

**PINEHURST VILLAGE COUNCIL
AGENDA FOR REGULAR MEETING OF SEPTEMBER 25, 2012
395 MAGNOLIA ROAD
ASSEMBLY HALL
PINEHURST, NORTH CAROLINA
1:00 P.M.**

1. Call to Order.
2. Invocation and Pledge of Allegiance.
3. **Action:** Motion to Approve Consent Agenda.

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held unless requested by a member of the Village Council.

- A. Approval of Draft Minutes:
 - Work Session of August 21, 2012
 - Regular Meeting of August 21, 2012
 - Closed Session of August 21, 2012
- B. Public Safety Reports:
 - Police Department
 - Fire Department
- C. Scheduling of Regular Meeting for **Wednesday, October 24, 2012** at 1:00 p.m.

End of Consent Agenda.

4. **Action:** Motion to Receive Budget Amendments Report to Council for the Period August 16, 2012 to September 15, 2012.
5. **Action:** Motion to Recess Regular Meeting and Enter Into a Quasi-Judicial Hearing.
6. **Quasi-Judicial Hearing:** The purpose of the public hearing is for a major special use permit for Raymond C. Fiorillo in order to construct an accessory dwelling at 185 Everette Rd. This property is in the R-10 (Single Family Residential) Zoning District and the Historic Preservation Overlay District. This property is further identified as Moore County Tax Reference LRK # 22104. The proposed accessory dwelling is to be located in the rear yard of the property. The applicant is Raymond C. Fiorillo.
7. **Action:** Motion to Adjourn Quasi-Judicial Hearing and Enter Into a Public Hearing.
8. **Public Hearing:** The purpose of the public hearing is to receive public input on the abolition of the Municipal Service District for Ponds #1 and # 2.
9. **Action:** Motion to Adjourn Public Hearing and Re-Enter Regular Meeting.
10. Other Business.
11. Comments from Attendees.
12. **Action:** Motion to Adjourn.

**MINUTES OF
VILLAGE COUNCIL REGULAR MEETING
SEPTEMBER 25, 2012**

**ASSEMBLY HALL – VILLAGE HALL
395 MAGNOLIA ROAD
PINEHURST, N. C.**

1:00 P.M.

The Village Council of the Village of Pinehurst held a Regular Meeting on Tuesday, September 25, 2012, at 1:00 p.m. in the Assembly Hall of the Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina with the following in attendance:

The Honorable Nancy Roy Fiorillo, Mayor
The Honorable Douglas A. Lapins, Mayor Pro-Tem
The Honorable John R. Cashion, Councilmember
The Honorable Mark W. Parson, Councilmember
The Honorable John C. Strickland, Councilmember
Mr. Andrew M. Wilkison, Village Manager
Ms. Linda S. Brown, Village Clerk
And approximately 20 persons in the audience.

1. CALL TO ORDER.

Mayor Nancy Roy Fiorillo called the meeting to order.

2. INVOCATION AND PLEDGE OF ALLEGIANCE.

Village Manager Andy Wilkison led in an invocation followed by the Pledge of Allegiance to the American flag led by Mayor Fiorillo.

3. APPROVAL OF CONSENT AGENDA.

All items listed below were considered routine or had been discussed at length in previous meetings and were enacted by one motion. No separate discussion was held except on request by a member of the Village Council.

A. Approval of Minutes of:

Work Session of August 21, 2012

Regular Meeting of August 21, 2012

Closed Session of August 21, 2012

B. Public Safety Reports- Police and Fire Departments.

C. Scheduling of Regular Meeting for Wednesday, October 24, 2012 at 1:00 p.m.

End of Consent Agenda.

Councilmember Strickland moved to approve all the items listed and considered routine on the Consent Agenda. The motion was seconded by Councilmember Lapins and the Consent Agenda was unanimously approved.

4. BUDGET AMENDMENTS REPORT TO COUNCIL.

There were no budget amendments made, so there was no Budget Amendments Report to Council for the period August 15, 2012 to September 15, 2012.

5. RECESS REGULAR MEETING AND ENTER INTO A QUASI-JUDICIAL HEARING.

Councilmember Parson moved to recess the Regular Meeting and enter into a Quasi-Judicial Hearing. The motion was seconded by Councilmember Lapins and carried unanimously.

**MINUTES OF
VILLAGE COUNCIL REGULAR MEETING
SEPTEMBER 25, 2012**

6. **QUASI-JUDICIAL HEARING: Request for Major Special Use Permit approval in order to construct an accessory dwelling at 185 Everette Rd. This property is in the R-10 (Single Family Residential) Zoning District and the Historic Preservation Overlay District. This property is further identified as Moore County Tax Reference LRK # 22104. The proposed accessory dwelling is to be located in the rear yard of the property. The applicant is Raymond C. Fiorillo.**

Mayor Fiorillo recused herself from the Quasi-Judicial Hearing stating that she had a personal and financial interest in the application since Raymond C. Fiorillo is her husband.

All persons to give testimony were sworn in by the Village Clerk.

Testimony:

Director of Planning and Inspections Andrea Correll introduced the Quasi-Judicial Hearing by reading the Staff Report for the requested Major Special Use Permit. See document # 1 which is hereby incorporated by reference and made a part of these minutes.

Raymond C. Fiorillo submitted his Findings of Fact and stated that all are in compliance with the Standards of Review. See document # 2 which is hereby incorporated by reference and made a part of these minutes.

Councilmember Parson stated that at one time he had considered the same project for his house.

Councilmember Strickland asked Mr. Fiorillo why he wanted a detached structure rather than attaching it to the house.

Mr. Fiorillo replied that adding on to the house does not fit the layout of the house.

Councilmember Strickland asked if Mr. Fiorillo intends to rent the new structure.

Mr. Fiorillo replied that he was requesting the structure for family use but he would consider renting it for the U.S. Open.

Councilmember Strickland asked if the structure was stick built in place?

Mr. Fiorillo replied that it would be stick built in place, constructed on a concrete slab. It will be like an efficiency apartment.

Councilmember Strickland asked for an explanation of the document that Mr. Fiorillo had submitted.

Director of Planning and Inspections Andrea Correll explained that the document addresses all the Standards of Review for a Quasi-Judicial Hearing for a Major Special Use Permit. It explains how all the requirements have been met. The Council may adopt this document as the Council's Findings of Fact.

Mayor Pro-Tem Lapins noted that the application contains sketches and asked if a contractor would do all the work.

Mr. Fiorillo explained that he will act as the general contractor and employ subcontractors to do most of the work. He will do the remainder of the work.

**MINUTES OF
VILLAGE COUNCIL REGULAR MEETING
SEPTEMBER 25, 2012**

Director of Planning and Inspections Andrea Correll added that Mr. Fiorillo will have to go before the Historic Preservation Commission and meet all the standards of the Pinehurst Development Ordinance.

7. ADJOURN QUASI-JUDICIAL HEARING AND ENTER INTO A PUBLIC HEARING.

There being no further testimony, Councilmember Cashion moved to adjourn the Quasi-Judicial Hearing and enter a Public Hearing. Councilmember Strickland seconded the motion, and it carried unanimously.

8. PUBLIC HEARING: Abolition of the Municipal Service District for Ponds #1 and # 2.

Comments:

Village Manager Andy Wilkison introduced the topic of the Public Hearing stating that the Municipal Service District was established in 1993 before the Village accepted dedication of both ponds from PCC Realty. The Public Hearing was noticed in The Pilot, a newspaper in Southern Pines, North Carolina, with general circulation in the Village of Pinehurst, and its extraterritorial jurisdiction. He has heard from five of the 22 property owners in the Municipal Service District (MSD) stating that they could not attend today's hearing but that they favor abolition. Staff has prepared a resolution to abolish the MSD if Council wishes to take action on it today.

Doug Middaugh, 400 Pine Vista Drive, Pinehurst, read portions of comments submitted to the Council. (Copy of comments, titled "Document A", is in the Minute File.)

Mayor Fiorillo stated that she wanted all attending to be perfectly clear that there are two separate issues regarding the property owners around ponds #1 and #2. The property owners in the MSD pay an extra five cents per hundred in property taxes. This extra tax is the topic being discussed today. The Special Assessment to these property owners to pay for repairs to the dam is a separate issue which is NOT the topic of today's discussion.

Ted Thomas stated that he purchased his property in 1999. There was NO disclosure by the sales agent or any of the attorneys involved in the sale that the property was in a Municipal Service District. The resale value of his property decreased because of being in the MSD. Moore County increased the value of his property in the last revaluation, and after he protested, they reduced the value to the previous amount. He wonders why the property owners on Queens Court and Lake Shore Court are not included in the MSD; those lots would be unbuildable were it not for the dam. He asked why the MSD exists, how much longer he would be burdened with it, and who is liable if someone drowns.

Mayor Fiorillo stated that the MSD predates all who are now serving on the Council.

Carol Meyer reported that the water level is low on pond #1.

Peggy Herman stated that she has spoken with Andy Wilkison about the water level being down about one foot.

Village Manager Andy Wilkison explained that the Village does not control the water level of pond #1. We do pump from Lake Pinehurst to fill pond #2, and we cannot even do that if the water level in Lake Pinehurst drops below the intake.

Mayor Fiorillo asked if there is a spring that feeds pond #1.

**MINUTES OF
VILLAGE COUNCIL REGULAR MEETING
SEPTEMBER 25, 2012**

Village Manager Andy Wilkison replied that there is a creek near Gingham Lane. Perhaps it feeds the pond.

Peggy Herman reported that her dock is no longer over water.

Councilmember Parson noted that the Village needs to check out the situation.

Village Manager Andy Wilkison added that the General Statutes are specific that the timing of the abolition of a MSD shall occur at the end of the fiscal year. Council action will become effective at the end of Fiscal Year 2012-2013 (June 30, 2012).

9. ADJOURN PUBLIC HEARING AND RE-ENTER REGULAR MEETING.

There being no further discussion, Councilmember Lapins moved to adjourn the Public Hearing and re-enter the Regular Meeting. Councilmember Parson seconded the motion and it carried unanimously.

10. OTHER BUSINESS.

➤ **MOTION: MAJOR SPECIAL USE PERMIT.**

Councilmember Cashion moved to approve, without restrictions, the Major Special Use Permit as requested by the applicant, Raymond Fiorillo. The Village Council has accepted the applicant's Findings of Fact and incorporated them into the record as the Council's Findings of Fact and clearly find that each of the standards of review has been met by the applicant. Councilmember Strickland seconded the motion, which was carried unanimously by a vote of 4-0.

➤ **RESOLUTION #12-52: A RESOLUTION ABOLISHING THE MUNICIPAL SERVICE DISTRICT FOR PONDS #1 AND #2.**

The Manager explained the need for Resolution #12-52. To make sure the citizens in attendance clearly understood what action the Council was taking, Councilmember Cashion read the resolution and then moved its adoption. Councilmember Lapins seconded the motion which was unanimously approved by a vote of 5-0. (Copy of resolution is found in the Resolution Book and in the Minute File.)

11. COMMENTS FROM ATTENDEES.

There were none.

12. ADJOURNMENT.

Councilmember Strickland moved to adjourn the Regular Meeting. The motion was seconded by Councilmember Parson and carried unanimously. The Regular Meeting adjourned at 1:45 p.m.

Respectfully Submitted,



Linda S. Brown, CMC
Village Clerk



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Mayor Fiorillo and Village Council
From: Andrea Correll, Director of Planning and Inspections *AC*
Cc: Andy Wilkison, Village Manager
 Linda Brown, Village Clerk
Date: September 21, 2012
Subject: Staff report for Major Special Use

| | |
|---------------------------|---|
| Project Profile: | |
| Applicant/Owner: | Raymond C. Fiorillo |
| Property Location: | 185 Everett Road |
| Zoning: | R-10 Residential District is established as a district in which the principal use of land is for low density residential purposes. The district does permit accessory dwellings but only as a Major Special Use. The property is also located in the historic overlay district. |
| Current Land Use: | Single Family Home |
| Proposed Land Use: | Accessory dwelling |

Request

The applicant requests a Major Special Use Permit in order to construct a 320 square foot accessory dwelling in the rear yard.

Project Setting

The requested Major Special Use is proposed on land owned by Raymond Fiorillo. The property is further identified as Moore County LRK # 22104. The property is bounded to the rear by Pinehurst Elementary School. The school property as well as the property on either side is zoned R-10. The property across Everette Road is zoned R-20. The property on the right side is vacant.

Impervious Surface Area

The impervious surface including the proposed accessory dwelling is 21.2 percent. The Pinehurst Development Ordinance in Section 10.2.2.2 Table of Dimensional Requirements allows an impervious surface of 40% in the R-10 zoning district.

Landscaping

Additional landscaping is required for this proposal. The Pinehurst Development Ordinance Section 10.2.6.5 Landscaping Requirements for Single Family Residential note (6) subsection (f) requires that accessory structures shall be screened with landscaping materials, with a minimum of three (3) gallon plant size. Placement of at least one (1) plant every six feet is required.

Dimensional Criteria/Supplemental Regulations

The Pinehurst Development Ordinance Section 10.2.1.3 Special Requirement of Permitted and Special Uses SR-1 Accessory include the following requirements:

- (1) An accessory dwelling may be within, attached, or separate from the principal building;
- (2) The principal use of the lot shall be a detached dwelling, built to the standards of the North Carolina State Building Code;
- (3) No more than one accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling unit;
- (4) The accessory dwelling shall be owned by the same person as the principal dwelling;
- (5) The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling;
- (6) An accessory dwelling shall not exceed 30% of the heated floor area of the principal dwelling;
- (7) A detached accessory dwelling structure may be dwelling area only or may combine the dwelling with a garage, workshop, studio, or similar use, provided that the total floor area of the structure does not exceed the 30% limitation for an accessory building as set forth in SR-18(m);
- (8) A detached accessory dwelling shall be located in the established side or rear yard and meet the standards for accessory building setbacks

Recommendations

Staff has reviewed the application for a Major Special Use Permit and found it to be complete. Prior to issuing a building permit all the landscape and other requirements of the Pinehurst Development Ordinance will have to be met.

No recommendation on this proposal is available from the Planning and Zoning Board as this item has not been before that Board since Major Special Use Permits go directly to the Village Council. As a reminder, this is a Major Special Use Application which will require a Quasi-Judicial Hearing. Evidence is to be submitted to assist in finding if the proposal meets the Standards of Review within the Pinehurst Development Ordinance as outlined in Section 5.13.6 of the Pinehurst Development Ordinance. The applicant has been made aware of this.

Site Map
Fiorillo Accessory Dwelling
Major Special Use



Raymond C. Fiorillo
185 Everett Road
Pinehurst, NC 28374
910-295-0534
ray2nan@earthlink.net

August 28, 2012

Project Profile

Applicant: Raymond C. Fiorillo
Property Location: 185 Everett Street
Zoning: R10 Single Family Residential and Historic Preservation Overlay District
Current Land Use: Single family residence

Request

Raymond and Nancy Fiorillo wish to construct a 16x20 Guest Home(accessory dwelling) in the yard behind their residence. Its purpose will be to house guests , mostly our children and grandchildren, who might visit. Our present home has only one bedroom and the construction of this Guest House will greatly improve our ability to properly entertain overnight guests.

Special Use Regulations

- a) The use is permitted under the special uses in the district for which the application is made:**

Table 10.2.1 of the Pinehurst Development Ordinance indicates that within the R-10 Residential District, accessory dwellings are permitted as a Major Special use.

- b) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located;**

The Village Staff has reviewed the application and has found it to be in compliance with all applicable regulations in the R-10 District.

- c) The use will be in general conformance with the adopted Comprehensive Long-Range Plan;**

Page 48 of the 2010 Comprehensive Long Range Plan states Housing units in and near the Village Center will help create a vibrant center. We should continue to explore ways to provide for more housing in this area with densities and patterns appropriate for a Village Center location. Page 59 of the Long Range Plan states we should consider ways to help meet the long-term housing needs of residents of Pinehurst and their families.

The adopted Comprehensive Long Range Plan encourages and supports Guest Houses and Garage Apartments in the core village and is therefore in general conformance with the adopted Comprehensive Long Range Plan.

- d) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;**

A Guest House, located to the rear of the property will pose no threat to public health or safety and will be developed according to the plan as approved.

- e) The use will not substantially injure the value of adjoining property;**

There are numerous guest houses or garage apartments in the R-10 District and Historic Preservation Overlay District therefore no adverse affect on adjoining properties will occur.

- f) The use will be in harmony with the area in which it is to be located;**

See e) above

- g) Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been, or are being provided;**

The Guest House will be connected to all utilities from the main residence; no stormwater effects are expected and proper access is provided. Access to the Guest House and trash disposal will be achieved in the same method as the main residence. No changes will be made.

- h) Adequate measures have been or will be taken to provide site ingress and egress so designed as to minimize the traffic congestion in all streets;**

The Guest House will have the same ingress and egress as the main residence.

- i) Hours of operation will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community, or of the immediate neighbors of the property;**

The hours of operation will be the same as the main house but the Guest House will only be occupied or used occasionally. Occasional use of the guest house will not adversely affect the safety, health, morals or welfare of the community or immediate neighbors.

- j) The use will not unduly congest or limit the existing use of amenities and recreational facilities.**

No congestion of amenities or recreational facilities is expected.

In summary, a 16 x 20 Guest House, to accommodate family will have no adverse impact on the neighborhood as outlined in the above statements that respond to each of the required standards of review. Therefore, the applicants request that the Pinehurst Village Council approve this Major Special Use request.

Raymond C. Fiorillo, applicant