process and implementation. The examples outlined below provide three different options to help guide the Council in recommending any changes to the TIA requirements in Weddington.

Three Levels Scope

Option 1) Clarify TIA requirements, and ensure that the TIA process starts at the Sketch Plan phase

- A. Add trigger level to Preliminary Sketch Phase for all development, both Conditional Use and Subdivision
- B. Adopt requirements and standards for a TIA using a Dated Bulletin
- C. Add TIA to Preliminary Plat checklist

Option 2) Wesley Chapel Model – More requirements, but little detail on how to perform TIA (Lots of room for interpretation and flexibility)

- A. All of the above from Option 1
- B. Maintain capacity, function and safety levels of surrounding areas
- C. Modify TIA in response to Town review comments
- D. Identify funding, timeline and responsible parties

Option 3) Huntersville Model – Greater detail regarding TIA requirements and timeline

- A. All of the above from Option 1 and 2
- B. Details trigger, ownership and phasing
- C. Specific timeline for Scoping meetings with other regulatory bodies and deadlines for submission
- D. Specific process to identify impact areas. Sets Levels of Service (LOS) which trigger off site improvements
- E. Specifies procedure and timeline for coordination with other development and DOT for those off site improvements
- F. Specifies responsibility and procedures for funding

Mr. Rob Dow – Julian, Pam and I recently met with Justin Carroll who is our Traffic Engineer and John Underwood with NCDOT. From that meeting, we came up with three different approaches to applying Traffic Impact Analysis into the Subdivision Ordinances. I have outlined those approaches in your packet. We perhaps have an opportunity of helping traffic a whole lot if we get more involved. The State still owns the roads and they are not going to maintain anything we want but at the same time a more intensive approach could help us in the long term. The Planning Board at their last meeting discussed these three basic approaches. They voted approval of the most intensive which is the Huntersville Model. I thought that I should update you on this because it will entail some work from our Town Planner and Traffic Engineer.

Town Planner Burton - All three approaches will get the TIA submitted or discussed early on in the process which was one of the goals. Wesley Chapel's starts to get in more detail but they do not provide specific guidelines for how to get the numbers, how to look at surrounding intersections, how far out you are supposed to go. They suggest that you should do all those things and then they leave it open ended on how you do it. The Planning Board was leaning towards the Huntersville model; it lays out everything and leaves no gray area and a lot less subjectivity.

Councilmember Smith - So you are saying if a development is going to impact an intersection that it is up to them to make some modifications to that intersection to improve it?

Mr. Dow - The Huntersville Model goes into great length and detail. It requires them to get with NCDOT, see what their plans are for the intersection; they may have to escrow some funds for DOT's plans at a later date. John Underwood is very much in favor of it. Their studies show the need for improvements in traffic lights and lanes that they cannot afford to do and it seems only fair if a development is coming in and going to greatly impact that they help to mitigate their own effects. We are not asking them to make it better.

Mayor Pro Tem Titherington moved to authorize the use of the Town Planner and Traffic Engineer to draft text amendments associated with TIA's utilizing the Huntersville Model. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

Item No. 11. Update from Town Planner. The Town Council received the following update from Town Planner Burton:

- On September 22nd, the Planning Board acted on the following items:
 - Recommended approval of Proposed Text Amendment - Temporary Use Permit (Section 58-13 (3) b) - Referencing Checklist/Application and Updating Checklist to Include Emergency Services
 - Recommended approval of Proposed Text Amendment - Drainfields (Section 46-40 (a) (1) i) - Ensuring that Only One Septic Drain Field and Repair Area can be Located on Each Lot
- On October 27th, the Planning Board will review the following items:
 - Falls at Weddington Preliminary Plat
 - Weddington Preserve Preliminary Plat
 - West Property (Laurel Grove Ln.) Preliminary Plat
 - Storm water Ordinance and Construction Document Plan Guidelines
 - Threshold Church Construction Documents

Item No. 12. Update from Town Administrator. The Town Council received the following update memo from Town Administrator McCollum:

- Consultants for the Fire Study will be back at the Town Hall on Tuesday, October 14, 2014 for their final meeting before finalizing their report. Please let me know if you would like to meet with them.
- Fall Litter Sweep is scheduled for Saturday, October 11, 2014 at 9:00 a.m. at the Weddington Town Hall.
- New Deputies Louie Rodriguez and Chris Black have started working for the Town.
- Rob Dow and Jim Vivian's Terms on the Planning Board are due to expire in December. They have asked to be reappointed. We also have approximately 4 to 5 applications on file as well.

Upcoming Dates:

October 27, 2014 - Planning Board Meeting/Historic Preservation Commission Meeting
December 5, 2014 - Christmas Tree Lighting

Item No. 13. Public Safety Report.
Weddington Deputies – 685 Calls

PROVIDENCE VFD

The September 2014 incident numbers are listed below.

UNION

Fire - 27
EMS - 18

MECKLENBURG

Fire - 3
EMS - 1

TOTAL CALLS - 49

Kenny Schott
Chief, Providence VFD

The Town Council also received the Income and Expense Budget Performance and Balance Sheet for September 2014 for Providence VFD.

Stallings VFD – 4 Calls

Wesley Chapel VFD responded to 20 total incidents in the Town of Weddington in September. There were three fire alarms for mutual aid, one public service detail and one electrical hazard.

Item No. 14. Update from Finance Officer and Tax Collector.

A. Finance Officer's Report. The Town Council received the Revenue and Expenditure Statement and Balance Sheet for 9/1/2014 to 9/30/2014.

B. Tax Collector's Report. Monthly Report –September 2014

Transactions:	
Overpayments	\$(45.90)
Releases	\$(246.92)
Discoveries	\$41.24
Convenience Fees	\$19.80
Adjustments <\$5.00	\$(1.55)
Refunds	\$36.00
Penalty and Interest Payments	\$(31.38)
Taxes Collected:	
2014	\$(71,823.70)
As of September 30, 2014; the following taxes remain Outstanding:	
2002	\$82.07
2003	\$129.05
2004	\$122.90
2005	\$252.74
2006	\$56.80
2007	\$144.42
2008	\$1,330.77
2009	\$1,464.23
2010	\$1,681.91
2011	\$2,667.62
2012	\$7,332.33

2013	\$8,402.80
2014	\$904,200.57
Total Outstanding:	\$927,868.21

Item No. 15. Transportation Report. Councilwoman Harrison provided a brief Transportation Update.

Item No. 16. Council Comments. Councilwoman Harrison – I want to thank everyone that came out to the Weddington Country Festival. It was a great event with approximately 2,000 to 3,000 people attending. I want to thank the staff because they rallied around me to do what needed to be done. I had 45 different people that gave me money or in-kind donations. I also want to thank Associate Pastor Ed Briggs, Steve Carow and Daryl Matthews for being the judges for the baking contest. I want to thank the Mayor for all you did and how you treated Ms. Mary Belle Matthews with such a kind heart. I did not use any of the Town money to put on the event and this year I actually made enough that maybe I can pay for my deposit next year. We had 15 people come out and participate in the Fall Litter Sweep as well. We will start this Thursday on plans for the Annual Tree Lighting. Also I have offered the Historic Intern position to Adam Walsh and he has accepted. He will attend the next Town Council Meeting to be introduced.

Mayor Pro Tem Titherington thanked Councilwoman Harrison for all of her hard work on the events.

Mayor Deter – Thank you Barbara for your work on the festival and also to your husband Pat. I think the Council would be more than willing to offer some funds in the future.

Item No. 17. Adjournment. Councilmember Smith moved to adjourn the October 13, 2014 Regular Town Council Meeting. All were in favor, with votes recorded as follows:

AYES: Councilmembers Harrison, Hadley, Smith and Mayor Pro Tem Titherington
NAYS: None

The meeting adjourned at 7:45 p.m.

Bill Deter, Mayor

Amy S. McCollum, Town Clerk