

Minutes for Public Hearing for Monday October 30, 20023

A quasi-judicial public hearing was held by Winfall Town Council on October 30, 2023, at 6:00 p.m. at the Winfall Town Hall. The purpose of the hearing was to consider a Special Use Land Permit located on Winfall Blvd. Parcel #5-0032-0130 W & 5-D040-0235A-W (Property of Sidney P. Jessup) The property is to be used to build a New Intermediate School, by Perquimans County.

Present was: Fred Yates, Mayor, Preston White, Mayor Pro-Tem, Christopher Richardson, Council Member, Valery McDonald, Council Member, Cynthia Cunningham, Council Member, Valerie Jackson, Town Clerk, William Crowe, Town Attorney Frank Heath, County Manager, Rhonda Repanshek, County Planner, Trevor Miles, Planning and Zoning Technician, Drew Woodard, Magistrate, Jimmy Hite, Architect, Shelby White, County Sheriff, Dr. Tanya Turner, School District Superintendent, Bill Jennings, County Tax Administrator, Timothy Corprew, County Commissioner, Sidney Jessup, Property Owner

The meeting was called to order by Mayor Fredrick Yates. Mayor Yates then turned the meeting over to Attorney Crowe.

Magistrate Drew Woodard administered oath to Winfall Town Council Members to serve as Board of Adjustment.

Attorney Crowe asked the Town Council members if there was any conflict of interest related to the application, and if there had been any ex parte communication regarding the application for the school. All town council members responded in the negative. He also explained the purpose of the public hearing and the process of the meeting to the public and requested that any aggrieved third parties come forward and identify themselves, no aggrieved third parties identified themselves, and the meeting carried on.

Attorney Crowe ask if anyone was present that has property adjacent to said property and had evidence to present before the Board of adjustment to consider coming forth at that time. There was no one who came forth.

Attorney Crowe then turned the session over to Perquimans County Manager Frank Heath.

Frank Heath gave his opening statement, stating the purpose of the application for the Special Use Land Permit and what it would be used for. He explained the intention of the new proposed school to consolidate the Grammar and Middle schools together, and then proceeded to explain the specifics of the design of the proposed school, and the overall development of the proposed site. He displayed diagrams showing an aerial view of the proposed site, and the overall layout thereof, including the proposed internal layout of the school, and the proposed traffic control measures. He also explained that numerous potential sites had been investigated by the county, with the proposed site being chosen as the most suitable for the proposed use.

Christopher Richardson, Councilman asked Mr. Hite what the distance was for the parent drop off lane. Mr. Hite responded that the distance of the drop off lane was approximately 2,500 feet, based on the proposed design.

Valery McDonald, Councilwoman asked how many vehicles the parent drop-off lane could hold, and Mr. Hite responded with approximately 152 cars.

Mayor Yates asked if there were any plans to connect the Central School and the proposed Intermediate School. Frank Heath then asked for clarification of the question, and whether Mayor Yates meant vehicular traffic or foot traffic. Mr. Heath then explained that no plans were proposed for a vehicular traffic connection, but that a foot traffic connection could be discussed as a reasonable condition.

Mr. Hite then presented to the council several elevation diagrams and drawings of the proposed school.

Councilman Richardson then asked how many faculty parking spots will be provided at the proposed school. Mr. Hite then responded by saying that more than 100 spaces will be provided, which is more than what is needed for the current faculty level of both schools combined.

Mr. Heath also assured the council that the Central School would continue to exist in its current form, even after the construction of the proposed intermediate school and he began to introduce several county employees that were present, including himself, Ms. Repanshek, Mr. Miles, and Commissioner Corprew.

Mr. Heath then began a detailed explanation of the special use permit process, as regulated by the **Town of Winfall Zoning Ordinance and Chapter 160D of the North Carolina General Statutes**. He explained that the County would be calling witnesses to explain how the project, as proposed, meets the four standards found in the **Winfall Zoning Ordinance** for the approval of Special Use Permits. **He further explained that the four standards are as follows: 1. That the project as presented will not materially endanger the public health or safety if located where proposed and developed; 2. That the use meets all required conditions and specifications; 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and 4. That the location and character of the use, as developed, will be in harmony with the area in which it is to be located and in general conformity with the comprehensive development plan.**

Mr. Heath then listed what was required to be submitted by the County under the Winfall Zoning Ordinance, which consisted of an application, a site plan, owners authorization form, and application fee, and that all these requirements had been met, Mr. Heath then called Sheriff White to the stand.

He then called upon the witnesses to support the questions that were asked to be granted approval for the Special Use Land Permit. Those witness were experts in their field of their work, as following: Architectural who design the blueprint (Jimmy Hite). Mr. Hite showed the council several diagrams and drawings showing the proposed school and site development in more detail. He explained, in detail, how the circling driveways proposed in front of the school would help to control traffic during pickup and drop-off, also how they would be utilized to separate school bus and automobile traffic during school hours. Mr. Hite also explained that he and the school district would be meeting with the Department of Transportation to help further improve the proposed traffic control measures for the school.

Mr. Heath then requested to question Sheriff White, based on his law enforcement experience, as an expert witness in public safety. The County Sheriff, Sheriff Shelby White spoke on behalf of public safety and traffic control. Councilman Richardson asked if Sheriff White would be the only witness questioned regarding public safety, Mr. Heath responded yes. **Councilman Richardson** then went on to elaborate that the reason for his question was because he had concerns about the sewage produced by the proposed school. Mr. Heath then stated that the question of sewage would need to be personally considered by council members.

Mr. Heath then asked if the Sheriff's Office staffed school resource officers (SROs) in the existing Perquimans County schools. Sheriff White responded that yes, an SRO was staffed in each of the four existing schools, Mr. Heath then asked how the Sheriff's Office intended to staff the proposed Intermediate School, should the school be built. Sheriff White responded that there would be two SROs in the proposed intermediate School. Mr. Heath then asked what the role of an SRO is, and how having 3 SROs in the town limits would benefit the safety of the Town of Winfall. Sheriff White responded that the role of an SRO is to provide for the safety and security of the staff and students at a particular school, and to develop mentoring relationships within the school. Sheriff White then stated that if there were three SROs in Winfall, it would enable two of them to remain at the schools, while the third would be free to respond to incidents outside of the school grounds.

Mr. Heath also asked if Sheriff White had he met with the architect to discuss proper safety measures for the building.

Sheriff White explained that he had met with the architect and discussed things such as the layout for the pickup/drop-off lane, the layout of the school regarding emergency lockdowns, and the location of the SROs' offices. Mr. Heath then asked if there had ever been any large-scale safety incidents at the Central School. Sheriff White responded that there had not been. Mr. Heath then asked if, based on the track record of the Central School, if Sheriff White felt that the proposed school use would endanger the public health and safety of the citizens of Winfall.

Mr. Heath then asked if Sheriff White, based on his expert opinion, the design of the new Intermediate School, and the presence of two SROs at the new school, felt that the school, as designed, would improve the public health and safety of the greater Winfall area. Sheriff White responded yes.

Attorney Crowe then asked if the board members had any questions for Sheriff White. Hearing none, Mr. Heath then called Rhonda Repanshek to the stand.

Attorney Crowe swore in Ms. Repanshek. Mr. Heath then began his line of questioning by establishing Ms. Repanshek works for Perquimans County in the capacity of county planner, and that she has held that position for 3 years. She also explained that she was the GIS mapper for 10 years, and the GIS mapper/planning assistant for 4 years. Mr. Heath then inquired about Ms. Repanshek's credentials in matters of planning and zoning. Ms. Repanshek explained that she became a Certified Zoning Officer through the North Carolina Association of Zoning Officials in 2019. Mr. Heath then asked how many zoning applications she had handled throughout her career. Ms. Repanshek stated over 500. Mr. Heath then requested to tender Ms. Repanshek as an expert in matters of planning and zoning based on her knowledge and experience. The Council did not express any issues with tendering Ms. Repanshek.

Mr. Heath then began his questioning of Ms. Repanshek with whether the use meets ail required conditions and specifications listed in the Winfall Zoning Ordinance, and more specifically, if by scheduling the public hearing, that it could be argued that the town accepted the application materials as substantially complete. Ms. Repanshek responded yes. Mr. Heath then asked Ms. Repanshek if she had reviewed the Town of Winfall official zoning map. Ms. Repanshek responded that she had. Mr. Heath asked what the zoning designation of the subject property was. Ms. Repanshek responded that the zoning designation was R-1 (Low Density Residential). Mr. Heath then asked if, per Winfall! zoning regulations, schools were permitted in the R-1 designation. Ms. Repanshek responded yes, per Section 7.01 (C2), fire stations, schools, and other public buildings are permitted as special uses, requiring a special use permit. Mr. Heath then explained that standard four for special use permits, as presented in the Winfall zoning ordinance, requires the proposed use to be in harmony with the area in which it is to be located.

Mr. Heath then asked Ms. Repanshek what "in harmony" means to her. Ms. Repanshek responded that, in her opinion, in harmony means to be compatible with the other structures and uses in the surrounding area. Mr. Heath then asked if, to her knowledge, the existing Central School is located next to the proposed Intermediate School. Ms. Repanshek responded yes, Mr. Heath then asked Ms, Repanshek if, in her opinion, the application submitted by Perquimans County meets standard four of the Winfall Zoning Ordinance. She responded yes.

Mr. Heath then explained that, in the book *Introduction to Zoning Development Regulation* by UNC School of Government professor **David Owens**, on page 119, Professor Owens states that opponents of a special use permit must provide evidence that the project design or site conditions produce the incompatibility, not the use in and of itself. He then asked Ms. Repanshek what she thinks that means in layman's terms. She responded that that means there would have to be something so bad with the school design or site layout that it would not be fixable. Mr. Heath then asked if, in her expert opinion, she felt the proposed school site fell into that category. Ms. Repanshek responded no.

Mr. Heath then stated that per **Article 7, Chapter 160D (701) in the North Carolina General Statutes**, which is the state guidelines for what local governments can do with zoning regulation matters, local zoning regulations may not include as a basis for denying a zoning request for a school the level of service of a road facility or facilities abutting the school or approximately located to the school. He then asked Ms. Repanshek what, in her opinion, this means in relation to the application for the Intermediate School. She responded that this means that the special use permit request for the school could not be denied based on the traffic on or around the school. Mr. Heath then clarified that she was stating that, per North Carolina General Statutes, the special use permit could not be denied based on actual or potential traffic volume around the school, Ms. Repanshek responded in the affirmative. The floor was then opened for the council to cross examine Ms. Repanshek.

Councilman Richardson asked if, during the zoning and planning process, if the current state of Winfall's infrastructure, specifically the sewer infrastructure, was ever considered, and how the school would actually impact that as far as the Towns health and safety is considered. Mr. Heath responded that the County had not gone through a planning and zoning process, and that the current meeting was the planning and zoning process. Councilman Richardson then questioned why, during the public health and safety portion of testimony, nothing was presented regarding sewage. Mr. Heath then asked for clarification regarding what was meant by sewage. Councilman Richardson then explained his concern was regarding the fact that the proposed Intermediate School would be bringing a school over from Hertford, and how it would increase the impact on the current sewage infrastructure, and how that was the towns number one concern.

Mr. Heath then explained that he had already provided expert testimony on public health and safety, expert testimony on planning and zoning, and assured the council that he would get to the question of sewage. None of the other council members had any questions for Ms. Repanshek. Mr. Heath then called Dr. Tanya Turner to the stand.

Attorney Crowe then swore in Dr. Turner. Mr. Heath then began his questioning by establishing that Dr. Turner worked for the Perquimans County School District, in the capacity of superintendent for five years, and that she has worked in the field of education for 32 years total, and has also served as a teacher, an assistant principal, a principal, a director at the district office and assistant superintendent. Mr. Heath then requested to tender Dr. Turner as an expert witness in matters of public education as a public necessity. No objections were offered by the council regarding the tendering of Dr. Turner.

Mr. Heath then asked Dr. Turner if she had reviewed the section of the North Carolina Constitution as it relates to public education as a necessity. Dr. Turner stated she had, Mr. Heath then asked Dr. Turner to summarize what the language of that section states. Dr. Turner stated that it was Article 9 of the Constitution, which basically guarantees all students an affordable and accessible education and speaks to the value of knowledge to good government. Mr. Heath then pointed out that this relates to standard 3, which is concerned with property values or public necessity, and that he would be covering both of those standards, Mr. Heath then asked Dr. Turner if school facilities, such as the proposed Intermediate School, are an inherent part of providing what the Constitution requires. Dr. Turner responded yes.

Mr. Heath then asked how Dr. Turner thought it would do so as far as providing students with a place to thrive and grow. Dr. Turner explained that she thought the proposed Intermediate School would provide a better, safer environment. She also stated that it would provide them with more up-to-date technology, and opportunities for the students to have up-to-date science labs, as well as up-to-date career technical education facilities and up-to-date resources for the exceptional children's program. She also stated that she felt that this proposed school would give the students access to spaces and opportunities that they deserve, and that would be comparable to other areas across the state.

Mr. Heath then asked if, based on her expert opinion, Dr. Turner would agree that the school as proposed at this location is a public necessity. Dr. Turner then stated that she did believe it was a public necessity, because the facilities currently housing the Grammar and Middle School were built in the 1950s, and that it would be to the benefit of school safety to have a new school building. She also stated that the new facility would provide more athletic space for the middle schoolers to participate in athletics.

Councilman Richardson then asked if the County currently had facilities for special needs kids. Dr. Turner explained that while the County does have classrooms for special needs children, these children have special feeding and toiletry needs, and that they need specialized areas to exercise and that the County lacks those facilities currently.

Councilman Richardson then inquired about the athletics currently present at the Grammar and Middle Schools. Dr. Turner explained that the middle school currently has all the same athletics as the high school. The council had no further questions for Dr. Turner. Mr. Heath then called on Bill Jennings to testify.

Attorney Crowe swore in Mr. Jennings, and Mr. Heath began his questioning by establishing that Mr. Jennings worked as the tax administrator for Perquimans County, and that he had served in that capacity for 11 years, it was then established that Mr. Jennings, prior to his employment with Perquimans County, served in the neighboring county as a tax appraiser for 10 years. Mr. Jennings also stated that he was certified by the North Carolina Department of Revenue and by the International Association of Assessors. It was also noted that Mr. Jennings had assessed thousands of properties and had participated in 2 countywide revaluations in the course of his employment. Mr. Heath then requested to tender Mr. Jennings as an expert witness in the matter of property values in Perquimans County. Hearing no objections from the Council, Mr. Jennings was tendered as an expert witness.

Mr. Heath stated that this testimony would again focus on standard three, regarding the injury of value of the adjoining or abutting properties, and asked Mr. Jennings if there had been any sales of properties adjacent to schools in Perquimans County. Mr. Jennings stated that yes, there had been 3 on Edenton Road Street and 1 on Dobbs Street, adjacent to the Perquimans County High School and Perquimans County Grammar School. Mr. Heath then asked if Mr. Jennings was able to compare the tax values of the properties with the amount the properties sold for. Mr. Jennings answered yes and explained that one on Edenton Road Street sold for \$100,000 over assessment value, another sold for \$130,000 over assessed value, and another sold for assessed value. He also explained that the one on Dobbs Street sold for \$20,000 over assessed value.

Mr. Heath then produced copies of the tax cards and sales data for the mentioned properties, and asked Mr. Jennings to verify the values for each property, which Mr. Jennings did. Mr. Heath then asked Mr. Jennings if, in his expert opinion, there was any substantial negative effect on a property's value in Perquimans County just because it's located near a school. Mr. Jennings responded no. It was then asked if the Council had any questions for Mr. Jennings.

Councilman Richardson asked Mr. Jennings how long a property is occupied after assessment prior to being sold. Councilman Richardson then clarified that he was asking how much time had passed between the most recent tax assessment and the properties being sold. Mr. Jennings replied that all assessment values as of today are based on the 2016 revaluation. Mr. Jennings was then relieved as a witness.

Mr. Heath then offered comments to the Council on the issue of sewer capacity. He began by stating that the Town of Hertford sewage treatment plant is the ultimate destination for all Winfall sewage, and that even with the proposed school, the total amount of sewage distributed to the Town of Hertford would remain the same. Mr. Heath concluded his statement by asserting that it could not be stated that the school project could not be in Winfall because of sewer capacity, because the amount of sewage would remain the same, there is no existing moratorium in place, and because not providing public utilities is not a reasonable condition as discussed in Section 8.05 of the Winfall Zoning Ordinance,

Councilwoman McDonald asked Mr. Heath what happens if, provided that the Grammar School is moved to Winfall, the Town of Hertford refuses to accept sewage from Winfall. Mr. Heath responded that the County had engaged in discussions with the Town of Hertford and that the Town of Hertford said they will accept the added sewage capacity from Winfall.

Councilman Richardson stated to Mr. Heath that any sewage capacity over 100,000 gallons, Winfall pays a **23% penalty** to the Town of Hertford* Mr. Heath then responded that, concerning that statement, there is a question of relevance in respect to the County's position, and that the children of Perquimans County shouldn't be punished because the Town of Winfall has an unfavorable contract with the Town of Hertford. Mr. Heath then stated that the question at hand is whether the capacity is there to serve, and that the answer is yes. Mr. Heath also stated that the Town has the right to put in place a moratorium on future development, but that even if they did, it would not affect the application for the school.

Councilman Richardson then stated that he was worried about the health and safety of Winfall citizens because the sewer infrastructure, in his words, is very fragile, and that it was convenient that the County did not bring any expert witnesses regarding sewer infrastructure. Mr. Heath responded that the County did not have any sewer infrastructure, and that there was no expert witness to bring forward.

Mr. Heath began his closing statement by pointing to a handout showing Winfall as the **"Roots of Perquimans County Education,"** and stated that, with the addition of the Intermediate School, Winfall would become the central focus of education in the county. He also stated that the testimony given tonight proved the standards in the **Town Zoning Ordinance and North Carolina General Statutes had been met, and that school use is allowed.** Mr. Heath then stated that, per Ms. Repanshek's testimony, and per David Owens from the School of Government, the opposing parties must prove with testimony and evidence that the use does not meet the criteria specified in Town Ordinance.

Mr. Heath then referenced the testimony of Sheriff White, which stated that the design of the school will not harm the public health and safety. He also referenced Ms. Repanshek's testimony that the Special Use Permit cannot be denied based on road infrastructure, and the use would be in harmony with the surrounding area. It was also stated that Mr. Jennings' testimony proved that the values of adjacent properties would not be harmed, and that the testimony of Dr. Turner proved the school is a public necessity. Mr. Heath then closed the County's case. The Council then decided, after brief deliberation, to vote on approval/denial of the application tonight.

7:01 PM — Voting begins,

Councilwoman Cunningham made a motion that the use, if located where proposed and developed according to the site plan submitted would not endanger the public health and safety. **Councilman White seconded the motion**. The **motion passed 3-2**, with Cunningham, Yates, and White voting in favor, and McDonald and Richardson voting against.

Councilman White made a motion that the proposed use meets all required submissions and specifications of the Town of Winfall. **Councilwoman Cunningham seconded the motion**. The **motion passed 3-2**, with White, Yates, and Cunningham voting in favor, and McDonald and Richardson voting against. **Councilman Richardson** explained that he voted no on both the first motion and this motion because the County did not present any expert testimony regarding the potential issues with sewage infrastructure. **Councilwoman McDonald** explained that she voted no because she wanted time to consider the application and any other potential questions she might have and to talk with the citizens of Winfall.

Councilman White made a motion that the proposed use would not injure the property values, or that the use is a public necessity. **Councilwoman Cunningham seconded the motion**. The **motion passed 3-2**, with White, Yates, and Cunningham voting in favor, and McDonald and Richardson voting against. **Councilman Richardson** explained that he voted no because as far as public necessity is concerned, schools already existed, and the public necessity was fulfilled. **Councilwoman McDonald** agreed with Richardson and stated that the new school was not a necessity for the Town of Winfall,


At the time that Attorney Crowe reached **Mayor Yates**, and asked for his vote, **Mayor Yates stated no**. When Attorney Crowe began asking for Mayor Yates to explain his statement, **Mayor Yates stated that he did not understand the question**. Following interjection by the audience, Attorney Crowe explained the question to Mayor Yates, and directly asked Mayor Yates if he believed the use would not substantially injure the value of adjoining property or if it was a public necessity. **Mayor Yates stated yes**, and this was recorded as a vote in favor of the motion.

Councilwoman Cunningham made a motion that the location and character of the use, if developed as approved according to the site plan submitted, would be in harmony with the area in which it is located and in general conformity with the Winfall Comprehensive Land Development Plan. **Councilman White seconded**. The **motion passed 3-2** with White, Cunningham, and Yates voting in favor, and McDonald and Richardson voting against. **Councilwoman McDonald** explained that she would like to research the issue at hand more prior to the vote. **Councilman Richardson** explained that he felt it would not be in harmony the minute that there is a catastrophic sewer failure, and that such failure would burden the residents of Winfall.

Councilman White made a motion to **approve the Special Use Permit** as presented. **Councilwoman Cunningham seconded the motion**. The **motion passed 3-2**, with White, Cunningham, and Yates voting in favor, and McDonald and Richardson voting against.

It should also be noted that despite this being a quasi-judicial hearing, free from layperson testimony and hearsay evidence, that the audience members interjected at several points throughout the meeting, and that several had to be removed to restore order to the meeting room.

The Quasi-Judicial Hearing was closed at 7:30 p.m.

Mayor 

Clerk 

****Minutes submitted by Deputy Clerk (Elisha Washington) and Perquimans County Manager, Frank Heath****

