

COUNTY OF YORK

MEMORANDUM

DATE: April 29, 2013 (PC Mtg. 5/8/13)

TO: York County Planning Commission

FROM: J. Mark Carter, Assistant County Administrator 

SUBJECT: Application No. ST-20-13, York County Board of Supervisors

ISSUE

This application, sponsored by the Board of Supervisors, involves consideration of an amendment to the Subdivision Ordinance (Chapter 20.5, York County Code) that would eliminate the requirement for dedication of property to correct a right-of-way width deficiency identified in conjunction with the processing and approval of a Boundary Line Adjustment Plat.

CONSIDERATIONS

1. Section 20.5-93 of the Subdivision Ordinance requires a property owner proposing a “subdivision” to dedicate $\frac{1}{2}$ of the right-of-way deficiency for any street abutting the subject property. For example, if the existing right-of-way is 30 feet wide, rather than the standard 50 feet (i.e., 20 feet deficient), a 10-foot dedication would be required. Boundary Line Adjustments, which merely relocate the common property line(s) between two or more existing parcels (but do not create any new lots), are also considered to be “subdivisions” per the terms of Section 20.5-14 of the Subdivision Ordinance and, therefore, are subject to the requirements of Section 20.5-93.
2. In the case of a proposed subdivision where additional lots are being created, the right-of-way dedication requirement helps to ensure that property likely to contribute additional traffic to an adjoining roadway (i.e., additional lots = additional building opportunities) bears some responsibility for helping to facilitate any widening of the road that might become necessary in the future as a result of increased traffic. Depending on the size of the proposed subdivision and the potential increase in traffic that is directly attributable to the subdivision, dedication of right-of-way and construction of road improvements might actually be required in some situations. The requirement for dedication when additional lots are being created is not proposed to be changed.
3. In the case of a boundary line adjustment (BLA) no additional lots are being created so, theoretically, the BLA will not change the status quo in terms of development

potential. However, Boundary Line Adjustments sometimes facilitate new development where it would not otherwise be possible. For example, a BLA might allow the area of a lot that is too small to be developed to be increased to a size that would accommodate a new structure and associated setbacks while decreasing the size of an overly large companion property – making both instead of just one developable. As such, there is potential for an increase in traffic volume over that which could be expected with an existing lot line configuration. However, there would be no “increase” and, more importantly, the terms of the Zoning Ordinance would still require that building setbacks be measured from a “reserve” line that reflects the future right-of-way line location if the “deficiency” were ever to be acquired through purchase or other proceedings.

4. This issue was brought to the Board’s attention by a land surveyor working for a client who owns undeveloped property that is encroached on by the eave of the house on the adjoining property. The two property owners have agreed on a slight relocation of the property line to eliminate the encroachment; however, under current Ordinance requirements, the BLA triggers the deficient right-of-way dedication requirement and the owner of the developed property has objected to having to do so.
5. The draft amendment sponsored for consideration by the Board would eliminate the right-of-way deficiency dedication requirement for all properties involved in a boundary line adjustment proposal. However, as an alternative, and in recognition of the fact that a boundary line adjustment may facilitate development of a vacant parcel – thus adding roadway traffic that does not currently exist – staff suggests that the amendment be structured so that the dedication requirement be eliminated only for developed parcels/lots. This would continue to support the premise of the current requirement – i.e., that new development bears a responsibility for sharing in the facilitation of future road improvements – while protecting the owner of a developed parcel from the dedication requirement. This alternate proposal is contained in proposed Resolution No. PC-13-9A.

RECOMMENDATION

There is a well-established linkage between the need for additional right-of-way and a “subdivision” that has potential to increase the volume of traffic from the levels associated with existing conditions. However, in the case of a Boundary Line Adjustment, it can reasonably be argued that no such increase will be attributable to any currently developed lot or parcel involved in the BLA proposal. Accordingly, exempting at least the already developed parcel from the requirement to dedicate ½ of any deficiency seems to be a reasonable and appropriate proposal. However, future development of an undeveloped lot or lots will add traffic volume to the deficient right-of-way just as would newly created lots. Therefore, staff recommends that the right-of-way deficiency dedication requirement continue to apply to any undeveloped lot/parcel

involved in a Boundary Line Adjustment proposal which has frontage on a width-deficient right-of-way. This alternative proposal is shown in proposed Resolution No. PC-13-9A. Endorsement of the Alternate version is recommended.

Carter/3337

Attachments

- Proposed Resolution No. PC-13-9 (Draft as sponsored by BOS)
- Proposed Resolution No. PC-13-9A (Alternate language recommended by staff)

PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2013:

Present

Vote

Richard M. Myer, Jr., Chair
Mark B. Suiter, Vice Chair
Alexander T. Hamilton
Christopher A. Abel
Timothy D. McCulloch
Todd H. Mathes
Melissa S. Magowan

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ST-20-13 TO AMEND SECTION 20.5-93 OF THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE) PERTAINING TO BOUNDARY LINE ADJUSTMENTS

WHEREAS, Application No. ST-20-13 has been sponsored by the Board of Supervisors to allow consideration of amendments to eliminate the deficient right-of-way dedication requirement that applies to properties involved in Boundary Line Adjustment proposals; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2013, that Application No. ST-20-13 be, and it

is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Subdivision Ordinance (Chapter 20.5, York County Code) to incorporate the following amendments:

Amend section 20.5-93 as follows:

Sec. 20.5-93. Rights-of-way.

All subdivisions, with the exception of boundary line adjustments which merely relocate a boundary line without an increase in the number of lots, shall be subject to the following requirements:

- (a) Where a subdivision abuts an existing public right-of-way which has a width deficiency created either because it is less than fifty feet (50') in width or because adopted plans show that a greater width will be necessary to accommodate those plans, the subdivider shall be required to dedicate additional rights-of-way as follows:
 - (1) Where the subdivision abuts one (1) side of the right-of-way, the subdivider shall dedicate one-half (1/2) of the right-of-way deficiency along the frontage of the subdivision.
 - (2) Where the subdivision abuts both sides of the right-of-way, the subdivider shall dedicate all of the right-of-way deficiency along the frontages of the subdivision.
- (b) Where the subdivision embraces any part of an arterial or collector street or thoroughfare shown on an approved Comprehensive Plan, official map, or state or regional transportation plan, such street or thoroughfare shall be platted for dedication in the location and width indicated on such plan or map or as deemed necessary by the Virginia Department of Transportation (VDOT) and, except in the case of a limited or controlled access facility, shall be constructed and integrated as a part of the subdivision.
- (c) The minimum right-of-way width shall be fifty (50) feet, or such greater width as may be specified by the Virginia Department of Transportation.

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Amend section 20.5-93 as follows:

Sec. 20.5-93. Rights-of-way.

Except as noted below, all subdivisions shall be subject to the following requirements:

- (a) Where a subdivision abuts an existing public right-of-way which has a width deficiency created either because it is less than fifty feet (50') in width or because adopted plans show that a greater width will be necessary to accommodate those plans, the subdivider shall be required to dedicate additional rights-of-way as follows:
- (1) Where the subdivision abuts one (1) side of the right-of-way, the subdivider shall dedicate one-half (1/2) of the right-of-way deficiency along the frontage of the subdivision.
 - (2) Where the subdivision abuts both sides of the right-of-way, the subdivider shall dedicate all of the right-of-way deficiency along the frontages of the subdivision.

The requirements of this subsection shall not apply to any developed lot/parcel that is included in a boundary line adjustment proposal

- (b) Where the subdivision embraces any part of an arterial or collector street or thoroughfare shown on an approved Comprehensive Plan, official map, or state or regional transportation plan, such street or thoroughfare shall be platted for dedication in the location and width indicated on such plan or map or as deemed necessary by the Virginia Department of Transportation (VDOT) and, except in the case of a limited or controlled access facility, shall be constructed and integrated as a part of the subdivision.

The requirements of this subsection shall not apply to boundary line adjustments.

- (c) The minimum right-of-way width shall be fifty (50) feet, or such greater width as may be specified by the Virginia Department of Transportation.
