

BOARD OF ADJUSTMENT MEETING
Town of Sylva Board of Commissioners
March 12, 2026

The Town of Sylva Board of Adjustment met in a Quasi-Judicial Hearing on March 12, 2026, 5:30 p.m., at Town Hall, 83 Allen Street, Sylva, North Carolina.

Present:	Blitz Estridge, Commissioner	Paige Dowling, Town Manager
	Perry Matthews, Commissioner	Amanda Murajda, Town Clerk
	Johnny Phillips, Mayor	Eric Ridenour, Town Attorney
	Brad Waldrop, Commissioner	
	Joeseph Waldrum, Commissioner	

Absent: Sam McGuire, Commissioner

Mayor Phillips called the meeting to order at 5:30 p.m.

STAFF PRESENT: Michael Poston (Director, County Planning).

VISITORS: Josh Moss and Dianne Sherrill.

Mayor Pro-tem Waldrop: A quasi-judicial meeting is an evidentiary hearing where the Town of Sylva Board of Adjustment will make a decision based solely on competent, material and substantial evidence in the record. The record is all of the materials and input that is presented to the Board, including the application, exhibits, testimony and related materials. The record may include some insufficient evidence, but the Board may not base its decision on it. These types of hearings are conducted in a manner similar to courts.

Opening of the Quasi-Judicial Meeting

Mayor Pro-tem Waldrop: The next item on the agenda is a request from RLJ Land Development, LLC for a variance from the required for Section 7.2.C.2 – Design Standards for Lots; Section 7.3.C-Exterior Materials (buildings). This would be a variance for exterior siding materials (northwest side), which will be required on the northeast and northwest sides of the proposed structure. The hearing on this matter is judicial in nature and will be conducted in accordance with special due process safeguards.

Disclosures

Mayor Pro-tem Waldrop: Before we begin, I'd like to give Board members a chance to reveal any possible disclosures or conflicts. I would like to remind the Board that a conflict of interest has a stricter definition with a quasi-judicial matter than a general legislative matter. If an individual board member has a strong personal interest in a case, he or she must not participate in this case. Disclosures might include site visits, Ex parte communications with any person including County and Town staff and consultants, specialized knowledge related to the case, family, business or other relationship with the applicant or affected person, financial interest in the outcome or any other relevant information.

Waldrop: Are there any disclosures to be made? No.

Parties

Mayor Pro-tem Waldrop inquired if there was anyone other than the Applicant and the County/Town Staff who wished to be a party to this action. Anyone other than the Applicant and County/Town Staff who want to be a Party in this action must have standing as explained earlier. Those wishing to be a party to the action, in addition to county and town staff were Josh Moss. Mayor Pro-tem Waldrop administered an oath to the above-mentioned individuals, Michael Poston (Director, County Planning) and Paige Dowling (Town Manager).

Variance Request—RLJ Land Development, LLC (Josh Moss)

(1) General Information:

- (a) Project: Catamount Fitness
- (b) Applicant: RLJ Land Development, LLC
- (c) Location: 423 Jackson Plaza, Sylva, PIN 7641-19-7590; GB District (General Business)

(2) Explanation of Proceedings: Mayor Pro-tem Waldrop explained the order of business for the hearing as follows:

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- a. Staff Presentation of Report.
- b. Applicant Presentation of Evidence and Witnesses.
- c. Other Parties with standing Presentation of Evidence and Witnesses.
- d. Rebuttal.
- e. Closing Statements

(3) Evidence: Mayor Pro-tem Waldroup added that if anyone wanted the Board to see written evidence such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of their testimony. Also, parties may cross-examine witnesses when questions are called for.

EXHIBITS:

- (A) Application for the Variance Request
- (B) Drawings
- (C) Staff Report
- (D) Staff Report drawings and maps
- (E) Picture PowerPoint Presentation
- (F) Videos (2)
- (G) 4 Additional pictures

(4) Staff Presentation of Report: Michael Poston, Director, Jackson County Planning, presented the staff report. Jackson County is contracted by the Town of Sylva to do planning and zoning. The applicant is requesting a variance from the required Section 7.2.C.2 – Design Standards for Lots; Section 7.3.C-Exterior Materials (buildings). This would be a variance for exterior siding materials (northwest side), which will be required on the northeast and northwest sides of the proposed structure. Poston read the staff report as follows:

Project: Catamount Fitness

Applicant: RLJ Land Development, LLC (Josh Moss)

Property Location: 423 Jackson Plaza, Sylva, PIN number 7641-19-7590

Property Zoning: GB (General Business District)

Ordinance Request: Article 3, Section 3.5.H-Variance Review Process; Section 3.8.B-Variances, Quasi-Judicial Procedures

Description of Request: The applicant is requesting a variance for Section 7.2.C.2 – Design Standards for Lots; Section 7.3.C-Exterior Materials (buildings). The Zoning Board of Adjustment shall have the power to authorize a variance from the terms of this Article (Article 7 – Development Standards). The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance. However, in no event shall the Board of Adjustment grant a variance that would conflict with any state code, would allow the establishment of use that is not otherwise allowed in a particular zoning district, or which would change the zoning district classification or the district boundary of the property in question.

Background: The property for the requested variance is located at 423 Jackson Plaza in Sylva adjacent to the Jackson Plaza Shopping Center. This property is 1.48 acres in land area and is bordered by Jackson Plaza to the northeast and vacant land to the west and south. The applicant is seeking a variance for exterior siding materials (northwest side), which will be required on the northeast and northwest sides of the proposed structure. Section 7.3.C.1 is stated as follows:

“Exterior materials permitted on non-residential buildings shall include, but may not be limited to, at least eighty-five (85) percent of wood, brick, stone, cement board, stucco, and high-quality metal products, when approved by the Planning Board. Additions and new construction shall use facing materials that are compatible in quality, color, texture, finish, and dimension to those common on surrounding parcels. Under no circumstances shall metal siding, unfinished concrete block, or vinyl siding be allowed. Metal clad or covering may be used as an accent material and cumulatively may not exceed fifteen (15) percent of each exterior wall area with road frontage.”

Staff Findings: Based on the submitted documents by the applicant, the requirements for a variance application have been met for review by the Town Planning Board and Board of Adjustment.

The findings as required by:

- Article 3, Section 3.8 Quasi-Judicial Procedures; 3.8.B Variances:

Section 3.8.B.2 Review Process:

- a. Upon receipt of the request for a variance from the Zoning Administrator, the Board of Adjustment shall hold a public, evidentiary hearing on the request.
- b. After conducting the hearing and within forty-five (45) days, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with additional conditions. A concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance.
- c. Conditions. In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The Board of Adjustment may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this ordinance. Such conditions and safeguards must be reasonably related to the condition or circumstance that gives rise to the need for a variance.
- d. Any approval or denial of the request shall be accompanied by written findings of fact supporting the conclusion that the variance meets or does not meet each of the standards set forth in Section 7.3.B.3.

Section 3.8.B.3 Required Findings:

The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

- a. Carrying out the strict letter of the ordinance would result in unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. The hardship results from 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- c. The hardship did not result from actions taken by the applicant of the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.
- e. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That is, the applicant is not seeking to establish, or expand, or extend a nonconforming use. Moreover, the existence of a nonconforming use is the same or in any other zoning district shall not constitute a reason for granting the requested variance.

Additional Information:

- Planning Staff met with the applicant March 15, 2023 (before ownership of the subject property) and May 23, 2023 (the week after taking ownership of the subject property); on both occasions, the ordinance development and architectural regulations were discussed at length and the applicant acknowledged these standards.
- On March 13, 2024, Planning Staff received site development plans from the applicants Civil Engineer. These plans could meet the ordinance standards for site development.
- On December 4, 2024, Planning Staff received architectural renderings showing the exterior materials for the building northeast and northwest frontages of the proposed structure. The materials shown are composite cladding and are acceptable for meeting ordinance standards.

Questions from the applicant: None.

Questions from parties with standing: None.

Questions from the Board of Adjustments or Town Attorney:

Mr. Poston concluded his presentation.

Attorney Ridenour stated he was having a hard time with the plans and was confused by the reference. He asked, "So we've got up is north, right?"

Poston: Yeah.

Ridenour: Okay, so the southeast side is what? Northeast, northwest?

Poston: Yeah. And the variance is in the northwest.

Ridenour: Oh, just on this site plan? Just this over here?

Poston: No, where the blue line is. These are the areas that would require treatment. That's the side of the building they're asking for.

Ridenour: Oh, that's different than what I'm talking about now.

Poston: So, if you look at the property, that's your triangle.

Poston: There are two buildings.

Ridenour: Yeah. Oh, okay. So, it's just this back side up here.

Poston: Correct. This is the frontage road here.

Ridenour: Well, this is the driveway within the development. So, they'll have the front road here and here, and then this back side?

Poston: Yeah.

Ridenour: Is there any question they're going to put the required materials on this side and this side?

Poston: Yes, those sides will have the required materials. That's the parking lot there.

Ridenour: So, the variance request is really about this building right here and this side?

Poston: That's the side the Board of Adjustment is being asked to consider the variance for. It's only that back side, correct?

Ridenour: And are they building both buildings to begin with?

Poston: The applicant could explain sequencing, but the site plan indicates both buildings could fit and meet standards.

Ridenour: From this vantage point I only see one building.

Poston: That may be because the second building is behind it.

Waldrop: If you'd like to offer evidence, you will need to be sworn in.

Waldrop: Actually, we should start with cross-examination by the applicant of Mr. Poston.

Sherrill: So, you will make a recommendation to the board based on the report?

Poston: Correct. The recommendation is that the application is complete and can be reviewed. Staff has not made a recommendation on approval or denial.

Sherrill: So you won't do that?

Poston: No, we do not. The report reflects that. Staff findings are limited to completeness of the application.

Sherrill: With regard to the diagram, the long blue line is the side of the building we're discussing and sits above Frontage Road?

Poston: Yes.

Waldrop: Mrs. Sherrill, I need to swear you in if you're going to cross-examine.

Ridenour: She's not giving testimony, just asking questions as the attorney.

Sherrill: I want to clarify that this is the only side the applicant is asking relief from.

Poston: Yes. The property sits above Grindstaff Cove Road and the building is near the middle of the triangle-shaped property.

Sherrill: You're familiar with placement of materials only being required if visible from a primary frontage?

Poston: Yes.

Sherrill: That's all I have. Thank you.

Waldrop: Do we have additional questions from the board or town attorney, for Mr. Poston?

Phillips: What's facing the highway that meets requirements of the ordinance, correct?

Poston: Based on documents submitted to the Planning Department, treatment would be required on two sides. The variance request seeks relief only from the northwest side standard.

Phillips: If I understand the law, to approve this, we would need to find unnecessary hardship?

Waldrop: That is one requirement; we will address that through evidence. Any additional questions?

Matthews: In this diagram, would the wall shown in blue toward the bottom left be visible from any side?

Poston: That was not the determination made

Waldrop: No variance is requested for that wall — only the northwest wall.

Poston: Well, it's not the two. It's just the one. It's the northwest. The determination by staff is that the northeast, what's shown in blue would need to be treated. The variance request is to seek relief from the standard on the northwest wall.

Ridenour: So, to be clear, the sides visible from frontage roads require upgraded materials, while other sides may be metal.

Poston: Yes. The material list applies only to the identified sides. The request is to exempt the northwest side from treatment.

(5A) Applicant Presentation of Evidence and Witnesses:

Waldrop: If there are no additional questions from the board, the applicant may now give a presentation of evidence and witnesses. Do you have any exhibits not already admitted?

Sherrill: Yes, we do, and we will introduce them through the applicant.

(Dianne Sherrill, applicant attorney, questioned her client in order to give the presentation.)

Sherrill: Asked Mr. Moss if there were any differences from the staff presentation to the applicant presentation drawings.

Moss: The roof line has been revised. There was a cut in on the old building. We filled that in. So it's now 150 ft long by 70 ft wide on all dimensions. We would still have the longer part of the building facing Grindstaff Cove Road or above it. The structure of the side facing Grindstaff Cove Road—space for a parking lot and off to the side is the embankment; the steepness is around 36% and there is a height difference of around 40 feet between road and property. So, uh, you guys have some pictures, I'm sure, in your, uh, in your packet there. Um, on this side of the building, there is space for a parking lot. However, slightly off to the side here is a an embankment. And so, there's a very steep bank going down towards. So, the steepness there was somewhere around 36%. So, it's pretty steep and there was a height difference between the road and the actual property line at the wood line somewhere around 40 ft. So it's a straight up slope there and that's just right off to the outside of this building.

Sherrill: Will you click back to the design structure itself where it lays on the property?

Clerk: It's the only four that were on that attachment you sent me.

Sherrill: Can we put the diagram back up that Mr. Poston was using? So, in relation to the side of the building that you're asking for a variance for, you just mentioned the parking area. Will you show on that diagram where that is?

Moss: We're asking for the variance on this side building. Okay. The, uh, wood line is here, follows along to the dotted or slotted yellow lines there. Parking lot, continues on over to the edge of the property. At this point, drops down 40 or so feet down to Grind Staff Cove Road, which be slightly out of the picture up here, but is adjacent to the property. So, you're looking up from the road to see well, you only see this line. Well, what we're trying to say today is that you can't see the building because of how far it's set back away from the road and the steepness.

Sherrill: And the parking area you pointed out. Is there also another area in relation to the parking area.

Moss: So, there is a food truck position closer to the wood line than is the building. So um from the road you may be able to see the edge of that but you won't be able to see the actual building. It's not visible from the road because of the angle in which you're looking up and the setback from the property line to the building at its farthest is roughly You're looking up and back be able to see that front road.

Sherrill: Is there a sign down on the corner of the property?

Moss: There currently is up in the very top corner there is an old sign from the western sizzling. You can kind of see that one uh from the road but again the building is roughly 120 ft farther away from the road than that sign is higher.

I can't use that. It has to be taken down. I have no sign, no visibility from the road.

Sherrill: And you mentioned wooded area. What are you speaking of? What kind of wooded area?

Moss: Along the entire property line? Of course, all this back here is uh mountainous. This is this undeveloped residential property. Along this line here is thick wood-locked. It's all trees, shrubs. You drive by there right now and you can't see through the trees even when there's no shrubs or there's no leaves or anything on the trees. So it's extremely dense uh tree line all the way across.

Sherrill: And to the left of that tree line, is that your property?

Moss: No, that's someone else's property. That's uh the Grindstaff's and then Holland's. So, there are two separate properties that are still in front of mine before you get to Grindstaff Cove Road.

Phillips: That trail line couldn't be cleared by other property owners or something like that?

Moss: I doubt it because of erosion. It's extremely steep bank. I'm not a professional there, but I don't think that would be possible.

Sherrill: And do you know how long it's been since that block has been used for anything?

Moss: Thirty years. Western Sizzlin burnt down so it has been sitting vacant.

Sherrill: And back to the building itself, talk about the type of materials that the building will be made out of.

Moss: Okay. So, the building is of course a metal structure. It will have metal siding on all four sides. We have no problem putting the siding on the front side facing the parking lot, facing the shopping center which is up the right-hand side. That was a new tech polywood along with some stonework. So that is what we planned on these two sides. However, the side we don't have to put plating on all of the entire length of the building because no one's ever seen the front of the building. We'll have it as a metal structure.

Sherrill: So, uh, we would submit that additional exhibit with the new roof lines addition to what you have in the record.

Moss: There were roofline issues we had with the building manufacturer itself. So, we ended up with a planted roof shed style roof. So this will be the front side of the building facing parking lot, facing the shopping center there. So that's with the new tech polywood on the front of it. Windows and all the other things that match the wire pieces. And of course we have a corner shot here or a side view of what that side will look like with the awning. There are large garage doors. There's other glass doors

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all the way alongside. So, it's not just nasty looking doors. And of course, it doesn't show it in this picture, but the wood line of course is, you know, so this building is encapsulated trees and mountain.

Sherrill: Is that the side of the building facing or above staff code?

Moss: Yes. Correct. This long side is the one that is above staff code.

Sherrill: I'll go ahead and submit those two additional exhibits. I think we have those. Thank you.

Matthews: What was the alternative material that was on the side instead of the clad? Was that a black-glazed roof?

Moss: No, that's for the bottom layer that runs around the bottom roughly 2 feet. So, the polyclad wood looking material would have been fireside 150 ft long by 22 and 1/2 ft tall.

Matthews: What's the alternative to that?

Moss: Alternative is anything that we can use. There's stucco. There's lots of options. However, we're asking that we don't have to put anything on that side because we're not going to be visible. I don't want everyone to see that side of the building.

Waldrop: You still have more evidence to present.

Sherrill: Just a little bit more.

Waldrop: Okay. Let's hold our questions till they complete offering their evidence. Thank you.

Sherrill: I don't want to beat the dead horse on this, but you mentioned the state grade and I know that there are exhibits in your packet one that shows the grade from the actual GIS flat which is exhibit seven also with that and exhibit 8 for the cross-section where the steepness was actually calculated. If you'll talk about that, how how you arrived at the steepness ratio.

Moss: Well, it's just using the topo maps seeing what's the actual street bud versus what the top property line is. So, flat across from the road to that one is the difference.

Sherrill: And what is that grade again?

Moss: 336 I believe right on the drop.

Sherrill: And is it correct then that you look up the embankment from Grindstaff Cove Road?

Moss: Yes.

Sherrill: And then the building is how much further back from the edge?

Moss: From the top portion of the building is roughly 100 to 120 based on final design. Top portion of the building is 120 ft roughly from property line where you can see the edge.

Sherrill: If we can go to the photographs. Let's just actually watch the videos first. We're going to have a couple of videos here that will be evidence as well.

Sherrill: Let's do photos first. Okay, that's the first one. Mr. Moss, do you have photographs that you're familiar with that depict what we're going to say they do here today as far as the lot of the property? What is this first photograph depict?

Moss: That's the picture of the current sign that is along the property line we were discussing which is above Grindstaff Staff Cove Road and a reference point for where the building would sit. So you would say that the building would be 120 ft farther away in place. That's the farthest-most point on the property.

Sherrill: Before we go to the next photograph, I should have asked you this. Where is the front of the building in relation to Jackson Plaza and your parking lot

Moss: So, the front of the building would be facing this way.

Sherrill: And do you access it from this side of the lot or the other side of the lot?

Moss: Uh, the other side of the lot.

Sherrill: And is that closest to Jackson Plaza, the end of the strip there?

Moss: Yes.

Sherrill: So that's where the actual building will be. Describe how the private access road comes up from Grindstaff.

Moss: So the private access road does come off of Grindstaff Cove Road somewhere way down here and it does pass along and eventually up to where you would take a right and turn, come into the plaza.

Sherrill: And as you come on down from there, where do you go to get to the front of your buildings?

Moss: You would follow the very front of all the buildings and so on. You would follow you directly in front of them to pull straight into the building.

Sherrill: And about when was that photo taken?

Moss: That would have been early summer, so roughly April, May last year.

Sherrill: If you'll continue and just tell us what the photographs depict.

Moss: You can still kind of see it right here. That's the same sign that we were just looking at from a different angle. So, we are a little bit farther, of course, away from uh the sign now. We're at the point where you would start seeing the corner of our building here facing it. So that's how far away from the tree line the building will be.

Sherrill: Okay. You'll continue.

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Moss: Right. So, uh another picture of the wood line, of course, uh the sign would have been further along this way. It's just following the edge of the property here. So, down way below that would be the road coming into center and then beyond that and down the hill would also be over that reference point from the tree line standing on heavy rock.

Sherrill: Continue and describe that as well.

Moss: Okay, so this would be almost directly at the sign that we were looking at earlier. Um so that's the edge of the property there and that is the view looking toward uh the entrance to Jackson Plaza, which of course hits right here. So even up to this point, you still would just barely be able to see the front of the building. Not the one that we're asking the variance for.

Moss: Again, another picture from the wood line of the property. This one is a little bit farther set back with the back corner. There's nothing but foliage behind it. This is a photo taken from one of the videos that we took uh looking at the shopping center uh as you exit there. So, as soon as you get off the highway, I pulled over and stopped and took a shot of where the property is, which is behind uh those trees, you can see there's a little bit of a gap of parking lot here, which we're doing right in front of roses. So, in summertime, you can't see anything, just the trees.

Another shot from roughly the same area, a little bit farther down toward the actual exit. So now we have a larger opening. We still cannot see where my building would be sitting, which would be back in this corner.

Sherrill: Just continue on.

Moss: Another small uh window up here if you will into the parking lot a little bit further down the ramp. And here we are now on Grindstaff Cove Road. We've come off the exit passing under the highway here and this the first view that you get of the shopping center. You guys can see the plots of ponds here. Um and then of course that building extends over. My property is again hidden completely from sight. Another shot from different angle from coming down the ramp. That's the only opening you can see staring directly onto the Jackson Plaza sign and

storefront there. Another angle uh coming up under the overpass there again hidden from Grindstaff Cove Road.

Okay. And this is a shot from Grindstaff Cove Road as you are entering on the highway coming on ramp going toward Waynesville. All right. So now we are sitting at the base of the Justice Center here. Grindstaff Cove of course is cutting across the entrance into my property. That's the road that goes up and around. So you're staring at what would be the view from that space in front of them. Again, completely invisible to side.

Sherrill: That's it. I would go ahead and submit all those photographs. They're all in one package for exhibits.

Moss: Videos that we've recently taken show that there's animal foliage. See, there's still a curtain of trees when we get to it, but that would be of course the difference between the summer and the winter months. See the difference there between the view that's to use this show it to bear it or make it full screen.

Moss: So, this is coming away from, and this is going toward my property from downtown Sylva along Grindstaff Cove Road. My property will be on the right-hand side. See the justice center there. So we're now looking up toward the property right side entry signs. So, the tree line at the very top is the edge of property we spoke about.

Phillips: I believe you said you're building 120 ft back from the edge of that property?

Moss: Correct.

Moss: So, you're looking up and have to be looking.

Sherrill: So, when you say that if that's what a driver of a vehicle would see as they go up that road, correct?

Moss: One more video. So, coming off of the Sylva exit, similar to the pictures that I showed you already, we're coming off the exit, you should be able to see the shopping center. As you come down you see how steep the grade is.

Sherrill: We'll get those in a form that you will have to be able to introduce into evidence, but I will introduce them now.

Waldrop: Okay.

Sherrill: I think that's all I have. No questions.

Questions from the Board of Adjustments or Town Attorney:

Waldrop: Does the board adjustments or the town attorney have any additional questions based on the evidence that was presented by the applicant.

Waldrop: Do we have any video or photos from the highway the building kind of seeing that angle? Those seem to be all Grindstaff Cove. I'm wondering if it's visible from the highway without the trees.

Sherrill: Yeah, we do have a couple from 74.

Moss: I didn't have any winter ones, but the ones that I showed earlier were from 74 in the summertime.

Waldrop: Yeah, I'd be looking for specifically winter ones. That would be my point of curiosity would be what it looks like from the highway in the wintertime when the trees are opened up.

Moss: However, we are looking to get the variance based on what you can see from the frontage road not highway 74

Moss: From here you can see how many trees are there and foliage. It's extremely hard to see anything. You can't even see the shopping center. Uh there's the best gap that you can see from the highway. You still wouldn't be able to see my building. You can see the corner of the current shopping center here. You would only be able to see the front portion of my building either way. So you'd be looking directly at the front of it and not the along the side on just seeing area.

Phillips: I would assume that the reason you're applying for a variance is because the planning department deemed that side of that building visible from Grindstaff Cove somewhere and that somewhere is probably right here and it's probably got something to do with the fact that those trees that are there now don't belong to you so you can't give any assurance that they'll always be there. Anybody that owns it can cut it back. So that's where the planning department took their position with that. Am I correct in that?

Poston: I think we just took a position that the front road would have visibility

Phillips: So if y'all had deemed that it was not visible, then it wouldn't be need. Is that correct?

Poston: Right.

Sherrill: I will speak to that and to what we can do for future plans or not see want to do that as well.

Phillips: In my mind, if there was a hedge planted to hide it on your property that you controlled to stay within compliance of the ordinance, then I can see that. I can't see you having any guarantees that those trees that you do not own will always be.

Waldrop: This would be the time just to ask questions about the evidence that they said it. Is that correct, Eric?

Waldrop: Yeah. I mean, yeah, I think I mean I think he's going to Are you framing that as a question or Yeah. Okay.

Phillips: That's my position in order to always comply with ordinance, those trees would have to always be there.

Sherrill: I'm going to go ahead because I think Eric probably knows this as well, when you're looking at a variance, you have to look at present conditions, not future conditions? Then we can argue that I can find a law for it. So we look at the way it is now, not what it could be or will be because that's all we can look at the rest of the speculation. And I'm sorry if I spoke out of turn we're sort of getting to a point where we're going to go somewhere for a long time.

Waldrop: Currently, we're just asking questions about the evidence presented by the applicant.

Ridenour: I guess I had a question or two. I don't know what we've got. If we could go back, I guess, to the site plan. So this over here isn't a building at all. Right?

Poston: It is.

Eric: But this is the building though. This is the building here, right?

Poston: Correct. The other one is parking and then it says it could be a building in the future. Correct.

Ridenour: Right. Okay. So what we're dealing with is this and this right here. Grindstaff Cove Road that runs basically here?

Poston: It's much farther away. You said it'll be on the other side of the Holland property. Okay. So, the road is much further.

Ridenour: The courthouse that faces that directly, right?

Poston: Roughly. Probably. Okay. Not that building.

Ridenour: All right. So, tell me why this is not the front road and that's the front road.

Poston: That's their interior driveway.

Sherrill: I have just one question just to go back to try to clarify Mr. Moss if you will. The areas where Mr. Ridenour were just pointing as far as your property line were within your property boundaries. Correct?

Moss: That's correct. Those are interior spots.

Sherrill: And where does the road actually come into your property on that diagram?

Moss: So the road directly in front of the buildings comes in here. So that's the if you want to call it frontage road.

Sherrill: and is that the side of the building that you are covering planning to cover?

Moss: Yes. Building

Waldrop: Any additional questions from the board or attorney? Since there are no other sworn parties, then this would be an opportunity for closing statements from each party and you may give a three minute or less closing statement.

(5D) CLOSING STATEMENTS:

Waldrop: Does the staff have any closing statements? None.

Waldrop: Does the applicant have any closing statements?

Sherrill: Okay. Then I'll make a closing statement. Basically the ordinance we're looking at says if the property's facing or it's visible from the primary frontage road that it has to have a flag covering over it. So, I think the evidence we presented is substantial and tends to show that there is no clear line of sight from Grindstaff Cove which is the primary frontage road we're talking about for purposes of this issue. And part of that is due to the steepness of the bank. Part of it's due to the tree line and vegetation is there. And part of it's just the topography itself, the shape of this piece of property and how far back the building will be sit on it. So that you saw from the videos, how are you how are you going to see it? Uh I think that meets the undue hardship portions of the ordinance we're looking at and also the intent and the purpose of the ordinance which was to have structured and consistent development and be consistent with the neighboring properties which obviously the only real neighboring property with anything on it is uh Jackson Plaza. So, we're more we're actually doing more than Jackson Plaza did that they come under a different ordinance at a different time. Also we're looking at this property just has not been developed in almost 30 years probably for some of the same reasons. I would speculate a little bit on that, but it needs to be developed.

I just looking at it and can't see how that it harms the intent of the ordinance which is to protect property and life and the intrinsic value and to make development consistent. It does all that. It's just not visible to the extent that the ordinance stretches and it should be allowed for those reasons. I would add just what I said earlier. It doesn't have to look at the way the property is now, not what it might be in the future. That's clearly state law. And if you need to look that up, ok.

Ridenour: I don't think it was one argument. So, if you have that, you're welcome to. I'm not familiar with that.

Waldrop: Does the planning staff any have any other additional comments?

Poston: No sir.

Waldrop: Does the board have any additional questions for staff post?

Waldrop: Is there any additional discussion from the board? That would be questions for staff or the applicant.

Waldrop: If there's no further discussion, do I have a motion to close the hearing?

Being no further comment Mayor Pro-tem Waldrop asked for a motion to close the hearing. *Commissioner Waldrum made a motion to close the hearing at 6:37: p.m. The motion carries with a unanimous vote.*

NEW BUSINESS:

Mayor Pro-tem Waldrop summarized the quasi-judicial hearing with the following:

Project: Catamount Fitness

Applicant: RLJ Land Development, LLC (Josh Moss)

Property Location: 423 Jackson Plaza, Sylva, PIN number 7641-19-7590

Property Zoning: GB (General Business District)

Ordinance Request: Article 3, Section 3.5.H-Variance Review Process; Section 3.8.B-Variances, Quasi-Judicial Procedures

Description of Request: The applicant is requesting a variance for Section 7.2.C.2 – Design Standards for Lots; Section 7.3.C-Exterior Materials (buildings).

Discussion/Motions:

Waldrop: Is there any additional discussion from the Board on this variance request application? None.

Waldrop: Is there a motion from the board to vote on the variance request application? We need a motion to vote on it now.

Waldrop: I understand our options to be to make a motion and pass a motion to vote or to continue to a later date.

Paige: At this point there should be a motion to vote or a motion to reopen a hearing if you have questions that weren't covered.

Waldrop: I motion that we vote on the variance request application. I can make that motion.

Waldrop: All in favor of voting on the variance request application, raise your hand and say I. (Waldrop, Estridge, and Matthews)

Waldrop: All those opposed (Waldrum). We have a passing vote.

Decision:

Waldrop: Now comes the decision time on this. The following items are necessary in granting a variance. All must be approved for the request to be granted.

Item 1: Carrying out the strict letter of the ordinance would result in unnecessary hardship.

Votes in the affirmative? Perry-yes

Votes against?3 brad, joe and blits

Item 2: The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

Votes in the affirmative?

Votes against?all 4

Item 3: The hardship did not result from actions taken by the applicant of the property owner.

Votes in the affirmative? Brad and perry and joe

Votes against? Blitz

Item 4: The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.

Votes in the affirmative? none

Votes against? All 4

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Item 5: The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

Votes in the affirmative? none

Votes against? All 4

(e) Motion: *Commissioner Waldrop made a motion to deny the variance request based on items 1-5. The motion carries with a unanimous vote.*

There being no further business, Commissioner Waldrum made a motion to adjourn the meeting at 6:46 p.m. The motion carries with a unanimous vote.

Brad Waldrop
Mayor Pro-tem

Amanda W. Murajda
Town Clerk