

NEW BERN BOARD OF ADJUSTMENT MINUTES

May 23, 2011

The New Bern Board of Adjustment held a regular meeting on Monday, May 23, 2011 at 6:30 p.m. in the City Hall Courtroom, 2nd floor, 300 Pollock Street.

Members present: Mr. Dean Knight, Chairman
Mr. Edward Risty
Mr. Thomas Hardin
Mr. John Paul Andrews
Mrs. Renee Murphy
Mr. David Herndon
Mr. Starlin Beatty
Mr. Barry Evans
Mr. Jeffrey Midgette
Mrs. Beth Walker

Members Absent or Excused: Mr. Bill Franklin
Mr. Willie Newkirk, Jr.
Mr. John Reichenbach

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

A prayer for guidance was given by Mr. George. Mr. George introduced and welcomed new members Beth Walker, who replaces Gerald Stallings, Jeffrey Midgette, who replaces Harry Gormley, and Renee Murphy, who replaces Jerry Walker. The outgoing members were recognized and congratulated for their dedicated service.

Minutes: Reading of the minutes from the regular meeting of February 28, 2011 was waived by unanimous consent. Minutes were approved with motion by Mr. Risty, second by Mr. Hardin, and unanimous vote of the Board.

Roll call was taken and quorum declared. Witnesses were sworn.

New Business:

- A. Consideration of a special use permit application for construction of a 72-unit multi-family housing complex at 3530 and 3560 Dr. Martin Luther King, Jr. Blvd. (Ward 6)**

Greg McCoy, Zoning Enforcement Officer, described the application as a 72-unit multi-family

housing development on Dr. Martin Luther King, Jr. Blvd. It is a tax credit project and a special use permit is required because it is a multi-family complex containing five or more units on a lot exceeding 2 acres in size. In addition, a special use permit is required because buildings in the proposed development exceed 35 feet in height.

Chairman Knight asked Mr. McCoy to testify to two of the required findings of fact. He asked whether this application falls within the jurisdiction of this board and whether the application is complete. Mr. McCoy answered yes in both instances.

Applicant Comments: Billy and Regan Ramsey, 1177 N. Blount St, Raleigh, NC, described the project, stating they made initial application to the NC Housing Agency in January and the final application is pending the outcome of this hearing. Their company owns and manages 40 such properties in NC. There will be one, two and three bedroom units; they expect their tenants to be primarily young working families with children. They presented color drawings of the project. The amenities, landscaping, and management plan were discussed.

Board Comments: Chairman Knight asked the number of buildings planned (three plus a combination clubhouse/office unit). He asked if the landscaping plan was approved (yes, as far as they know). Mrs. Murphy asked what accommodations are being made weather-wise and safety-wise for children who will be outside waiting for their school buses. Mr. Ramsey answered there is a covered picnic area the children can use; it is right outside the office of the full-time manager. The streets are designed to accommodate the trash trucks and he is confident the school buses will also fit.

Chairman Knight asked the applicants to testify whether their project would materially endanger the public health or safety; whether it would substantially reduce the value of adjoining or abutting property; and whether the plans are in harmony with the area neighborhood. Billy and Regan Ramsey testified they do not believe this housing complex will materially endanger the public health and safety nor substantially reduce the value of adjoining properties. They testified they believe the plans to be in harmony with the surrounding neighborhood.

Mr. Herndon asked questions concerning the building heights and zoning. Mr. George stated the zoning is I-1 (Light Industrial) and the maximum building height is 35 feet.

Mr. Andrews asked if NCDOT has jurisdiction here. Mr. George said yes, the developer will need a driveway permit from NCDOT. Mrs. Ramsey stated they will apply for a driveway permit and will probably need an approved road name as well. Chairman Knight asked if the NCDOT permit would include the dedication of a turn lane. Mr. Ramsey answered a dedicated lane already exists off the service road.

Public Comments: John R. Brittle, 3605 Elveden Road, resides at a property adjoining the rear of the site. He believes multi-family housing attracts a transient population. He said the area was traditionally commercial and there was a lot of foot traffic through his property. He asked that at a minimum a fence or a substantial vegetative buffer be added to the plan.

Oscar Whitehurst, 3613 Elveden Road, stated he has lived at the adjoining property thirty years and he shares Mr. Brittle's concerns. Additionally, he believes this project will harm his property values; he testified his neighbors share his concerns.

The public hearing was closed. Chairman Knight asked Mr. Ramsey to reply to the public comments.

Mr. Ramsey stated he does understand the neighbors' concerns. They intend on installing both fencing and a row of shrubbery along the back line (along the old railroad track). The developer believes that having residents as opposed to businesses will put "more eyes" on the area, discourage trespassing and make the neighborhoods safer. Mr. Ramsey gave other assurances including management by a full time, on-site manager, the thorough screening of tenants (criminal & credit application), and lighting. He said his company is committed to working closely with the adjoining property owners to make this the best possible transition.

In response to questions, Mr. Ramsey said the height and materials of the fence are all things they would work out with the City and neighbors. The maintenance fence will be placed on the inside to give the neighbors the best view.

Mr. Risty asked if this is the maximum buffer that will create minimal impact on the neighbors to the rear. Mr. George said yes. Mr. Ramsey affirmed this is their intent.

Mr. Herndon asked about the walking trail. Mr. Ramsey said the NC Housing Finance Agency scores sites based on usability and have asked that they install a sidewalk to facilitate pedestrian traffic.

Mr. Andrews asked the applicant to describe the "multi-purpose lawn". Mr. Ramsey answered it is common area for picnics and group meetings.

Mr. Evans expressed concerns for pedestrian traffic cutting through to get to the bowling alley. Mr. Ramsey answered they are prepared to address this with progressive security measures as it becomes necessary.

Mr. Hardin asked that the applicant describe the screening process and qualifications of the tenants. Mr. Ramsey discussed the qualifications as set forth by the NC Housing Finance Agency (income based); it is workforce housing with costs ranging between \$475 and \$850/month.

Motion by Mr. Risty, second by Mr. Beatty, 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, second by Mr. Evans, that the use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity. Motion carried unanimously.

Motion by Mr. Risty, second by Mr. Hardin, 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 Mr. Risty, second by Mr. Evans, that iff completed as proposed in the application, the development will comply with all the requirements of this ordinance and is consistent with all of the City's development plans. Motion carried unanimously.

Motion by Mr. Beatty, second by Mr. Andrews, and unanimous vote of the Board to grant the special use permit, subject to the following conditions:

B. Consideration of a special use permit application to operate a day care center at 2807 Aycock Avenue. (Ward 2)

Mr. George described the application, saying a request is made by Latisha Garfield to convert and renovate a residence (belonging to her grandmother) into a neighborhood childcare facility. The plans were reviewed by the City's Department Review Committee on May 12, 2011. Inspections have been made of the property by City staff including fire and building inspections. Renovations and the accompanying building permits will be required. The property is in the R-6 Residential District in the Pembroke Community. Overhead plats of the site plan and floor plan were examined and discussed. The applicant will have to secure a state-issued childcare permit administered through the Craven County Health Department.

Chairman Knight asked Mr. George to testify to two of the required findings of fact. He asked whether this application falls within the jurisdiction of this board and whether the application is complete. Mr. George answered yes in both instances.

Mr. Andrews asked about other childcare homes in the vicinity. Mr. George answered there is a small one across the street that has 6 or less children. More than 5 children (childcare center) in a residential zone require a special use permit. Mr. Evans asked if "six weeks to twelve years of age" is typical of these services. Mr. George answered yes but the applicant could elaborate. Childcare centers operate differently, different hours, different age groups, but all are licensed by the same state agency.

Mrs. Walker asked concerning parking. It was noted parking will be in the rear of the building.

Mrs. Murphy asked if traffic to the center will be a distraction in the neighborhood. Mr. George answered the house is at the end of the street where there is only one other home and little traffic is there now.

Applicant Comments: Latisha Garfield described the childcare center in great detail stating she will provide care for children 6 weeks to 5 years of age. Operating hours are 6 am to 6 pm with nutritious meals provided. Children will be provided outdoor activities, rest periods,

individual age-appropriate activities and transportation. A 4 foot plastic fence in the front yard will remain but children will not be allowed in the front yard. The children's playground will be in the backyard where a 6 foot back fence, required by the state, will be installed. Ms. Garfield will be making no exterior changes to the house, only interior renovations. Ms. Garfield stated she has 20 years' experience in this field. She has owned and operated a childcare center in New Bern for 9 years and has trained daycare workers for 3 years.

In response to questions, Mrs. Garfield answered the home will be converted entirely to the childcare center and not used as a residence; renovations will be necessary. There will be four employees and she. There is very little traffic in the area and since transportation is a service they supply, traffic should not increase substantially. She will apply to the state to keep 20 children. Building and fire inspectors have made initial visits and have given their initial go-ahead.

Board Comments: Mr. Andrews asked about the uses in the surrounding properties and whether buffering will be installed. Ms. Garfield stated there is a residence in the back, an abandoned house next door, and another daycare facility across the street. She intends to add a privacy fence in the back as well as shrubs and trees on both sides of the fence.

Chairman Knight asked Ms. Garfield if she has an opinion on how this childcare center will affect area property values. Ms. Garfield testified she will be making improvements to the subject property that should increase property values. Regarding the character of the neighborhood, Ms. Garfield testified she is making no exterior changes to the house, only interior renovations and is providing a service that the area working families need. Board members asked about the size of the playground, the type of foundation the home sits on, proposed signage, and security concerns. It was noted there is an active community watch in the area.

Chairman Knight asked for staff's recommendation. Mr. George replied that staff supports the request; childcare facilities are allowed in all zoning districts and are encouraged in residential zones.

Public Comments: James and Jennie Franks, 3109 Monroe Drive, stated they live next door to another daycare facility that Ms. Garfield owns/operates. Mrs. Franks has worked years in social services and knows the daycare business. She and Mr. Franks have observed that Ms. Garfield interacts well with the children and provides them lots of extra activities (i.e., Easter egg hunts, sprinklers in hot weather). The children she keeps are well-mannered and her properties are well-kept. There are lots of toys and they have observed the children are happy to arrive when they're dropped off (as opposed to kicking and screaming). They don't see non-clients coming and going from the premises. The Franks stated if they had grandchildren, they would have no reservation about taking them to Ms. Garfield's daycare facility.

There were no other public comments; the public hearing was closed.

Motion by Mr. Risty, second by Mr. Beatty, that the requested permit is within the Board of Adjustment's jurisdiction according to the table of permissible uses, and the application is

complete.

Motion carried unanimously.

Motion by Mr. Evans, second by Mr. Andrews, 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. Andrews, second by Mr. Beatty, that the use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity.

Motion carried unanimously.

Motion by Mr. Risty, second by Mr. Hardin, 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 Mr. Risty, second by Mr. Evans, that iff completed as proposed in the application, the development will comply with all the requirements of this ordinance.

Motion carried unanimously.

Motion by Mr. Risty, second by Mr. Andrews, and unanimous vote of the Board to grant the special use permit, subject to the following conditions:

Condition: The property site plan including the parking and planting plans must be revised, consistent with childcare regulations, and approved by the City Zoning Administrator prior to the issuance of a building permit.

There was no further business and the meeting adjourned.

Dean Knight, Chairman

Bernard George, Secretary