

## **CALL TO ORDER**

Mayor Altnauer called to order the public hearing on the above date. Council members Brenda Thompson, Brandie Owens, Adam Beckstine and Tony Sells were present as were members of the public. Morgan

County Planner Tara Cooner was also present.

## **PLEDGE OF ALLEGIANCE**

Mayor Altnauer called for and led the Pledge of Allegiance.

## **PUBLIC HEARING – FOUR PROPOSED VARIANCE REQUESTS BY WES SHERRELL LOCATED IN THE FALLS AT HARD LABOR SUBDIVISION REQUESTING A 45’ FRONT SETBACK VARIANCE FROM 75’ TO 30’ ON SHOAL CREEK LANE, LOT NUMBERS 24, 25, 29 AND 28**

Mayor Altnauer went over public hearing procedures and time limits and then advised that Morgan County Planner Tara Cooner would go over the applications and present the staff report.

## **STAFF REPORT – TARA COONER**

Ms. Cooner said there are four applications and the council will vote separately on each application. Tara Cooner said Wes Sherrell submitted four applications requesting a 45’ front setback variance in The Falls At Hard Labor Subdivision. Looking at the topography map there is no doubt there is some rough terrain. There is a creek, a wet weather ditch and slopes.

The information submitted by the applicant shows the septic and the house.  
I spoke with the health department and all the soils are the same.  
The Planning Commission asked if he would be willing to do a custom plan and his answer was no.  
They asked if he would be willing to switch locations and he said no.  
They asked if he would be willing to combine lots and would he consider alternate foundations.  
Answers to all the questions were no.  
The applicant admitted the houses that were submitted were not the ones he intended to build.  
The applicant has three arguments.  
The property should be R1, the County approved all the lots as buildable and lastly is that precedent has already been set with the setbacks.  
Ms. Cooner stated the first argument was created from a lawsuit that resulted with the AR setbacks, second concern was that all the lots were buildable.  
All the lots perked and the former developer said the lots were buildable.  
The last issue was precedent has already been set in regard to the setbacks with five of the lots having a 50 foot setback due to an employee error.  
The attorneys say an employee error is irrelevant and does not set precedent.  
She stated the last slide is the entire subdivision and as you can see others have made it work.  
Ms. Cooner said the applicant was asking for 45 feet but now is asking for 30.  
She asked the City Council if they had any questions.  
Council member Tony Sells asked if some of the lots set back 48 feet.  
Ms. Cooner said 53 feet is the shortest.

## **APPLICANT PRESENTATION – WES SHERRELL**

Wes Sherrell said this is the first time I have seen these slides. All of that is new. I have seen one lot that the setback is 40 feet.  
I am not here to argue the past.  
My goal is to build me a house and complete this subdivision.  
I am asking the Council to consider the issues. Obviously there were some mistakes in the lawsuit.  
They made a lot of exceptions.  
I have measured every lot.  
The minimum requirement for a home is 2000 square feet and that is what I used because I had two days to get it turned in. I plan on building bigger houses that will meet HOA requirements. My lot has a drop off  
They approved this lot.  
They obviously did not walk it.  
The GIS is off.  
There is one past Dr. Hughes that is not even 40 feet.  
The flood maps for the county are off.  
My concern is sediment run off and EPD issues.

I felt incumbent to fix this issue.

The platted lot says it is a buildable lot.

The empty lots are an eyesore.

People are putting trash in the back and kids are going back in there.

Obviously, there were mistakes made and they made a lot of exemptions.

I have measured every lot.

I am coming to you to ask 45' because there are houses there that are 45'.

Flood maps for the county are wrong and my concern is you do not want to impede and have run off in the creek.

The natural flow runs left to right.

I am trying to be consistent with the subdivision.

I want to leave as many trees as I can.

Mr. Sherrill addressed each issue. He said Lot 25 drops off probably seventy feet. He stated lot 28 has a flow problem and lot 29 has a gully and drops 50 feet down to the creek.

I am asking the Council to let me finish this subdivision.

I am stuck with the land; I am asking 45' but if I can go back I will.

Council member Tony Sells asked if he was asking 45' for each lot.

Mr. Sherrill said yes sir because of the topography issue.

It is still going to be a challenge at 45'.

Tara Cooner stated she would like to let the Council know the Planning Commission voted unanimously to deny all four applications.

## **PUBLIC COMMENT IN FAVOR**

Kelly Harmon advised the Council that he lived on lot # 1 in The Falls Subdivision and was also the HOA president. He said he came to state the HOA opinion. If you do grant him the 45' we will work with him. We will

maximize each setback.

If you approve this it will put the ball in our court if somebody gets out of his way.

He said he would also like to state his personal opinion.

We have people back there riding 4-wheelers all over the place.

People come and do all sorts of things and we clean up the trash.

We cut the grass and tear up lawn mowers on those lots.

Do we put up cameras or do we get out of this mans way and let him investigate.

Leslie Cobb addressed the Council and said she thinks something can be worked out. Other possibilities are worse.

I think the HOA will make sure things are done the way they should be.

Randall Williams said he lives in the subdivision and had spent a fortune on his back yard. We had some issues.

I think we give him a chance and get our neighborhood finished.

Kelly Harmon the HOA president said the previous builder owned all of the lots and had endless heavy equipment to fix problems on the lots that Mr. Sherrell does not have.

### **PUBLIC COMMENTS IN OPPOSITION**

Tara Cooner advised Council she received a letter from Jeff Taylor who resides in the Falls Subdivision and said he had concerns over the rule changes that benefits someone else but disadvantages him stating due to that reason he is against the variances. Ms. Cooner read the letter for Council and the public.

### **FINAL COMMENTS APPLICANT AND PLANNING STAFF**

Wes Sherrell said I just want to build and close out. My intent is not to change the world. The property is now an eyesore. When it is finished it will not be.

I own another lot that I did not bring before you which I would like to gift to the subdivision.

The original intent in the subdivision was to have a pool and other things.

Maybe we can clean it up.

I want to be a good neighbor and good citizen.

I want to be able to drive a golf cart and be a member of this community.

Rutledge will benefit from tap fees, taxes and water bills.

Tara Cooner told the Council she did not want them to think she had personal issues with Mr. Sherrell. Planning and Zoning thought there were other options. The ordinance says 75' for a reason. Why does he have to

have a variance to explore it.

Planning and Zoning all voted against the variances.

Mr. Sherrell submitted a house plan that he was not going to build. Mr. Sherrell said I had 6 builders look at this property and they all said they were challenging.

Tara Cooner said I told you to bring house plans and you did not give them plans that you were going to build.

You did not give them anything to work off of.

## **PUBLIC MEETING CLOSED**

Mayor Altnauer stated the public meeting portion was now closed and the Council will discuss.

## **CONSIDERATION OF APPLICATION BY CITY COUNCIL**

Council member Tony Sells said we need to look at the pros and cons. Adam Beckstine asked Kelly Harmon on how many were on the HOA board.

Mr. Kelly said there are five members and we have the final say. I am tired of maintaining these lots.

We have people on the board that specialize in these things. If we do not give him a chance nothing is going to get done. He got stonewalled by the county. We all share the same opinion that we are willing to work with Mr. Sherrell.

We will look at each lot. If people can get out of his way and let him explore his options. Dennis Myers stood up at this time and stated he was a member of the Planning Commission and owned a home in the subdivision.

He said Mr. Kelly we did not stonewall on anything.

I have spent many hours talking with Mr. Sherrell.

I have invested a lot of money on my lot also.

We tried to work with Mr. Sherrell.

The board was unanimously against this.

Mr. Sherrell spoke up at this point and said I did not have the intent not to work with you.

I just want to fix this issue. I feel upset and betrayed.

I am trying to leave trees because you like them.

You distort my character.

I feel like this is wrong.

I feel like you should have abstained.

You should not have voted. You had a conflict of interest and this is entirely out of line.

Dennis Myers said our board tried to work with you.

Mr. Sherrell stated that the chairman told him that it was not over and I was told that I would come here to Rutledge for the final say.

Mr. Sherrell said this is entirely out of line.

Council member Brenda Thompson advised that the public comment time was closed and now it is under council consideration.

She said does anyone have any questions, no debate just questions.

Devon Dartnell stood up and said my wife Maryann is on the Planning Commission and is here. If everyone followed the laws there would not be this argument.

Brenda Thompson said this should not be taking place, no comments. She asked Mr. Kelly if the HOA can say what comes and what does not.

Mr. Kelly said yes and we are willing to work with him and if we can make it go 50 feet we will. We are going to look at each lot.

Council member Brandie Owens stated all the lots are in the same area and have been sitting there all this time.

Council member Adam Beckstine stated the majority of the people present for the meeting live there and they are not against it. Tony Sells made motion to approve the 30' variance for lot number 24.

Brandy Owens seconded, all voted in favor and motion carried.

Tony Sells made motion to approve the 30' variance for lot number 25.

Brandie Owens seconded, all voted in favor and motion carried.

Tony Sells made motion to approve the 30' variance for lot number 29. Adam Beckstine seconded, all voted in favor and motion carried.

Tony Sells made motion to approve the 30' variance for lot number 28.

Brenda Thompson seconded, all voted in favor and motion carried.

Brandie Owens made motion to adjourn the Public Hearing. Adam Beckstine seconded, all voted in favor and motion carried.

## **REGULAR MEETING – CALL TO ORDER**

Mayor Altnauer called to order the regular meeting at 8:33 pm. All members present.

## **APPROVAL OF MINUTES**

Brenda Thompson made motion to approve the minutes of the December 17, 2020 meeting as

submitted. Adam Beckstine seconded, all voted in favor and motion carried.

## **DISCUSSION TO APPROVE THE DRAFTING OF GOLF CART ORDINANCE**

Mayor Altnauer advised the Council that currently golf carts are not legal on City streets. He said you have copies of ordinances from other small cities. If there is no objection I would like to get the attorney to draft a golf cart ordinance for the City. There were no objections.

## **APPOINTMENT OF TREE BOARD MEMBERS**

Mayor Altnauer advised the council that we currently only have two members on the tree board due to the resignation of Joe Slaughter. He said just wanted you to be thinking of some people to appoint.

the board.

check but did not think they could.

Brandie Owens asked if a child could be on

Debbie Kilgore said she would

## **DISCUSSION OF ADVANCED DISPOSAL CONTRACT**

Mayor Altnauer stated the garbage contract will expire the end of May. He said we have not had any complaints about Advanced Disposal.

They do a really good job in Rutledge.

The contract renewal will be for three years.

Brenda Thompson made motion to adjourn at 8:33 pm. Tony Sells seconded, all voted in favor and motion carried.

## **ADJOURN**

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Debbie Kilgore City Clerk Bruce Alznauer Mayor