



MINUTES
Pender County Planning Board Meeting
August 4, 2009
7:00 p.m.

Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Reynolds

Roll Call: Chairman Reynolds

Pender County Planning Board Members:

Reynolds Garrett ___ Marshburn Millette Smith Williams Boney ___ Newman ___

1. Approval of Minutes: July 7, 2009

Motion: Burt Millette made the motion to approve the July 7, 2009 Minutes.

Seconded: Hiram Williams seconded the motion to approve.

Vote: The vote was 5-0.

Public Hearings

Planner Kyle Breur presented Zoning Map Amendment case to the board.

- 2. Zoning Map Amendment** – Mike Nadeau, applicant, on behalf of Kenneth Garvey, owner, is requesting to rezone one tract, totaling ±1 acre, from R-20, Residential District, to B-1, Business District (Neighborhood). The property is located at 984 NC Hwy 210 W., Hampstead, N.C. and can be identified as PIN # 3283-40-8005-0000.

Mike Nadeau (representative of property) explained that the commercial operation on site currently had been established in 1991. Mr. Nadeau explained that when countywide zoning occurred in 2003 the property was rezoned to an R-20 zoning district. Mr. Nadeau commented that the property owner was unaware that the property had been rezoned and the adjacent properties have B-1 zoning districts.

Hiram Williams commented that due to rezoning in 2003 there are numerous properties within the county that have this type of problem and this needs to be corrected.

Director Patrick Davenport made Mr. Williams that he was aware of this problem and once the new Unified Development Order became effective, this should minimize these types of zoning problems.

Burt Millette made the motion to approve request for Zoning Map Amendment and seconded by Hiram Williams. Vote passed 5-0.

Director Patrick Davenport presented Vested Rights Determination case request to board.

- 3. Vested Rights Determination** – Cecilia and Eric Litvak, applicants and owners, are requesting a vested rights determination for a single family home in regards to side-yard setbacks. The property is currently zoned R-20C, Residential District (Conventional) and is located along Inlet Court, Hampstead, NC. The property may be identified as PIN # 4203-70-2440.

Attorney Trey Thurman explained to the Board that he made Mr. Litvak aware that this was not the proper procedure to take regarding this type of request. Attorney Thurman explained that the appropriate manner to proceed with this case would have been to go before the Board of Adjustments and request a variance. Attorney Thurman commented that this case will also be presented on September 21, 2009 at the Board of Commissioner's meeting. Attorney Thurman explained that he will be providing the Board of Commissioner's with the same advisement that he is recommending to this Board.

Chairman Reynolds clarified with Attorney Thurman what the instructions to the Board were.

Attorney Thurman again explained that this request is to send a recommendation of approval or denial to the Board of Commissioner's to determine whether or not the vested rights have been established.

Chairman Reynolds asked Board members if there were any questions for the Mr. Litvak (applicant). Mr. Litvak was not present for questioning.

Chairman Reynolds opened the floor to public comments.

Public comments were given by various citizens that had residents in the area in which Mr. Litvak's property is located.

Mr. Phil Stevens (neighboring property owner) commented that he was opposed because of fire safety issues and water run-off. Mr. Stevens explained that Mr. Litvak had brought in numerous loads of dirt and the water from his property was running onto his.

Mr. Jeffrey Schoolcraft commented that he had just built a home on his property and he had to adhere to the 20' setbacks and felt Mr. Litvak needed to the same. Mr. Schoolcraft commented that before he purchased his lot, he researched what he was purchasing to ensure what he wanted to build was acceptable.

Public comments continued opposing Mr. Litvak's.

Chairman Reynolds questioned whether the applicant had arrived in order to respond to questions or comments.

Attorney Thurman commented that Mr. Litvak (applicant) still was not present.

Chairman Reynolds closed the floor to public comments.

Board members discussed the reasoning for a “grandfathered lot”.

Director Davenport explained that if a lot cannot meet dimensional requirements of the zoning district in which the lot is located then this is considered a “non-conforming lot” and this lot can adhere to the requirements of R-10 zoning setbacks in which the minimum side yard setback is 10’. Director Davenport commented that this is explained in Section 12 of the Pender County Zoning Ordinance.

Burt Millette made the motion to dismiss (forward a recommendation of denial to Board of Commissioners) case and seconded by Christopher Smith.

Hiram Williams questioned whether the zoning regulations had changed which make lots unbuildable or non-conforming. Mr. Williams explained that before he could vote on this he needed to gain a better understanding of what a non-conforming lot is.

Director Davenport commented that this portion of the Zoning Ordinance had not changed.

Hiram Williams commented that there were lots that had been built upon that did have 10’ side yard setbacks.

Director Davenport explained the lots were probably non-conforming; therefore, 10’ side yard setbacks did apply to these lots.

Mr. Litvak interrupted meeting to announce his arrival.

Chairman Reynolds explained that public comments had been closed and no further comments were being accepted. Mr. Reynolds commented that Mr. Litvak would be given the opportunity to speak once the floor was open to public comment during the latter part of the meeting.

Burt Millette made the motion to dismiss (forward a recommendation of denial to Board of Commissioners) case and seconded by Christopher Smith. Vote passed 4-1 with Mr. Williams casting the nay vote.

Planner Kyle Breur presented PD Master Plan case to the board.

- 4. PD Master Plan-** Jeffrey Beaudoin, applicant and owner, is requesting approval of a master plan for an Indoor/Outdoor Recreation Establishment, privately operated. The request is to construct a community aquatic lifestyle center with adjunct facilities. The property is located along the west side of Country Club Drive, ±600’ south of Avila Drive, Hampstead, NC. The property is zoned PD, Planned Development, and may be identified as PIN # 4203-36-1126-0000.

Kyle commented that a sedimentation and erosion control permit as well as a landscape and buffer layout would need to be submitted to the Planning Department prior to any issuance of permits.

Kyle explained that after preliminary discussion with the Director of Pender County Utilities, an 8" water line was in the proximity of the potential project, but would not be adequate to accommodate this size facility. Kyle commented that a possible water extension from Hwy 17 would be needed to accommodate this type of facility and no sewer lines were available in this area.

Jeffrey Beaudoin (applicant/owner) commented that this project was conceived approximately seven years ago. Mr. Beaudoin shared with the Board that there was a deficit for a large competition style swimming pool in this area. Mr. Beaudoin explained that much thought had been given as to what would "marry" well with this pool i.e. pottery and kindling classes, basketball courts, dance studio, etc...Mr. Beaudoin compared this potential project to the aquatic facility built in Brunswick County as part of Brunswick Community College. Mr. Beaudoin explained that this type of pool could be utilized by Topsail High School and assist with aquatic therapy for medical patients in the area. Mr. Beaudoin reviewed with the Board the grant that he had obtained from United Way and the impact this grant had on the ability to open the doors for other grants. Mr. Beaudoin continued to address some accommodations this facility may provide and the recreational opportunities that could arise as a result of this type of facility.

Burt Millette questioned whether Mr. Beaudoin intended to deed this to the non-profit and if so, did this take it off the tax books.

Attorney Thurman explained that being non-profit does not automatically qualify for a tax exemption.

Burt Millette addressed the potential for increased traffic and recommended that an acceleration/deceleration lane be requested from the North Carolina Department of Transportation.

Chairman Reynolds addressed "open space" requirements not shown on preliminary plat.

Mr. Beaudoin explained where the "open space" area could be located on plat. Chairman Reynolds commented that without the location identified, this was plat would not be acceptable at this time.

Access to the property was discussed. Mr. Beaudoin explained that there is a 60' foot easement to the property.

Public comments were taken from the floor regarding this agenda item.

Gena Morgan (adjacent property owner), expressed concerns regarding the potential for her well pressure to decrease, if this facility will be serviced by a well. Ms. Morgan shared her concerns obtaining to night time lighting of the facility, septic location and what would happen in the event the non-profit could not sustain itself.

Public comments continued addressing traffic entrance/exit on Country Club Road. A suggestion to route traffic through Transfer Station Road was recommended.

Burt Millette recommended that Mr. Beaudoin respond to these concerns with Planning staff .

Chairman Reynolds closed the floor to public comments.

Burt Millette made the motion to table the request until next Planning Board meeting in 30 days and seconded by Hiram Williams. Vote passed 5-0.

Attorney Thurman clarified that the next meeting would be in 28 days.

Public Comment (Moved up on agenda)

Chairman Reynolds opened the floor to public comments.

Mr. Litvak expressed disapproval of Board commencing forth with his presence or ability to address the Board regarding his case. (See Agenda Item 3)

Chairman Reynolds closed the floor to public comments.

Director Patrick Davenport and Planner Kyle Breuer reviewed the following discussion items with Board.

5. Discussion Items

- **Planning Staff**
 - Update on Comprehensive Plan project and Public Input meetings
 - Project schedule
 - Update on UDO project
 - Table of Uses
 - Project Schedule
- **Planning Board Members:** Board members continued discussion with Director Davenport and Planner Kyle Breur regarding ongoing projects.
- **Public Comment** (See Public Comment above)

6. Adjournment: Chairman Reynolds adjourned meeting at 10:00 pm.