

The Smithfield Board of Historic and Architectural Review held its regular meeting on Tuesday, December 15th, 2015. The meeting was called to order at 6:30 p.m. Members present were Mr. Roger Ealy, Chairman; Mr. Trey Gwaltney, Vice Chairman; Mr. Ronny Prevatte, Ms. Julia Hillegass, Mr. Gary Hess, and Mr. Jeff Yeaw. Mr. Russell Parrish was absent. Staff members present were Mr. William G. Saunders, IV; Planning and Zoning Administrator and Mr. William H. Riddick III, Town Attorney. There were five (5) citizens present. The media was represented by Ms. Debbie Cohen of The Smithfield Times.

Chairman Ealy – I would like to call the December 15th, 2015 Board of Historic and Architectural Review meeting to order. The first item on the agenda is the Planning and Zoning Administrator's Report.

Planning and Zoning Administrator – Thank you, Chairman. I did not have any administrative approvals this month. I would like to mention something about the Cary and Main future land use change and rezoning application. Town Council met last Monday, December 7th, to hold a work session on the project. It is still scheduled to go to the continued public hearing before Town Council on January 5th, 2016.

Chairman Ealy – Next we have a list of Upcoming Meetings and Activities. You can read over those. The next item is Public Comments. There are no signups. Are there any Board Member Comments? Hearing none, we will move to Consideration of Demolition by Neglect – 502 Grace Street – Landmark – Town of Smithfield, applicant.

Planning and Zoning Administrator – I will say a few words on this. The Town Attorney may want to follow up. There is no mystery about what structure we are discussing here. This was before you all for consideration a few years back based on demolition by neglect and maintenance violations in the historic district. As you can see by the timeline in your staff report there was a point at which the violation action shifted over to Isle of Wight County as it relates to building codes. The structure was inhabited at the time. Subsequently, it went through several hearings. Basically, this structure is before us again, front and center. Basically, Town Council is interested in having a plan to do something about this demolition by neglect whether the Cary and Main rezoning is approved or not. The developer who proposed the rezoning has proffered to mothball the structure and possibly restore the structure. In the eventuality that the rezoning is not approved, Town Council also wants to be working on the track based on our ordinance so we can take action to have the structure mothballed as well. What is

actually before you tonight is the consideration of the home. Does the situation there meet the standards of demolition by neglect according to the maintenance and repair section of the Historic Preservation Overlay District? If so, we would look for you all to guide us to act administratively for carrying out the process necessary to have that remedied.

Town Attorney – Mr. Saunders did a great job of explaining that. If you recall, we initiated this action once before. The reason it was stopped was because Mrs. Crocker was still living there. We were not permitted on the property. We had to get a court order to go on the property. Once we were on the property, we determined that it was much more serious and life threatening than we had anticipated. We felt it was necessary to hand this off to the building official so that he could pursue it. He has greater powers than we have because the property, at that time, was more of a hazard to her health and safety. We kind of took a back seat on that but now she does not live there anymore. The Town Council is suggesting to you that we should renew the effort to require her to fix her house up and determine tonight that the state of the house is, effectively, demolition by neglect. We would give her notice. She would have ninety days to take the corrective action. If she refuses then it will be back before you. One option is to enter the property and do some stabilization. The town has never done that before. They have never spent money on other people's property but we have the ability to put a lien against the property to make sure that we recover the money. That is really a question for the Town Council. It will not be your question because you do not have any money to spend but they do. They can decide whether they want to do that or not. This is the first step of that process to do something about stabilizing that property.

Mr. Prevatte – Are there any pictures of the interior?

Town Attorney – We have not been in the inside.

Planning and Zoning Administrator – The building code official went on the inside back then but due to respect for the inhabitant none of those pictures were made public. Frankly, this Board is concerned with the exterior and it being sealed from the elements. It should not be germane to your decision tonight.

Town Attorney – It is open to the weather. The day we went out there a tree was growing out of the side of the house.

Chairman Ealy – Ray Parker's house was one that set a landmark decision in the state courts. It was demolition by neglect. It was nowhere near the point that this one is.

Town Attorney – No.

Vice Chairman Gwaltney – Is there anything that is improved with the house since this six years of timeline?

Town Attorney – It is worse.

Vice Chairman Gwaltney – I would think so.

Town Attorney – There have been public efforts by people who want to do nice things to help her. She is not interested in help.

Mr. Hess – So there is no reason for us to expect that, given a ninety day period, she would do anything.

Town Attorney – The law says that you have to give her that much time. My expectation is that ninety days from now we will be sitting here and things will be just the same or worse.

Mr. Hess – I understand that.

Chairman Ealy – Are there any other comments?

Mr. Yeaw – Just to clarify this timeline and understand what was going on before, it looks like there were two or three years of hearings that were postponed or cancelled. Meanwhile, no punitive measures were taken or no actions were taken.

Chairman Ealy – Am I correct that this did go before a judge?

Town Attorney - It was out of our purview. We did not have anything to do with it. At some point, we turned it over to the building official and it became a health and safety issue not a historical preservation issue. We did not have anything to do with that. Did it happen as quickly as we hoped it would? No but we did not have any control over that. To answer Mr. Yeaw's question, it has been through the court system. That pressure apparently caused her to realize that she needed to vacate the premises. It was a good thing because, frankly, my opinion was that nobody needed to live in a place like that. It is her property and she can do what she wants to with it except that things reached the point that it was unsafe. From what I understand, he determined that it had reached that point. It is not our job. We do not have any control over that.

Planning and Zoning Administrator – They gave her two years to fix it up and remedy the building code issues. On the eve of the deadline, they appealed to the Board that oversees the appeals for the building codes. The hearings were held before the Appeals Board for building codes. Several meetings were cancelled. I think that was due to inclement weather actually. When they finally did meet, they gave her six months

to remedy the situation and then revisit it. At the hearing following the six months, they found that the building codes official was appropriate in his actions with the way he stated the violations and the deadline. They verified the deadline as being appropriate. It had passed by then so then it put it in the realm of the county attorney. The county attorney's office has not acted on it. Technically, it is not within the realm of the building codes officials anymore. The county attorney did not act so if we want anything done, we need to act.

Town Attorney – So that you understand historically what has transpired in the past, we have done this before. The Town of Smithfield was the point entity on doing this. The Ray Parker house on Main Street was the first time that this statute has ever been implemented where the courts ordered a property owner to fix their property because it is historic and they have done nothing to maintain it. It would need to be demolition by neglect. The court said that he had to fix it and he did. He had the money. He just did not have the will. It took a court order to make him do it. That was step one. We did it again with a subsequent owner of that property. We did it again with the William's house at the corner of Mason Street. We have done this three times. I have not researched other localities but we have done this. We initiated it with respect to the old shoe shop at the bottom of the hill and she played a game with us. She transferred the property to her brother the day before the hearing. He has since done some work to stabilize that property so we have been relatively successful. This is a failure. It is a failure because she just refused to let us on the property. She fought us at every turn. We could not even see the extent of the damage because it was on the back side. In defense of the town, we did not know the extent of the problem. If you look at it from the front, it does not look that bad. If you look from the back, it is horrible. We have had some success but this has not been a success. At this point, I think we probably have an obligation to go forward.

Mr. Yeaw – I have a couple of questions that I would like to ask. We are talking about the house but the pictures include the outbuildings as well. Are we talking about the whole package?

Town Attorney – Yes.

Mr. Yeaw – Has anybody made a determination that the building is actually salvageable?

Town Attorney – In order to do that, you have to have access to the property. Mr. Darden, at the work session last week, said that it was. He is the applicant for the rezoning. He has probably had more access to it. I assume he has some expertise since he is in the building trade. He has deemed that it is salvageable. If you have enough money, anything is salvageable. It depends on how much you want to spend. The point that he made was that, in his opinion, it was.

Vice Chairman Gwaltney – Wasn't there some inspection on the barns? Wasn't there a professional agent that came in to inspect those buildings?

Town Attorney – I have no idea.

Planning and Zoning Administrator – Actually, Roger Ealy and myself met with the developer early on in the process and tried to determine which of the structures were feasible to save and which were not. It may come before this Board at some point. You may have to make a determination on which ones you may allow them to demolish, because it is simply just not feasible or they do not have relevant architecture, and which ones are able to be salvaged. It was a few years ago when that process started that we did that. I want to say that we determined that five of the outbuildings seemed to be salvageable at that time.

Chairman Ealy – Some of those buildings, I would classify as early as the 1800's. Some were in the Victorian era and some were much later; probably in the 1930's or 1940's. The dairy barn is basically on the ground already. I am sure that building was probably from the 20's or 30's.

Planning and Zoning Administrator – So it is not realistic to expect that all of the outbuildings will be salvaged. There are probably three to five that could be and should be salvaged. We also had the opportunity to get a consultant into the house earlier this year. He did a scope of work so to speak to mothball the structure whether the developer had to mothball it, the town moved in and mothballed it, or the owner had to mothball it. We would at least have a scope of work as to what would be required to mothball it and basically halt the demolition by neglect even if nothing else indoors were renovated at that time. There have been enough site visits to do a scope of work to mothball the house. The problem with the outbuildings is the amount of vegetation. It is hard to tell exactly what you have with each of those outbuildings until you get the vegetation out of there.

Chairman Ealy – It is so overgrown. It is very inaccessible. It is extremely overgrown. Are there any other comments?

Vice Chairman Gwaltney – I make a motion that we move forward with this process for demolition by neglect.

Ms. Hillegass – Second.

Chairman Ealy – A motion has been made and properly seconded. All those in favor signify by saying aye, opposed say nay.

On call for the vote, six members were present. Chairman Ealy voted aye, Vice Chairman Gwaltney voted aye, Ms. Hillegass voted aye, Mr. Hess voted aye, Mr. Yeaw voted aye, and Mr. Prevatte voted nay. There was one vote against the motion. The motion passed.

Chairman Ealy – Thank you sir. Next we have Approval of the November 17th, 2015 Meeting Minutes.

Town Attorney – Mr. Chairman, I reviewed the minutes and recommend they be approved as presented.

Ms. Hillegass – So moved.

Mr. Yeaw – Second.

Chairman Ealy – A motion has been made and properly seconded. All those in favor signify by saying aye, opposed say nay.

On call for the vote, six members were present. Chairman Ealy voted aye, Vice Chairman Gwaltney voted aye, Ms. Hillegass voted aye, Mr. Hess voted aye, Mr. Yeaw voted aye, and Mr. Prevatte voted aye. There were no votes against the motion. The motion passed.

Chairman Ealy – Is there any other business? We are adjourned.

The meeting adjourned at 6:48 p.m.

Roger Ealy
Chairman

Mr. William G. Saunders IV
Planning and Zoning Administrator