

**NEW BERN BOARD OF ADJUSTMENT  
MINUTES**

**October 16, 2013**

The New Bern Board of Adjustment held a special call meeting on Wednesday, October 16, 2013 at 7:00 pm in the Dunn Building, 3rd floor, 248 Craven Street.

**Members Present:** Mr. Peter Adolph  
Mr. Benjamin Beasley  
Mr. David Herndon  
Mr. Jeffrey Midgette  
Mr. John Murrow  
Mr. Willie Newkirk, Sr.  
Ms. Beth Walker – Acting Chairman  
Mr. PJ Walker  
Ms. Renee Murphy

**Members Excused:** Ms. Sarah Afflerbach  
Mr. Kenneth Brown  
Mr. Barry Evans  
Ms. Lois Jamison

**Members Absent:** None

**Staff Present:** Mr. Bernard George, Planning Division Manager

Vice Chairman Beth Walker called the meeting to order.

Mr. Bernard George opened with a prayer.

Roll call was taken and a quorum declared.

**Minutes:** Reading of the minutes from the previous meeting was waived by unanimous consent. Minutes were approved with a motion by Mr. PJ Walker and seconded by Ms. Renee Murphy. Minutes were approved by unanimous vote of the Board.

Chairman Walker requested all those in attendance with intent to speak come forward to be sworn in. Audience members and staff member Mr. Bernard George were sworn in.

**New Business:**

**A. Consideration of a special use permit application to construct a 120-unit Apartment Development on Sheryl Drive near Elizabeth Avenue. (Ward 4)**

**Staff Comments:** Mr. George provided an overview of this item as well as a video of the property under discussion. Mr. George gave the location of the proposed multi-family development. The video included property posting for this meeting as well as a Special Called Board of Aldermen meeting held the night prior, at which meeting the Aldermen approved the re-zoning request for this particular 6.23 acre tract to C-5 zoning.

Mr. George advised the C-5 district is reserved for residential and professional office, including some medical uses. This special use request is for a two-building multi-family development.

Mr. George stated the developer was in attendance of the meeting and could provide more detailed information. He advised this is part of a 69-acre tract owned by Mr. Hap Parrot. The site map shows a vicinity map which provides an outline of the land. Mr. George provided information on the neighboring businesses to this property.

Mr. George advised staff had reviewed the application and found it to be complete. The Special Use Permit is required as the development proposed is more than 5 units, and is therefore required in Section 15-146.

Mr. George noted he had appraisal reports attesting that the proposed project would have no negative impact on surrounding properties and their values. He provided a copy of this appraisal to each member.

**Applicant Comments:** Amy Currin, Attorney for East Carolina Community Development (ECCD) spoke. She advised ECCD is a nonprofit corporation with 16 multi-family housing projects in NC, 300 units of which are elderly housing. The ECCD are looking at various financing options for this proposed development.

Mr. Keith Walker, Executive Officer for East Carolina Community Development spoke. Mr. Walker is the founder and noted they started their third New Bern development, Weatherstone Apartments, which is located in Drury Park. He noted this development is fully occupied and have had no issues with their tenants and feels this is a viable comparison for the project being proposed.

Mr. Walker noted the difference between Weatherstone and this development is the number of stories. The proposed development would consist of three-story buildings, 120 units total, with 60 units in each of the two buildings.

Mr. Mark McCluskey advised he was before the board on a previous 48-unit project located on Amhurst that was not approved. Therefore the group continued their search in the area for a better suited location and decided upon the one before the board for consideration tonight.

Mr. McCluskey advised the buildings will have secure access, which will require a code to enter the building. The public will only be able to access the building by the main front lobby entrance. Controlled access points at all exits.

Mr. McCluskey provided an overview of the amenities this project will offer its residents, using the fitness centers, gathering spaces and multi-purpose rooms as a few examples.

Mr. McCluskey provided a breakdown of the types of rooms being offered to their residents, which include some that are fully handicap accessible, some that will be able to be easily converted to accessible and then standard rooms.

Mr. McCluskey advised this property will not have the same traffic issues that were concerns of the board on the previously presented project. Utilizing the stop-light at Elizabeth and Glenburnie, the congestion in the neighborhood as well as access out of it will be easy.

Mr. Renee Murphy questioned if there was anything in the apartment that would alert residents of fire. Mr. McCluskey advised there are emergency pull-cords in each bedroom and bathroom unit.

Mr. PJ Walker asked the estimated completion date. Mr. McCluskey advised it would take 18 months from closing/ground-breaking to begin lease-up on the project. Leasing duration is estimated at 6 months.

Chairman Walker questioned if both buildings would be constructed simultaneously. Mr. McCluskey advised they would be, but expected Certificates of Occupancy for each building to be issued about 30-days apart.

Mr. Jeff Midgette noted there is only one avenue for ingress and egress. He questioned drainage as shown on the site plan. Mr. McCluskey advised the second access for drainage is shown, and expect to connect as development continues.

Mr. Jeff Midgette asked how much space is between the buildings and the property line. He felt it was narrow in certain areas, if an emergency arose. Mr. McCluskey advised they have consulted with the Fire Marshall who felt it was adequate. He discussed the emergency vehicle route on the property. Mr. Midgette asked about rear access. Mr. McCluskey noted there would not be rear access for fire vehicles, which was acceptable to the Fire Marshall as well.

Mr. John Thomas, Engineer, spoke. Mr. Thomas advised the interior of the buildings will include a fan-pipe system in lieu of an exterior fire lane access. Mr. Midgette asked for clarification of what this system is. Mr. Thomas advised it is part of the sprinkler system inside the building that will allow the fire department to connect to it in the case of a fire. Mr. Thomas noted the strategic location of fire hydrants on the property as well.

Mr. Thomas noted this project went through the City of New Bern's site plan review process in September, and has been approved by the City.

Mr. Thomas also pointed out the buffers on this site. One side backs up to a subdivision and church, which are zoned R-10, which requires a Class C buffer. A Class C buffer is not required to be dense, which would be somewhat see-through from property to property. The buffer the developer has decided upon will be considered Class A, which is an opaque buffer utilizing vegetation and/or a fence, depending on what the architect chooses.

Mr. Thomas discussed some of the property amenities which include a covered drive, covered rear patios with seating, as well as other outside seating areas.

Mr. Thomas discussed the storm water system. The plan is to utilize infiltration ponds, which will infiltrate down, or overflow to the wetlands alongside the property.

Mr. Thomas noted parking, with 130 spaces 12 of which are handicapped, is sufficient and acceptable within the requirements.

Mr. Thomas used an aerial photograph showing the site, traffic flows within the neighborhood and neighboring intersections. He also pointed out the wetlands area and therefore cannot be developed. This limits the number of neighboring properties to their development.

Mr. Thomas briefly discussed elevations of the buildings, noting these are also included in the member packets.

Mr. Bob Ashburn, appraiser from Morehead City, spoke. Mr. Ashburn provided a property appraisal, which he advised the purpose of was to review whether the proposed use would substantially reduce the value of abutting properties. He determined it was consistent with the area and would not have a negative impact on adjacent property values.

Mr. PJ Walker asked if there was any known public or private opposition to this development. Mr. George advised there were a couple of citizens that voiced concern about this development during the Planning & Zoning meeting to re-zone the property. Mr. George also noted one of the neighbors is in attendance at the meeting tonight and will more than likely speak as well.

Mr. McCluskey noted during the Board of Aldermen meeting the previous night no one spoke with any concerns about the property development as well.

Attorney Amy Currin advised she spoke with Aldermen Bengel and Kinsey after the meeting the previous night and they advised neither of them had received any phone calls with concerns about the development.

**Public Comments:** *Ms. Janet O'Grady, 801 Deerfoot Circle* spoke. She voiced initial concern regarding traffic, but after seeing the presentation tonight she is in full support and her concerns have been fully satisfied.

**Motion to close the public comment segment** was made and seconded. Public comment segment closed.

**Board Discussion:** Chairman Walker reiterated what is before them for consideration is a Special Use Permit. She requested the board take time to discuss, noting the six points in the application for consideration.

Chairman Walker advised Mr. George presented that the proposed development is within the jurisdiction according to the Table of Permissible Uses. He also stated Staff had reviewed the application and found it to be complete. The development went before the Zoning Board, which was approved for C-5 zoning.

Chairman Walker noted the board members needed to consider if this development is completed as proposed, the development would comply with all requirements of the Land Use Ordinance. Ms. Murphy noted she felt it would comply and saw very few issues with the proposed development.

Mr. Midgette advised his concerns were completely addressed and satisfied. Chairman Walker agreed.

Chairman Walker noted the presentation by Mr. Ashburn and the appraisal study he completed, showing similar properties, as well as other properties the developer has built, confirming their product is of quality. Mr. Walker noted the appraisal confirmed the property is of similar use to the surrounding areas which indicates compatibility. Mr. Midgette felt the property would add value to the area.

Chairman Walker noted the elevations show a product that would seemingly be in harmony with the area.

Chairman Walker requested the board look at each of the six area of criteria for approval. She felt the facts are clear. The board agreed.

Chairman Walker requested a motion that the requested permit is within its jurisdiction according to the Table of Permissible Uses.

**Motion made by** Mr. Peter Adolph that based on the facts the requested permit is within its jurisdiction according to the Table of Permissible Uses. Mr. PJ Walker seconded the motion.

Chairman Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chairman Walker requested a motion that the application is complete.

**Motion made by** Mr. PJ Walker that staff did an excellent job and they accept the application as being complete through. Mr. Willie Newkirk seconded the motion.

Chairman Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chairman Walker requested a motion that if completed as proposed in the application the development will comply with all the requirements of this ordinance.

**Motion made by** Mr. David Herndon to accept the project as being complete and in compliance adhering to all guidelines and accepts as presented. Mr. John Murrow seconded the motion.

Chair Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chairman Walker requested a motion that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.

**Motion made by** Ms. Renee Murphy that the site plan review staff and board have found that public health and safety issues have been adequately addressed and the use will not materially endanger the public health or safety if located where proposed and developed according to the plans submitted and approved. Mr. Peter Adolph seconded the motion.

Chairman Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chairman Walker requested a motion that the use will not substantially reduce the value of adjoining or abutting property or the use is a public necessity.

**Motion made by** Mr. PJ Walker that since the project is being built on approved land and there is similar use in the vicinity that it will not substantially reduce the value of adjoining or abutting properties. Mr. Willie Newkirk seconded the motion.

Chairman Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chairman Walker requested a motion that the location and character of the use if developed according to the plan 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 made by Mr. Jeffrey Midgette** that this development, if developed in the area of similar existing developments would also be in harmony with the area and also in harmony with the Land Use Plan and the City Development Plan and this would be a substantial material development for this area and would not be contrary to other existing developments. Motion was seconded by Mr. Peter Adolph.

Chairman Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

Chairman Walker requested a motion to accept and grant the Special Use Permit.

**Motion made by Mr. Peter Adolph** to grant the Special Use Permit. Motion was seconded by Mr. John Murrell.

Chairman Walker requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of nine (9) Yes's, and zero (0) No's.**

With no further discussion, meeting adjourned.

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Beth Walker, Acting Chairman

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Bernard George, AICP, Secretary