

NEW BERN BOARD OF ADJUSTMENT MINUTES

November 26, 2007

The New Bern Board of Adjustment held a regular meeting on Monday, November 26, 2007 at 6:30 p.m. in the City Hall Courtroom, 300 Pollock Street.

Members present: Mr. Dean Knight, Chair
Mr. Edward Risty
Mr. Gerald Stallings
Mr. Thomas Hardin
Mrs. Alfreda Kinsey
Mr. John Simmons
Mr. Dennis Sibole
Mr. John Reichenbach
Mr. Richard Scoppe
Mr. Jerry Walker

Members Excused: Mr. James Bland
Mr. Harry Gormley
Mrs. Doris Foy

Members Absent: None

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

Minutes: Reading of the minutes from the regular meeting of October 29, 2007 was waived by unanimous consent and approved with motion by Mr. Reichenbach, second by Mr. Sibole and unanimous vote of the Board.

A prayer for guidance was given by Mrs. Kinsey. Numerous witnesses were sworn.

New Business:

- A. Consideration of special use permit request to construct thirteen multi family buildings on a 19.078 acre tract near the intersection of S. Glenburnie and Elizabeth Avenue (portion of Fox Chase Mobile Home Park near Elizabeth Avenue).**

Staff, Mr. George, presented the request to the Board stating that Section 15-146 of the Land Use Ordinance requires projects in developments that exceed two acres and/or multifamily units consisting of five or more units to obtain a Special Use Permit. There are 13 buildings with 24 units each planned on 19.078 acres. On October 11, 2007, the Departmental Site Plan Review Committee reviewed and approved plans for the proposed apartment development. Developer representatives met with area residents on November 12, 2007 to discuss the proposed project.

According to the developer, approximately five citizens attended the meeting and no one spoke in opposition to the project. Staff is not opposed to this Special Use request.

Applicant Comments: Mark Krouse, Blue Ridge Companies, stated this will be an upscale luxury apartment community planned on a site which was previously a mobile home park. This is the 21st such project his company has done. They still own and manage all the apartment complexes they have built. This project will be managed by on-site supervisors. He discussed the amenities including clubhouse, fitness center, 24 hour security, private movie room, garages and storage. The project will be developed in two phases, 192 units in phase one and 120 units in phase two.

Board Discussion: In reply to questions from the Board, Mr. Krouse detailed the ingress/egress plans. The main entrance is on Elizabeth Avenue. The second entrance is served by a signal light on South Glenburnie Road. These will be rental properties set up on a sophisticated internet based system. Mr. Krouse stated that most of the leases will be long term and the length of the terms will be scattered to avoid several occupants moving in and out at the same time. He expects a majority of the clients to be local people and military personnel. The rental rates was discussed with Mr. Krouse saying the ballpark figures are \$650/month for a one, \$850 for a two, and \$950 for a three bedroom units.

In response to Mr. Sibole, Mr. Krouse said there are no future plans for creating a back entrance. Two entrances are adequate, more secure and prevents cut-through situations, he said.

In response to Mr. Stallings, Mr. Krouse said all the amenities are included in the monthly rent with the exception of garages and storage units which are leased at an additional charge.

Mr. Reichenbach asked about the maintenance of the property. Mr. Krouse said they will probably sub out the landscaping. He said they usually have one maintenance person and one leasing agent per 100 units.

Mr. Krouse said the company's 15 year reputation is impeccable and he assured the listeners that this project will be done right and benefit the community.

Chairman Knight asked about the landscape plans. Mr. George stated staff wants approval of the request conditional upon staff reviewing and approving the landscape plan.

Public Comments: Alderman Joseph Mattingly stated this project is in his ward and he has no negative comments, only questions. It was noted that the name of the project was changed from The Reserve at Lawson Park to The Reserve at Glenburnie. Traffic, parking, deceleration lanes, and signage were discussed. Alderman Mattingly said many would say that this project is a great improvement and he is looking forward to potentially having another 600 voters. He asked when construction would begin. Mr. Krouse answered immediately after the permitting process or if barred by weather conditions, spring.

Alderman Mattingly said he will insist on the strictest covered load enforcement so that debris and dirt will not end up on the streets and cars.

Deborah Gelindo, stating she is a nearby resident, asked how the tenants will be qualified. Mr. Krouse said part of their system for qualifying tenants will include minimum income requirements, credit and criminal checks.

Upon conclusion of the discussion, the Board voted upon the findings of fact, on the matter of a Special Use Permit construct thirteen multi family buildings on a 19.078 acre tract near the intersection of S. Glenburnie and Elizabeth Avenue.

Staff Mr. George confirmed for the Board that the requested permit is within its jurisdiction according to the table of permissible uses. Motion in agreement was made by Mr. Reichenbach and second by Mr. Simmons.
Motion carried unanimously.

Staff Mr. George confirmed for the Board that the application is complete. Motion in agreement was made by Mr. Sibole and second by Mr. Scoppe.
Motion carried unanimously.

Motion by Mr. Sibole, seconded by Mr. Reichenbach, that if completed as proposed in the application and as presented tonight, the project will comply with all of the requirements of the ordinance.
Motion carried unanimously.

Motion by Mr. Sibole, seconded by Mr. Hardin, that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted.
Motion carried unanimously.

Motion by Mr. Risty, seconded by Mr. Simmons, that the use will not substantially reduce the value of adjoining or abutting property.
Motion carried unanimously.

Motion by Mr. Hardin, seconded by Mr. Reichenbach, that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City.
Motion carried unanimously.

Motion by Chairman Knight, seconded by Mr. Risty to grant the special use permit with the following condition: Landscaping plan must be reviewed and approved by Planning staff.
Motion carried unanimously.

B. Consideration of a request for variance for relief of the City Floodplain ordinance at 1017 N. Craven Street.

Staff, Mr. George, presented the request and said a variance is required because the proposed change in use of the property invokes the floodplain elevation regulations which would require that the building be raised. The building was formerly a laundry mat and is now being used for a church. City staff including Planner Annette Stone who administers historic properties and John

Clark, Chief Building Inspector and Floodplain Administrator, have determined that elevating the structure will destroy its historic significance.

Applicant Comments: Jerry Monnette, 4250 Wilcox Road, said the property was rented to an assembly but they have since moved out. He said it was actually the former owner, Mrs. Armond, who had seen to the majority of the improvements to the property including repairs, repainting and rewiring. He said he bought the property for sentimental reasons.

In response to question by Chairman Knight, Mr. Monnette said it is inhabitable space.

Mr. Risty noted that he is a neighbor to the property and said the applicant has done a beautiful job in the restoration.

Mr. Reichenbach asked is there is any use that would necessitate the elevating of the building. Mr. George answered no, the variance is based on the property being in the historic overlay, not the use being made of it.

Public Comments: none

Upon conclusion of the discussion, the Board voted upon the findings of fact, on the matter of relief of the City Floodplain ordinance at 1017 N. Craven Street.

Motion: Motion by Mr. Risty that the applicant has demonstrated that there are practical difficulties and unnecessary hardship if the variance is not granted. Mr. Walker seconded and the motion carried unanimously.

Motion by Mr. Risty that, if granted, the variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. Mr. Reichenbach seconded and the motion carried unanimously.

Motion by Mr. Risty that, if granted, the variance will secure the public safety and welfare and will do substantial justice. Mr. Simmons seconded and the motion carried unanimously.

Motion by Mr. Simmons to grant the variance on condition that the applicant submit a building elevation certificate to City Inspections. Brief discussion followed during which Mr. George explained that when a variance is issued, it along with an elevation certificate must become a part of the City's permanent files in order to meet FEMA requirements. Mr. Hardin seconded. Motion carried unanimously.

C. Consideration of a request for variance for relief from Section 15-78(e)(2)(b) of the subdivision ordinance for minor subdivision of a non-conforming property (created prior to 1953) at 508, 508A and 510 George Street.

Staff, Mr. George, introduced the application, stating that Peterson Partners, LLC is requesting a variance from Section 15-78(e)(2) of the Land Use Ordinance in order to subdivide a non-conforming lot containing three detached dwellings into three lots. The property previously held four units on it, to wit, two single family units and a duplex. Referring to the survey, he said the

site currently has three single family units which are under renovation. The ordinance requires a certain lot size as well as street frontage. This is not possible on a lot this small with the current configuration of structures. Staff has reviewed the request together with secretary to the Historic Preservation Commission, Fire and Inspections Departments and recommends approval with condition that easement be in place to offer unobstructed passage between the street and the proposed rear lots.

Chairman Knight asked about the setbacks, lot coverage and access. Mr. George stated the ordinance allows for relaxation of setbacks on non-conforming properties. The variance if granted would cover any non-conformities created by the property lines.

Applicant Comments: Mr. Jon Friesen, attorney representing the applicants, addressed the Board and testified that these lots were subdivided in 2002 by a prior owner and sold as individual residential properties in disregard of the subdivision ordinance. The structures were all built upon the property prior to 1953. Four separate residential units were located in the three structures. Peterson Partners, LLC purchased the lots from three separate owners in 2007.

The existing use of the structures is a non-conforming situation under the City of New Bern Ordinances. The applicant will improve the lots for individual residential use and sale by the following actions: (1) Reducing the number of living units from four to three; (2) Adding an easement for parking and access for lot 3 over and upon lot 2; and (3) Adding easements for the benefit of lots 1, 2 and 3 and upon lots 1, 2 and 3 for installation and maintenance of utilities and access.

Mr. Friesen discussed in detail the easement, how it will be a perpetual part of the deeds for the lots.

In response to Chairman Knight, Mr. Friesen said the easement would create a covenant between the owners and would designate a specific path for unobstructed passage. He gave a brief history of the lot and the structures. He addressed each finding of fact.

Chairman Knight complimented Mr. Friesen on his concise and succinct presentation.

Chairman Knight asked if staff needs to examine the easement. Mr. George stated staff would like to see the variance conditional upon the city attorney reviewing and approving the proposed easement.

Public Comments: Tracy Fritzsche, 620 New Street, stated she believes the work done on this property has been a great improvement and appreciates the city's accommodations.

Upon conclusion of the discussion, the Board voted upon the findings of fact, on the matter of a variance for relief from Section 15-78(e)(2)(b) of the subdivision ordinance for minor subdivision of a non-conforming property (created prior to 1953) at 508, 508A and 510 George Street.

Motion: Motion by Mr. Risty that the applicant has demonstrated that there are practical difficulties and unnecessary hardship if the variance is not granted. Mr. Reichenbach seconded

and the motion carried unanimously.

Motion by Mr. Sibole that, if granted, the variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. Mr. Hardin seconded and the motion carried unanimously.

Motion by Mr. Simons that, if granted, the variance will secure the public safety and welfare and will do substantial justice. Mr. Scoppe seconded and the motion carried unanimously.

Motion by Chairman Knight to grant the variance on condition that the access easement be reviewed and approved by the city attorney Scott Davis. Mr. Risty seconded and the motion carried unanimously.

There was no further business and the meeting adjourned.

Chairman Dean Knight

Bernard George, Secretary