

NEW BERN BOARD OF ADJUSTMENT MINUTES

March 25, 2013

The New Bern Board of Adjustment held its regularly scheduled meeting on Monday, March 25, 2013 at 6:30 PM in the City Hall Courtroom, 2nd floor, 300 Pollock Street.

Members Present: Ms. Sarah Afflerbach, Chairman

Mr. Kenneth Brown

Mr. Barry Evans

Mr. Benjamin Beasley

Mr. David Herndon

Ms. Renee Murphy

Mr. Willie Newkirk, Sr.

Ms. Beth Walker

Mr. Phil Urick

Members Excused: Ms. Lois Jamison

Members Absent: None

Staff Present: Mr. Bernard George, Planning Division Manager

Chairman Sarah Afflerbach called the meeting to order.

Staff Bernard George opened with a prayer.

Roll call was taken and a quorum declared.

Minutes: Minutes from the previous meeting were reviewed. Minutes were approved with a motion and seconded. Minutes were approved by unanimous vote of the Board.

At Chairman Afflerbach's request, speakers were sworn in, including three attendees and Staff Mr. Bernard George by Member Barry Evans.

New Business:

- A. Consideration of a special use permit requested by Scott Redinger Inc. and John H. Wells Foundation to construct a sixty unit elderly apartment development on the north side of Amhurst Boulevard near the intersection of South Glenburnie Road.

Staff Comments:

Staff Bernard George described the project as a 60-unit elderly apartment unit and would require a special use permit. These units would be constructed in the C-5 zoning district. At a future time the owner would subdivide the lot and retain 66 acres along Amhurst Boulevard for future developments. Site amenities would include a community room, garden and recreation area.

Applicant Comments:

Mr. Niles Joyner spoke representing the developer, Quail Forest. The development would be rentable units for seniors 55 years of age or older, made up of 36 one-bedroom and 24 two-bedroom units.

Quail Forest is a proposed collaboration between a private developer and the North Carolina Finance Agency, using an income housing tax credit program. Mr. Joyner provided photographs of similar projects built by the proposed builder.

An aerial photograph showed the location of this proposed development, consisting of two properties. Both vacant properties are zoned C-5. The senior assisted living facility across the street from these sites is zoned C-3. The C-5 zoning would be less obtrusive to neighboring sites than the C-3 zoning.

The site plan of the proposed development was discussed, noting location of units versus surrounding buildings and entrances to the development. The main driveway would be attached to a currently un-named street that would reduce congestion along Amhurst Boulevard. The outdoor areas will be blocked from view from surrounding buildings.

The proposed site is not in a flood zone. The plan has been revised to meet all requirements and address previously discussed staff concerns. The use is consistent with the City's Land Use Ordinance.

Mr. Joyner closed by noting all conditions have been met and appreciates consideration of the special use permit.

Board Discussion:

Chair Afflerbach explained the six criteria would be reviewed in order, allowing comments from applicant, staff and public.

Item 1: **Is the requested permit within its jurisdiction according to the Table of Permissible Uses.**

Staff Discussion: Mr. George advised according to the table of permissible uses, section 15-146, a special use permit is required for multi-family development and is allowed in the C-5 zoning district.

Public Comment: None

Board Comment: None

Item 2: **Is the application is complete.**

Staff Discussion: Mr. George advised the application is complete, has been reviewed by staff and has met requirements for site plan and department review. The plans were submitted, commented upon, revised and all comments addressed.

Public Comment: None

Board Comment: Member Brown voiced a concern that was not discernible by this listener.

Item 3: **If completed as proposed in the application, the development will comply with all requirements of this ordinance.**

Chair Afflerbach noted the applicant addressed this item in his presentation. She asked for public comments.

Public Comment: None

Board Comment: None

Item 4: **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.**

Chair Afflerbach again noted the applicant addressed this item in his presentation. She asked for public comments.

Public Comment: None

Board Comment: Mr. Midyette questioned what type of future developments might be considered for the adjoining property.

Mr. Joyner did not have information on potentially future

developments. Mr. George responded by providing a zoning map for the properties in question, explaining the difference between each zoned area and allowable developments.

Chair Afflerbach questioned if the un-named road was an existing road, to which Mr. George replied it is existing and is paved. Mr. George advised the owner of the street was in attendance.

Mr. Mattingly was sworn in and advised at this time there is no planned development at this time. There is general conversation that has been ongoing for a number of years, but no future developments have been determined.

Chair Afflerbach questioned if the City reviewed the capacity of the street to handle additional traffic into the proposed development. Mr. George advised the un-named street is currently under capacity, but noted the intersection of Amhurst and Glenburnie Road is difficult to navigate at times. He advised the additional traffic would not be substantial. Chair Afflerbach noted there is an additional access off the un-named street, giving an alternative to the Glenburnie intersection.

Mr. Newkirk suggested with this new development, a traffic light may need to be considered for the Glenburnie/Amhurst intersection.

Mr. Urick voiced concerns about the number of handicapped parking spaces noted on the site plan. Mr. Joyner advised they met the requirements (1-handicapped space per 25 spaces) based on the development. Mr. Urick responded that despite meeting the requirements, the demographic of the development seemingly would require additional spaces to provide ample spaces for guests and residents.

Mr. Urick noted that according to the National Wetlands Society, there are wetlands on this site. He referenced a letter written to Zoning Officer Greg McCoy on March 1, 2013, that the Corps of Engineers had not made a determination of this property. Mr. Joyner advised they have since received a confirmation email from the Corp representative advising there are no wetlands on this site.

Public Comments: Mr. Rick Meyer spoke. He lives in the subdivision of Village in the Woods. He requested that before a decision be made on this property, the Board Members observe firsthand the traffic on this street, specifically between the hours of 7am-9am, noon and again from 4pm-6pm. He advised it is a thoroughfare used by people between Glenburnie and Martin Luther King Blvd. He feels increasing the traffic would be a significant problem. He advised many of the drivers using Amhurst as a shortcut speed through there and has concerns with the elderly that might take walks or drive along this road. His issues are safety, no sidewalks, aesthetics, maintenance of property, who will maintain and the cost to do so.

Chair Afflerbach requested Mr. Joyner address the issues presented by Mr. Meyer.

Mr. Joyner advised the sidewalks are part of the site plan development, within the development only. This does not include along Amhurst Boulevard.

Member Beth Walker noted the concerns voiced by Mr. Meyer were for pedestrian traffic along Amhurst Boulevard. Mr. Joyner advised the proposed property has all activities contained within the development, which should minimize the amount of foot traffic from the complex along Amhurst Boulevard. Ms. Walker noted a series of sidewalks on the development site for the residents to utilize. Mr. Joyner advised the Amhurst Boulevard portion has a large ditch, which does not allow for a suitable sidewalk plan.

Chair Afflerbach questioned if there is a future plan by the City to place sidewalks along this area. Mr. George advised there is not currently a plan. He did note the City's Parks & Recreation Director has reviewed the plan and there is discussion to create a series of sidewalks to connect this area to the West New Bern Recreation Center to provide services to these residents. This would be part of the city's Pedestrian Plan.

Chair Afflerbach advised the site plan does not show sidewalks along Amhurst Boulevard, but does see them noted along the un-named street. Mr. Joyner noted many times as a courtesy developers will include a sidewalk along portions of neighboring roads that are not required by the development. Due to the ditch that runs along Amhurst Boulevard, this wasn't an option.

Ms. Walker questioned the maintenance and staff of the property. Mr. Joyner advised full time staff and management on-site at all times, provided by the developer.

Chair Afflerbach questioned any thought being put to direct traffic out of the property to take the alternative route that eliminates the Glenburnie intersection. Mr. Joyner responded but it was unclear to this listener.

Mr. Newkirk questioned the buildings(s) layout. Mr. Joyner advised it will be one three-story building, with a circle drive to the front/main entrance of the building, with a main lobby for all visitors. All amenities and rooms will be accessible through this entrance.

Mr. Newkirk asked about the size of the rooms. Mr. Joyner provided a floor plan for review advising the rooms are about 700 square feet. He also provided an elevation rendering.

Mr. Urick inquired as to the width of the circle drive, if it would allow two fire trucks simultaneously, or one fire truck and one ambulance. Mr. Joyner advised this circle drive is a landscaped, pedestrian drop off area, noting the driveway is close enough to the front doors to allow sufficient accessibility for any emergency personnel that the need to utilize the circle drive for those vehicles isn't necessary.

Mr. Midyett inquired as to the amount of foot traffic they feel will be generated by this

development. Mr. Joyner advised this site was appealing to the developer based on the proximity to certain stores, not necessarily for walking but within driving distance. Mr. Midyett has concerns with the residents driving, and the negotiations that come with navigating this street and surrounding intersections and streets. Mr. Joyner feels the number of drivers from this facility will be minor, and will not become an issue.

Chair Afflerbach advised Mr. Midyett that a condition could be considered for signage or additional information on a safer route out, he is able to propose that request. Mr. George agreed this is a possibility. The City provides signs and there is a school near this area as well as the Community College. He noted Glenburnie is one of the highest traffic streets in the City. He also noted the additional undeveloped land in the area will eventually be developed as well. Mr. George also suggested CARTS, who provides transportation within the city, as a good alternative for these residents. Mr. George feels the site and amenities allow for traffic to find a safe route to Glenburnie, and was one of the main purposes for creating the un-named street. Mr. George noted the City Fire Office did review the plans, and some modification suggestions were made. There is access for emergency crews via an entrance on the back side of the property. Those issues have been addressed and satisfied from the City perspective.

Mr. Urick again questioned the accessibility of the circle drive. Discussion with Mr. Joyner based on the site plan ensued. The circle drive intent is to create a visual focal point for visitors and residents, with a garden and picnic area on either side.

Item 5: **The use will not substantially reduce the value of adjoining or abutting property, or the use is a public necessity.**

Public Comment: None

Board Comment: None

Item 6: **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 the development of the City.**

Public Comment: Mr. Jay Mattingly came forward to speak, advising he is a former resident of this neighborhood and still lives in the area. As a resident of the neighborhood and former Aldermen Board member, he has been trying to protect this area for over a decade. He discussed previously considered developments on Amhurst, traffic concerns on Glenburnie Road and the un-named road. He voiced his opinion about maintaining existing character, and concerns with the tax credit property and how that might diminish the character. He does not support this proposed development. He does not feel this development would be in harmony with the existing neighborhood.

Mr. Brown questioned the developer how they might screen potential residents to this development. Mr. Joyner advised there is an application and screening process that all residents

would have to meet. A credit check is required, and a background check may be required, but is not at this time.

Ms. Walker questioned Mr. Mattingly in his definition of ‘high rise’, as he mentioned previously regarding a high rise that was proposed years ago, but was found the soil/ground would not support such a high rise structure. Upon additional discussion, the proposed development was not considered to be equal to the previously proposed high rise.

Mr. Joyner addressed Mr. Mattingly’s concerns about putting this development in, as he would prefer residences be built, noting the current zoning allows this type of development. He also feels this development is the least obtrusive of the allowable developments that fall under the C-5 zoning.

Mr. Midyette questioned the similarity between the proposed development versus the existing facility currently across Amhurst Boulevard from the site. Ms. Murphy questioned the facility would be maintained 24-hours with security, resident care, etc.

Mr. Don Rowans was sworn in and advised he represented the John H. Rowans Foundation and could answer questions concerning the facility. He explained this facility will not be manned 24-hours a day. There will be staff on-site from 8am-5pm daily, with a manager and maintenance employee will be on-call 24 hours a day.

Ms. Murphy questioned security on-site after 5pm. Mr. Rowans advised there will not be security on-site after 5pm. He did note they have 32 properties and have been in New Bern for over 15 years and have an excellent reputation. He noted they have a great management company and high level of clientele for the residents. He noted there is a minimum rent for this property and all residents must apply and meet all requirements.

Mr. Mattingly again voiced his concerns with having a tax credit property in this area. Chair Afflerbach advised the tax credit properties of this development are not a concern to this Board, but the harmony to the community is. Mr. Mattingly feels this development is out of character with the existing neighborhood.

Mr. Evans swore in two additional public speakers from adjacent property owners of King Hall. These two gentlemen questioned Mr. Joyner on proposed fencing along the property line adjacent to their property. Mr. Joyner advised no fence, just landscaping. The two men had concerns about residents walking onto or thru their property. Chair Afflerbach noted along the rear of the property, which abuts King Hall, there is a proposed sidewalk along it with a planting buffer, but no fence. The men questioned if the board would consider requiring a fence. Chair Afflerbach noted a fence is not required by our Land Use Ordinance, that a planting buffer is sufficient.

One of the King Hall Elders noted a filter system for water runoff on their property, and inquired if the developer had a similar plan for the proposed development. The development system was discussed. He also suggested the Board members watch the traffic patterns on this

street observing how busy this area is.

Motion was made to close the public comments. Motion was seconded. Board voted unanimously in agreement.

Board Discussion:

Ms. Walker noted that with this area being commercially zoned, backing up to a busy street, with surrounding structures being commercial. The property is allowed within the current zoning

Mr. Evans asked for clarification on making the un-named road a one way street. Mr. George advised he did not see the benefit in making that road a one-way road, as it would defeat the purpose for the road. Additional board discussion ensued regarding this road, noting the lack of traffic, the benefit in having the proposed development driveway access from this road.

Chair Afflerbach asked the Board to consider item 1; if the requested permit is within its jurisdiction according to the Table of Permissible Uses.

Motion made by Mr. Herndon to accept the requested permit as it is within its jurisdiction according to the Table of Permissible Uses. Motion was seconded. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider item 2; is the application complete.

Motion made by Mr. Urick to accept the requested application as it is complete. Motion was seconded. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider item 3; if completed as proposed in the application, the development will comply with all requirements of this ordinance.

Motion made by Mr. Herndon to accept the application as the development complies with all requirements of this ordinance. Motion was seconded. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider item 4; 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 Mr. Herndon to accept the application as its 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 was seconded. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's,**

and zero (0) No's.

Chair Afflerbach asked the Board to consider item 5; the use will not substantially reduce the value of adjoining or abutting property, or the use is a public necessity.

Motion made by Mr. Evans to accept the application as its use will not substantially reduce the value of adjoining or abutting property, or the use is a public necessity. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider item 6; 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 the development of the City.

Motion made by Mr. Urick to accept the application as the location and character of the use will be in harmony with the area in which it is to be located and in general conformity with the plan of the development of the City. Motion was seconded. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach asked the Board to consider constructing a motion to approve a special use permit.

Motion made by Mr. Newkirk to approve the special use permit. Motion was seconded. Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

With no further discussion, meeting adjourned.

Sarah Afflerbach, Chairman

Bernard George, AICP, Secretary