



Members:

George Quigley, Chair
Oscar L. Davis, III, Vice-Chair
Steve Parsons
Melree Hubbard Tart
Joseph Dykes
John Swanson

Alternates:

Martin J. Locklear
Horace Humphrey
Carrie Tyson-Autry
William Lockett Tally

Cumberland County Board of Adjustment

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

MINUTES
SEPTEMBER 17, 2009
7:00 P.M.

Members Present

George Quigley, Chair
John Swanson, Vice-Chair
Steve Parsons
Horace Humphrey
Martin Locklear

Absent Members

Joseph Dykes
Melree Hubbard Tart
Oscar L. Davis, III

Staff/Others Present

Patricia Speicher
Pier Varner
Angela Perrier
Laverne Howard

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse.

1. Ms. Speicher swore in Mr. Swanson as a permanent regular board member.
2. ROLL CALL

Mrs. Varner called the roll and a quorum was present. Mr. Dykes, Mrs. Tart, and Mr. Davis all excused.

3. APPROVAL OF THE AUGUST 20, 2009 MINUTES

Mr. Humphrey asked that a correction be made to show that he should not have been listed as absent on the minutes.

A motion was made by Mr. Locklear and seconded by Vice-Chair Swanson approving the minutes with the correction that all alternate members be removed from the absent members list. The motion passed unanimously.

4. ABSTENTIONS BY BOARD MEMBERS

There were no abstentions by Board Members

5. PUBLIC HEARING DEFERRALS

There were no deferrals.

6. BOARD MEMBER DISCLOSURE

There were no Board Member disclosures

7. POLICY STATEMENTS REGARDING APPEAL PROCESS READ

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

8. BOARD HEARING(S)

Opened Public Hearing

- **P09-07-C:** CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN A R10 RESIDENTIAL DISTRICT ON 5.90+/- ACRES, LOCATED AT 1620 LILLINGTON HWY (NC HWY 210), SUBMITTED BY DEBORAH CORAM ON BEHALF OF AND OWNED BY UNITED PENTECOSTAL CHURCH OF SPRING LAKE.

Mrs. Varner presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: Noted that the subject property had an additional lot; Lot #2 is adjacent to the religious worship facility and the family life center and belongs to John Sticht. (Showed location of house)

CHAIR QUIGLEY: Is that house occupied by a family?

MRS. VARNER: Yes it is being rented right now. John Sticht has passed away and his daughter is the new owner, Patricia Sticht.

MS. SPEICHER: For the record, this information was told to Mrs. Varner by a third party, it's nothing we have verified or documented.

CHAIR QUIGLEY: So we don't know who has title to the property.

MS. SPEICHER: That is what she was told, but we did not do a title search.

MR. SWANSON: Is Lot #2 included in the 5.90 acres?

MRS. VARNER: No sir.

MR. SWANSON: What is the size of Lot #2?

MRS. VARNER: Lot #2 is 0.39 acres.

MR. LOCLEAR: The house on Lot #2, have there been any phone calls or objections from those property owners?

MRS. VARNER: No sir.

MR. LOCKLEAR: Is that house associated in any way with the church or the other facility?

MRS. VARNER: Not that I know of.

MR. LOCKLEAR: Right now the church and the family life center is functioning on a regular septic tank and does not have public sewer, is that the case?

MRS. VARNER: Yes, they have a septic system, and by the Health Department comments the applicant will probably be required to have an inspection. Because they are adding in a total of 75 children plus 11 employees.

MR. LOCKLEAR: Is there public sewer available?

MRS. VARNER: Not that I know.

MS. SPEICHER: Yes there is public sewer available, however, Cumberland County does not require new connections unless new structure or new utilities are being proposed, but in this case the buildings are existing.

MR. LOCLEAR: If you look at the lower half of the parking area on the site plan, there is a driveway on top, but when I pulled this up today and was looking at it there is another driveway that sits in front of that family life center. Is there any reason why that wasn't shown? I see the 20' easement that runs back to the house, but I think the actual driveway sits in front of that family life center and then directly in front of the family life center there are some parking spaces there, that I don't know how you would get to them unless you drove through the other parking spaces because there's no drive aisle to get to them, are those parking spaces?

MS. SPEICHER: Mr. Locklear the religious worship facility has an easement with the Lot #2 property owners for crossing and using the existing driveway.

MR. LOCKLEAR: Is this the official site plan?

MRS. VARNER: Yes sir.

MS. SPEICHER: Regarding the driveways, Department of Transportation (DOT) requires a new driveway permit, which is condition #14 on the ordinance related conditions sheet.

MR. LOCKLEAR: I still think you need to amend your site plan because right there you have a driveway, that's not your driveway right there, that's where the easement is but your driveway is right there (indicating on site plan).

MR. SWANSON: In the request it says "facility in a R10 Residential district", but I'm looking at the Zoning Ordinance for Cumberland County and I'm specifically looking at the table of contents, I don't see an R10 zoning.

MS. PERRIER: It's changed to R7.5

MR. SWANSON: So all the requirements regarding nonconforming zoning violations would be not in regard to R10 zoning but it would be in regard to R7.5 zoning.

MRS. VARNER: Yes sir.

MS. SPEICHER: On page 33 of your ordinance section 309 subsection d, you will see where R10 Residential was made a corresponding district to R7.5.

MR. LOCKLEAR: Are there any buffer requirements for the parking area in your ordinance?

MRS. VARNER: Yes sir. We have a buffer requirement, section 1102.G and it is mentioned in the conditions that the applicant has to show a buffer. Any non-residential use must put a buffer when abutting a residential zoning district.

MS. SPEICHER: We do not in Cumberland County require buffering around parking lots like Harnett County does. When buffers are required, Code Enforcement will not issue final permits until buffers are in place.

MR. LOCKLEAR: Do you know where the right-of-way is along Hwy 210, does it come all the way into that parking lot? Could you buffer the front part of that parking lot?

MR. PARSONS: We don't buffer parking lots, we buffer residential properties.

MR. LOCKLEAR: I realize that, but you can buffer parking lots for aesthetics. You may not care about aesthetics, but that's why you buffer. I'm sorry I'll change buffer to streetscape, does that sound better for you?

MR. PARSONS: I think we are a little out of scope here.

MS. SPEICHER: Mr. Locklear, if you're talking in regard to landscaping, landscaping standards only apply when the structures were pre-existing to the landscaping standards being adopted, the new standard only applies to any new construction, which is why we do not have or show any landscaping on a site plan because the ordinance doesn't require it.

CHAIR QUIGLEY: Monica Matthewson please come to the podium. (Swore in Ms. Matthewson)

CHAIR QUIGLEY: Are you located (live) anywhere in proximity to the property?

MS. MATTHEWSON: I am approximately 2 miles away.

CHAIR QUIGLEY: What is your statement in support of this Special Use Permit?

MS. MATTHEWSON: First I would like to note that the parking is proposed, it is not paved its still grass. We do not use it as parking right now. That's probably why there was some confusion with that. That is something we plan on doing in the future, once we grow. I really don't have much to say unless there are questions regarding the facility.

MR. LOCKLEAR: You've got a drop off area proposed, I read the ordinance today and a drop off area is required, you don't have a drop off area for the family life center for the kids and so I'm thinking the cars staging and going into the parking lot would be all the kids transferred down to the other drop off area or would you propose to put a drop off area in front of the family life center also?

MS. MATTHEWSON: Actually, all of the kids will be dropped off at the same drop off area and escorted by the supervising teachers to the family life center.

MR. LOCKLEAR: How are you going to handle the traffic coming in? Right now this place is used as a church, which is probably used Wednesday and Sunday. We will start going Monday through Friday and so the people that live in this house will start seeing at the very least 75 cars at the max on a daily basis come in at 8:00 am maybe leave again at 5:00 pm. How do you anticipate staging that traffic? I realize they will have to get DOT permits and DOT may require turning lanes and all those fun things, but once they get onto the property how exactly will you facilitate that traffic at that point?

MS. MATTHEWSON: We will probably ask and require that most parking take place down towards the actual church and not the family life center for that reason. We don't want that much traffic up there because of the children.

MR. LOCKLEAR: Would you object to creating a one way traffic situation where you come in one side and egress out the other side? Maybe add some signage to make that happen.

MS. MATTHEWSON: I would not object. That would probably make our job a lot easier.

MR. LOCKLEAR: I see a lot of daycares and that tends to be the biggest question. The other thing I noticed is that on your parking lot area, this is real typical for schools and daycares, creating a barrier between where you are actually dropping the kids off and your actual building, wheel stops, some people refer to them as the concrete blocks that you have out there, I know you have some on the church side, but you have very few if any on the family center side. Would you have any problem if we required you to get a few of those to put in place?

MS. MATTHEWSON: If there's no parking near the family life center would that be required?

MR. LOCKLEAR: Even if you didn't have what you said is really not parking, you would have your first row of parking, and I don't think you really have anything there. Let's just say grandma comes and drops off the kids throws it in reverse and blows through and runs over four or five of them. That's why you would need them there. Would you have any objection to having a few more?

MS. MATTHEWSON: I don't see where that would be an issue, how many more are you talking about?

MR. LOCKLEAR: Just however many parking spaces you have that along the building. It wouldn't be that many.

MS. MATTHEWSON: That shouldn't be a problem.

MR. LOCKLEAR: Are you guys going to hook onto public sewer or are you going to try and keep the septic tank that you have in place, or do you know.

MS. MATTHEWSON: I'm not sure, I would assume that we are going try and keep what we have in place.

MRS. VARNER: The loading and unloading spaces are part of the pre-zoning building permits, and we are putting that on the conditions that they need to go through a revised site plan and

show their spaces, loading and unloading. No handicap space can be used for loading and unloading.

MR. SWANSON: Do you have any information, pro or con, if the proposed Special Use Permit that you are requesting will have any impact on the subject property or adjoining properties? Will it make property values go up will it make it go down?

MS. MATTHEWSON: I don't think it will really change anything, as far as lot #2 we are currently in the process of trying to purchase that. That will make our property go up, but other than that I don't see where it will effect anything across the street, because we really aren't adding anything to what we already have.

MR. SWANSON: This may not be a fair question, but do you know if the church consulted any real estate professionals who have expertise in rendering those types of opinions.

MS. MATTHEWSON: As far as the values, no.

MR. SWANSON: To the best of your knowledge, what is the closest daycare to this one?

MS. MATTHEWSON: To the best of my knowledge, the closest one is probably about 3 miles down, towards Spring Lake, on the opposite side of the road.

MR. SWANSON: Can you just kind of generally describe the property to the north, south, and across the street.

MS. MATTHEWSON: To the right of the building, I guess that would be the north, is just woods, natural habitat. Across the street there is a newly built apartment complex, and to the left side more natural habitat and I believe a house or two, but there is a barrier there and behind is also natural habitat.

MR. SWANSON: Maybe an unfair question, but are any of the residents in the apartments across the street, are they members of the church as far as you know?

MS. MATTHEWSON: No sir.

MR. PARSONS: What times of day do you anticipate having the bulk of your traffic?

MS. MATTHEWSON: The bulk of my traffic will probably be from 5:30 – 6:30 in the morning and in the afternoon from 5:00 – 6:00.

MR. PARSONS: Do you anticipate any problems with traffic from Lillington Highway at that time of day?

MS. MATTHEWSON: With the new complex, I'm not sure, I know this is a military community and I'm sure that there will be a lot of people going to work. I really don't think so because I do this almost every day and it's a pretty good flow out there, it's not that crowded and our parking lot is a pretty good size.

MR. LOCKLEAR: Have you had an opportunity to talk to DOT yet?

MS. MATTHEWSON: No.

MR. LOCKLEAR: So you don't know what they are going to require?

MS. MATTHEWSON: No, not yet. But we are willing to do what we have to do to meet the requirements.

CHAIR QUIGLEY: Called Mr. Wilkes to come forward. Mr. Wilkes declined to speak.

MRS. VARNER: The DOT's comments were that the developer needs a driveway permit and that turn lanes may be required.

Public Hearing closed

MR. SWANSON: Asked to see the residential zoning map. Was there any discussion with the Town of Spring Lake in terms of this request?

MRS. VARNER: Yes sir, we sent a courtesy copy to the Planning Director, Mr. Tom Spinks, and the comments were "no objections to the case".

MR. PARSONS: Is there sufficient existing parking to meet the requirement for both the church and the daycare presently?

MRS. VARNER: According to my knowledge, if they remove the existing house they can provide more spaces on that side, actually right now they have 94 parking spaces that they are showing on the site plan. They have a lot of parking spaces.

MR. PARSONS: Thirty-three are required for the church.

MRS. VARNER: Yes, according to the seating capacity for the religious worship facility which is 166.

MR. PARSONS: So the site plan is adequate for both the church, for the number of people in the daycare and the employees.

MRS. VARNER: Yes sir, since these non-residential uses are going to be working in different hours, it wouldn't be a problem with the parking spaces.

MR. SWANSON: This may be an unfair question, but do you know who provides responses in case of fires? Is it the Town of Spring Lake?

MRS. VARNER: I do not have that information, but I can provide that later.

MS. SPEICHER: We sent a request to the County Fire Marshall and it came back with no comments.

MR. SWANSON: Had there been an issue with safety, with the Fire Marshall would have made some kind of comment on his return correspondence back to the staff.

MS. SPEICHER: In many cases they do.

MR. SWANSON: So, no comment means no issues concerning safety and stuff like that.

MR. PARSONS: We may have covered this before, but has there been any expressions by letter or telephone of concerns.

MRS. VARNER: No sir, I have not received any phone calls.

MR. LOCKLEAR: When this case leaves here, it goes for a full site plan review I assume.

MS. SPEICHER: No sir, this is it as far as the Board of Adjustment for a Special Use Permit. Then it goes to Inspections for a full plan review. We do have a full detailed site plan on file.

MR. LOCKLEAR: To me the parking is shown up around the building, whether it's built or not, it's inaccurate.

MS. SPEICHER: Some things on the site plan are proposed such as the parking and the buffer is existing. They couldn't put the structure there until the site plan was approved.

MR. LOCKLEAR: I understand the process and how it works, I just have concern with the driveway access being I the wrong spot and parking shown next to the building that's not really there.

MR. PARSONS: I guess we're just a little bit beyond, the process is to see if we have a problem with the four case facts, with the approval of this use which is guaranteed, and a permitted use, we have to address the four case facts that are in your book.

MR. LOCKLEAR: I'm aware of how it works and the process.

MR. PARSONS: Perfect, and we may levy additional requirements that will then be part of the amended site plan. But they don't really need to get into the weed level until we get through this wicket, because we may say they can't do it.

MR. LOCKLEAR: That's completely fine, but she just said that they didn't review any more site plan after this one right here.

MR. PARSONS: All we're doing is approving the special use.

MR. LOCKLEAR: I'm fine with it, and I understand how the Board of Adjustment works and the use and what we're required to do tonight. You're not only looking at the use, but potential safety issues that this project could bring to the citizens and whoever uses it.

MR. PARSONS: Absolutely, case fact #4.

MR. LOCKLEAR: Exactly, you might want to when you look at that have an accurate site plan to depict how you're going to get in, ingress and egress the property. That's what I was getting at.

MR. QUIGLEY: That's covered in the site related requirements for this project.

A motion was made by Mr. Swanson, seconded by Mr. Humphrey that the use will not materially endanger the public health and safety if located according to the preliminary plan as submitted in its recommended subject to any modifications required by County, State, or Local agencies. We've had no information to the contrary. The use meets all required conditions and specifications that's currently contained in the zoning ordinance, and have had no testimony to the contrary. Based on the testimony provided the use will maintain or enhance the value of adjoining or abutting properties, giving that across the street is an apartment complex, and to the north and south are undeveloped parcels. The location and character of the use if developed according to the preliminary plan as submitted and recommended will be in harmony with the area in which it is to be located and in general conformity with Cumberland County's most recent Land Use Policies Plan.

MR. QUIGLEY: Is there any discussion on the things that we want to include in this?

MR. PARSONS: We need to reference the numbers below the case facts.

MR. QUIGLEY: You'll notice that the applicant will complete the developments strictly in accordance with the application and site plan submitted to and approved by this board. A copy of which is filed in the Cumberland County Planning & Inspections office. The applicant / property owner as the responsible party for the information contained within the site plan including but not limited to the property boundaries, easement locations, and right-of-way boundaries. The applicant / property owner to insure compliance with all other federal, state and local regulations included but not limited to the North Carolina building code.

MR. PARSONS: Also, recommend they comply with pre permit related and site related conditions that have been identified.

MR. LOCKLEAR: I would add that you require wheel stops along the front of any buildings that do not have wheel stops there in the parking areas, require there be a one way ingress and egress that may save you from having to do a turning lane with DOT. And add signage either on the pavement or above to show that it's a one way enter and exit situation. The last thing that I would ask is that you add a drop off area in front of the family life center for the kids. That way there are two drop off areas, one for each facility.

MS. SPEICHER: The ordinance does not require the daycare to have two drop off areas; we would need to have the applicant's agreement.

MR. PARSONS: The only question I have is about enforceability. How will you enforce that?

MS. SPEICHER: We cannot enforce the driveways DOT does.

MR. LOCKLEAR: DOT will not shut both of their driveways down; they are going to ask that they have two, ingress and egress.

MR. SWANSON: If the purpose of the one way is to prevent the turnout, DOT still requires the turnout, then the one way is not necessary.

MR. LOCKLEAR: That's fine, just remove the one way, remove the signage, and remove the drop off and just add the wheel stops.

MR. SWANSON: How many stops are you envisioning?

MR. LOCKLEAR: However many it takes for the parking spaces that do not have them in front of structures.

MR. HUMPHREY: Did I hear you say that there were probably about six or seven spaces that did not have.

MS. MATTHEWSON: There are about four or five. That is something I am willing to do.

MR. SWANSON: I would say that wheel stops be required provided they do not impede handicap access.

Quigley: Yes

Swanson: Yes

Parsons: Yes

Humphrey: Yes

Locklear: Yes

The motion was approved unanimously subject to the conditions that were mentioned.

8. DISCUSSION

Ms. Speicher advised the Board that Mr. Swanson was made an official member of the Board.

9. ADJOURNMENT

There being no further business, the meeting adjourned at 7:51 p.m.