

**MINUTES OF THE MEETING OF THE TOWN OF VINTON BOARD OF ZONING APPEALS
HELD ON MONDAY, NOVEMBER 9, 2015, AT 7 P.M., IN THE COUNCIL CHAMBERS AT
THE VINTON MUNICIPAL BUILDING LOCATED AT 311 SOUTH POLLARD STREET.**

MEMBERS PRESENT: **Bob Benninger, Chairman**
 Donald Altice
 Debra Hagins
 Allen Kasey
 Mick Michelsen

STAFF PRESENT: **Karla Turman, Associate Planner**
 Julie S. Tucei, Planning and Zoning Coordinator

OTHERS PRESENT: **Ronald Leiser, Vinton, Petitioner**
 David Clark, Roanoke, Petitioner's Real Estate Agent

AGENDA

- I. Call to Order**
- II. Approval of Minutes:**
 - 1. Public Hearing—September 18, 2014**
- III. Officer Elections:**
 - 1. Chair**
 - 2. Vice-Chair**
 - 3. Secretary**
 - 4. Recording Secretary**
 - 5. Recording Secretary**
- IV. Public Hearing Petition:**

A request by Ronald Leiser, for a variance of Article IV, Division 4, Sec. 4-18(b), Lot area, lot width and density requirements, of the Vinton Zoning Ordinance. The purpose of the request is to ask for an approximately six hundred and seventy-five (675) square feet variance from the twelve thousand (12,000) square feet lot size requirement for a two-family dwelling. The property is located at 502 Pine Street, Tax Map Number 60.20-6-10, zoned R-3 Residential District, lot size approximately eleven thousand three hundred and twenty-five (11,325) square feet.

- V. Other Business**
- VI. Adjournment**

The meeting was called to order at 7:04 p.m. by Chairman Benninger. Roll was taken, and all members were present.

The first item on the agenda was the approval of minutes from September 18, 2014. Mr. Kasey made a motion to accept the minutes as submitted, and Ms. Hagins seconded it. A roll call vote was taken, and all five members voted in favor of the motion to accept the minutes as submitted.

The next item on the agenda was the Officer Elections. For the Chair position, Mr. Michelsen made a motion to nominate the current Chair, Mr. Benninger. The motion was seconded by Mr. Altice. A roll call vote was taken, and all members voted in favor of the motion. For the Vice Chair position, Mr.

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Kasey made a motion to nominate Mr. Michelsen. The motion was seconded by Ms. Hagins. A roll call vote was taken, and all members voted in favor of the motion. For Secretary, Ms. Hagins made a motion to nominate Ms. Turman. The motion was seconded by Mr. Kasey. A roll call vote was taken, and all members voted in favor of the motion. For Recording Secretary, Ms. Hagins made a motion to nominate Ms. Tucei. The motion was seconded by Mr. Altice. A roll call vote was taken, and all members voted in favor of the motion.

Chairman Benninger introduced the variance request to be heard from Mr. Ronald Leiser. The request is for a variance of Article IV, Division 4, Sec. 4-18(b), Lot area, lot width and density requirements, of the Vinton Zoning Ordinance. The purpose of the request is to ask for an approximately six hundred and seventy-five (675) square feet variance from the twelve thousand (12,000) square feet lot size requirement for a two-family dwelling. The property is located at 502 Pine Street, Tax Map Number 60.20-6-10, zoned R-3 Residential District, lot size approximately eleven thousand three hundred and twenty-five (11,325) square feet.

Chairman Benninger asked Ms. Turman to give the staff report, a copy of which will be made a part of the permanent record. After making the staff report, she gave them the options of denying or approving the variance. She said, if denied, the petitioner could appeal it to the circuit court. Ms. Turman asked if there were any questions from BZA. Mr. Kasey mentioned that it seems that the house was purchased in 1989 by the current owners and converted to a duplex in 1993. He asked if there were two families living in it in 1993. Ms. Turman said the current owner said that turning it into a single family was what was best for their family back then. Ms. Turman stated that there is a letter Staff received on 9/1/2015 from the current owners, the Doyle's, explaining why they converted it to a single family. Ms. Turman said Mr. Doyle told her that in 1993, they converted it to a single family home. Mr. Kasey wondered if two families lived in it while the Doyle family owned it from 1989 to 1993. Ms. Turman said she did not know. In response to a question about whether Mr. Leiser could apply for this variance, Chairman Benninger pointed out that the Doyle's provided a signed statement allowing Mr. Leiser to request a variance on their behalf. Vice Chairman Michelsen asked if Town records show the structure as being a duplex all this time. Ms. Turman said that only one water meter has been read since 1995. She mentioned that there were no records from 1995, but an employee said that was approximately when two meters were last read. She said that real estate records sometimes show the use, but it is not always correct. It was never listed in those records as a duplex, only as a single family house. Ms. Turman said American Electric Power only has a record of one meter at that location.

Next, the petitioner, Mr. Ronald Leiser, of 1218 Chestnut Mountain Drive, Vinton, presented his request. He stated that the structure was built in 1968 as a duplex. He said that the Doyle family moved into it in the late 1980s. They chose to convert the structure to a single family home due to their particular family situation. He said that the Doyle's may have rented out half and lived in the other half at first. No records could be found of building permits for converting it a single family, only to add siding on the outside at one time. Mr. Kasey asked if the structure sat empty from time it was built. Ms. Turman said no records on its occupancy were available. Mr. Kasey said it may have always been used a single family house. Mr. Leiser mentioned that the records do not go back far enough to know for sure. Vice Chairman Michelsen said the owner of the property may have paid for both utilities—theirs and any

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tenants who may have lived there. Mr. Altice asked what the structural layout of the house is now. Mr. Leiser explained that the Doyle's removed the second stair well and partition so both units are no longer separated. Mr. Altice asked if it has two kitchens. Mr. Leiser said it does not at this time; however, the plumbing and electrical are still there for an additional kitchen. Mr. Kasey mentioned that Mr. Leiser may have to rewire the whole house to bring it up to code. Mr. Leiser said he would definitely have to check into whether the whole house would need to be rewired or not. Chairman Benninger asked if utility services are separated. Mr. Leiser said they are separate.

Ms. Turman mentioned that the lot area requirement for a duplex in the R-3 Residential Zoning District used to be 7000 square feet, but now 12,000 square feet in lot area is required. She said that since 1993, it appears that the structure was a single family home. In 1995, the lot area requirement in the R-3 District increased. The structure is not grandfathered since it was a single family at the time of the ordinance change. Mr. Leiser said that there were two addresses on a tax map he was shown in the Planning office. He said it was 502 and 504 Pine Street on the map. Ms. Turman said there is no record of 504 Pine Street in the water billing system or in the Appalachian Power electric bill records. She mentioned that a search of the permit database only turned up the one permit for siding on 502 Pine Street. Chairman Benninger mentioned that Roanoke County took over the building services for the Town in 1993.

Chairman Benninger asked if there were any other questions. Mr. Kasey said he had no further questions. Ms. Hagins asked about the duplex next to this property and if it was upgraded or built new as a duplex. Ms. Turman said it was built new in 2008. Chairman Benninger asked if the footprint of the structure would remain the same. Mr. Leiser said it would and there would be no additions to the exterior. Chairman Benninger asked what all would have to be done to the structure—would it just involve separating the two units. Mr. Leiser confirmed that was all that needed to be done. He also said that he appreciated Mr. Kasey letting him know about the possible rewire of the structure that may be needed. Ms. Turman corrected something she said during the staff report. She said on January 15, 1993, one meter was activated with Appalachian Power. Ms. Turman said Appalachian Power did not mention if there were additional meters at the location prior to that. Mr. Kasey said it must have always been a single family then. Ms. Turman said all we know is that the Doyle's said it was a duplex when they bought it.

Mr. David Clark, of Clark Family Builders, at 5352 Cloverdale Road, Roanoke, spoke next. He said that he is the real estate agent for Mr. Leiser. He stated that this structure was definitely built as a duplex. He said the footprint of each unit is exactly the same. He said that the Doyle's removed the staircase and dismantled the second kitchen. He said there are two heating and a/c units, two breaker boxes, and two meter boxes onsite. Mr. Clark said he thinks the separation of the units is at the meter and not within the house. He said there are also two water services, two sewer services, and two driveways. In his opinion, it was a duplex before. Mr. Kasey said he remembers it as having two duplex-type doors. There were no permits found in the records for the duplex, nor any to turn it into a single family house. Ms. Turman brought in the tax maps from the Planning office to see if both addresses show up on it. Ms. Turman showed them the property on the tax map. She pointed out that it only has 502 Pine Street on it. Chairman Benninger said the question is: What the structure was in 1968? Mr. Clark asked if he could read a section from the Vinton Zoning Ordinance. He read the portion of R-3 that lists tourist homes,

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boarding houses, daycares, adult daycare centers, etc. and how they only require 10,000 square feet. He said, at some point, the requirements for duplexes changed to 12,000 square feet in lot area for duplexes. Mr. Clark said it strikes him as odd that Mr. Leiser could put an adult day care center there, but not a duplex.

Chairman Benninger asked if there were any further questions. Ms. Hagins stated that she was recusing herself from the vote due to living nearby the property at 502 Pine Street. Chairman Benninger stated that with four people voting, a tie vote would be a denial. He said he would entertain a motion on the request. Vice Chairman Michelsen made a motion to approve the variance based his understanding of the 2015 General Assembly regulations regarding the size, shape and area of the lot. He said he believed there was a deviation there, and it was originally by all appearances built as a duplex. He said the regulations go on to say that not granting the variance would unreasonably restrict the use of the property, and state that the situation must not be generally shared amongst other properties. Vice Chairman Michelsen said he does not believe this situation would be shared by other properties. He said again that visually it looks to be a duplex. Chairman Benninger said basically Vice Chairman Michelsen's motion is to approve the petition for variance. Mr. Altice seconded the motion. A roll call vote was taken and all members, except Ms. Hagins who recused herself from voting, voted in favor of the motion to grant the variance. Chairman Benninger stated that the motion carries, and he reminded Mr. Leiser to check on the electrical wiring. Ms. Turman stated that Mr. Leiser would have 12 months from today's date to apply for the permits to convert it back to a duplex. She said the decision would be rendered null and void if no work has been done within that 12 month period.

In other business, Chairman Benninger, Mr. Kasey, and Vice Chairman Michelsen will attend the State of Town Address on November 19, 2015. Ms. Hagins said that was too early in the morning for her, and she would not attend. The Board was reminded of the grand opening ceremony for the Vinton Library on November 18, 2015.

There was no other business to discuss; therefore, Chairman Benninger adjourned the meeting at 7:48 p.m.

Respectfully Submitted,

Karla D. Turman
Board of Zoning Appeals Secretary