

NEW BERN BOARD OF ADJUSTMENT MINUTES

April 28, 2008

The New Bern Board of Adjustment held a regular meeting on Monday, April 28, 2008 at 6:30 p.m. in the City Hall Courtroom, 300 Pollock Street.

Members present: Mr. Dean Knight, Chairman
Mr. Harry Gormley
Mr. Jerry Walker
Mr. John Reichenbach
Mr. James Bland
Mr. Edward Risty
Mrs. Doris Foy
Mr. Richard Scoppe
Mr. John Simmons
Mrs. Alfreda Kinsey

Members Excused: Mr. Gerald Stallings
Mr. Thomas Hardin
Mr. Dennis Sibole

Members Absent: None

Staff present: Mr. Bernard George, Land and Community Development Coordinator
Mr. Greg McCoy, Zoning Enforcement Officer
Mrs. Lorraine DiBella, Administrative Assistant
Lt Ronnie Lovick, Police Department

Minutes: Reading of the minutes from the regular meeting of March 31, 2008 was waived by unanimous consent and approved with motion by Mr. Simmons, second by Mr. Reichenbach and unanimous vote of the Board.

A prayer for guidance was given by Mrs. Kinsey. Several witnesses were sworn. Chairman Knight said he is exercising the prerogative of the Chair to change the order of the agenda so that Item B is heard first.

Chairman Knight asked if any board member had a conflict with any agenda item. Mrs. Kinsey stated she is conflicted on the matter of the Franklin Avenue variance. Motion was made by Mr. Gormley, with second by Mr. Risty and unanimous vote of the Board, to excuse Mrs. Kinsey from participation in the hearing of the variance application.

New Business:

(B) Consideration of a variance application for relief of 1.5' from the minimum 25' front yard setback at 617 Franklin Avenue

Staff, Mr. McCoy, presented the application and stated the variance is requested by John and Melinda Bender for relief of 1.5' from the required 25' front yard building setback at 617 Franklin Avenue. The lot has an old sewer line inside the property line and its irregular shape has created a small building envelope to construct a house. An error in laying out the foundation inadvertently created a 1.5' encroachment. The newly constructed home is consistent in size and design with several of the homes in the area that were built prior to 1950. Staff has not received any calls in opposition to the variance request. Staff has no objection to the request due to the unusual configuration of the lot. In addition, many homes in the immediate area are similar to the subject site in design and setback.

Applicant Comments: Mr. Benders spoke briefly, reiterating what Mr. McCoy stated, adding he believes that neighborhood children may have moved the corner flag which caused the error in the layout of the building. He presented photographs of the house and the encroached area. He presented a copy of the deed of easement from the City Engineer (on the sewer line).

In response to questions from Chairman Knight, Mr. Bender said he would suffer undue hardship if required to remodel the home in order to meet the required building setbacks. He stated that he does not believe the variance will have a negative impact on his neighbors and that the house adds value to the neighborhood. He further stated that he believes the variance will honor the spirit of the Land Use Ordinance and would not create an encroachment on any utility.

Public Comments: Carol Massey, 2109 Center Avenue, stated she is a neighbor to the applicant and his house is an improvement to the neighborhood.

Board Discussion: None

Motion by Mr. Gormley there are practical difficulties or unnecessary hardships in requiring the applicant to comply with the literal terms of the ordinance. Second by Mr. Bland and unanimous vote of Board.

The motion carried.

Motion by Mr. Risty that the variance is in harmony with the general purpose and intent of the ordinance and will preserve its spirit. Second by Mrs. Foy and unanimous vote of Board.

The motion carried.

Motion by Mr. Risty, second by Mr. Simmons and unanimous vote of the Board that, if granted, the variance will secure the public safety and welfare and will do substantial justice.

The motion carried.

Motion by Mr. Bland, second by Mr. Simmons and unanimous vote of the Board, to issue a variance for relief of 1.5' from the minimum 25' front yard setback at 617 Franklin Avenue.

Motion by Mr. Reichenbach, second by Mr. Gormley and unanimous vote of the Board, to reinstate Mrs. Kinsey for participation in future agenda items.

(A) Consideration of special use permit request to construct seven multi-family buildings consisting of 76 units on a 7.38 acre tract located on Trent Road near the intersection

of Lowes Boulevard.

Staff, Mr. George, introduced the application and said a special use permit is required because the subject property is more than two acres and the plan is for more than five multi-family units. The applicant, River Square, LLC, seeks to construct ten multi-family buildings consisting of 76 units with a clubhouse on the 7.38 acre development on Trent Road near the intersection of Lowes Boulevard. The proposed project went before the City's Departmental Review Committee on April 13, 2008. Avolis Engineering, the firm representing the owner, submitted revised plans reflecting the comments made by the City's Departmental Review Committee.

Board Discussion: Discussion arose from Chairman Knight and other members' concerns that the application was not complete due to the absence of elevation drawings for the Board's examination.

Mr. Bland held that due to the large citizen turn out (approximately 30), the public hearing should proceed.

Mr. Walker and Mr. Reichenbach agreed.

Mr. Risty stated that it would not be prudent for the Board to make a decision without elevation drawings.

Mr. George stated that the (1) the Board is within its right to table an item for lack of adequate information and (2) a notice by letter and by posting would be repeated for a hearing to be held at the next regular meeting on May 19th if the applicant can provide elevations by that time.

Mr. Simmons moved to table the application to a subsequent meeting.

Mr. Risty seconded and the Board voted unanimously in favor.

Applicant Comments: Mr. Matt Raab of Wynnefield Properties apologized for the lack of elevation drawings and stated they are not complete with their architectural plans but they will provide conceptual plans for City staff right away.

Chairman Knight thanked the public for their participation in the process. He apologized that the agenda item would have to be delayed. The attendees were advised that the hearing on the matter would proceed on May 19 and each adjacent property owner would receive a letter to confirm the new date.

Adjacent property owner Mrs. Lula C. Price gave the secretary a different address than listed on the tax records, stating she no longer lives at the address of record nor collects her mail there.

There was no further business and the meeting adjourned.

Chairman Dean Knight

Bernard George, Secretary