



TOWN OF CAROLINA BEACH

1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428

PLANNING & ZONING COMMISSION MINUTES

Thursday, September 12, 2002
7:00 P.M.

ITEM #1 Roll Call: Those present were Chairman Jerry Johnson, John Keith, Bob Doetsch, and Jennifer Boozell. Troy Slaughter and Lank Lancaster were absent. Also present were Councilman Joel Macon; Rick Rogge, Board of Adjustments; Jane Daughtridge, Director of Planning and Development; and Pat Leisenring, Secretary of Planning and Zoning.

ITEM #2 Minutes for August 8, 2002 were approved on motion by Commissioner Keith, seconded by Commissioner Doetsch and voted unanimous.

ITEM #3 Request for Conditional Use Permit: East Carolina Pizza Huts, restaurant at 1401 N. Lake Park Blvd., Unit 32. Public hearing to relocate the takeout and delivery portion of Pizza Hut into the new shopping center. Proposal is for no seating at this location, no parking or other concerns. Must meet signage requirements. Staff recommends approval of conditional use permit.

A motion to open the public hearing was made by Commissioner Doetsch, seconded by Commissioner Keith and voted unanimous.

Those speaking for: Gary Bolton, Director of Operations, Pizza Hut Carolinas. Came to answer any questions, desire to relocate Pizza Hut as a takeout and delivery to a better location. Several sign logos were submitted with the request. Board questioned if applicant/staff were clear on signage regarding size and placement. They said yes. Mr. Bolton stated that the reason for changing to takeout and delivery was because it is financially difficult due to the seasonal nature of business to have a sit down restaurant, as the market grows they may need to bring the restaurant back.

Those speaking against: None

A motion to close the public hearing was made by Commissioner Boozel, seconded by Commissioner Keith and voted unanimous.

Commissioner Keith made a motion to recommend approval of the request for a conditional use permit by East Carolina Pizza Hut as submitted, seconded by Commissioner Boozel and voted unanimous.

ITEM #4 Request for Amendment to Zoning Ordinance – Article 3, Paragraph 7a. and Table 3.9.1, Footnote 1 (Height Restrictions). Jane Daughtridge stated that Mr. Davis is requesting an amendment to the ordinance to allow for greater height or at least living space within the currently allowed height requirements of 35 feet with an additional 10 feet for roof pitch. The additional 10 feet does not allow for living space, finished materials or heated space. Have a number of people who try to capture living space

in that 10 feet with various means. If 45% of the view is blocked anyway, maybe it doesn't make any difference what they're doing inside. Administratively it is very difficult to administer. Staff is in favor in making something simpler than what we have. Spoke with Brian Roberts, Fire Marshall/Fire Chief who had some concerns on anything unsprinklered beyond 50 feet due to complications with the ladder and electrical lines. He would prefer a maximum of 45 feet. Mr. Davis specified in his letter 45 or 50 feet. Staff spoke with Kure Beach, they're limit is 35 feet with a small proviso for mechanical equipment. Staff is in favor of anything that is safe but says this is the limit. Any unsprinklered system be allowed to build to 45 feet.

Commissioner Keith made a motion to open the public hearing, seconded by Commissioner Doetsch and voted unanimous.

Speaking for: Johnnie Davis, The Cape, owns property on Wilson Avenue and Federal Point Yacht Club. Stated that for years people have built to 45 feet with a roof pitch and finish it off after getting their CO. This is an uninspected type of structure, which may not be up to code. Allowing a maximum height of 45 ft. or 50 ft. to include chimneys, widow's walks, etc., would mean everything would go through the building inspections process and everyone would be building with the same rules. This would also simplify the planning and zoning job, inspections job and code enforcement.

Speaking against: None.

Commissioner Doetsch made a motion to close the public hearing, seconded by Commissioner Keith and voted unanimous.

Commissioner Keith suggested a maximum of 50 feet to include everything. Commissioner Doetsch recommended 50 feet as some areas have to allow for flood elevation. Commissioner Johnson recommended 50 feet with language that includes chimneys, walkways or pertinent structures and that is the maximum. Anything above 50 feet would have to have sprinklers and be reviewed and approved under a conditional use permit.

Commissioner Keith made a motion to recommend to Council to amend Zoning Ordinance – Article 3, Paragraph 7a. and Table 3.9.1, footnote 1 (height restrictions) to a maximum of 50 feet from the nearest adjacent grade, including roof pitch, living space, chimneys, decks, walkways or any other pertinent structure. Anything above 50 feet will require sprinkler systems and must be reviewed and approved under a conditional use permit. Seconded by Commissioner Boozel and voted unanimous.

ITEM #5 Non-Agenda Items.

a. Continued Review Appearance Standards Criteria for Variance – Ms. Daughtridge said that of the recommendations sent forward to Council, they had some doubts about the criteria for a variance and perhaps not realistic. Council asked that BOA and P&Z meet and come back with a recommendation for modifying those criteria. There was a lot of discussion at BOA meeting which included discussion of building standards, including the 15" vs. 12" overhang from Brian Roberts. Because the discussion couldn't quite come to a consensus, the result of the meeting was that P&Z would take up these criteria again. Item was taken off Council's agenda until P&Z had time to take another look at all of the issues, whether you wanted the criteria to remain the same or whether you wanted different criteria for variances that might be more useful or realistic. Primary issue is criteria for a variance. The 15" overhang also came up again because 12" is the industry standard, which was what P&Z originally recommended to Council. Commissioner Keith said he felt the majority of Council was upset with the criteria for a variance only. He feels the standards should be fair and good for the town with criteria not easily broken. Ms. Daughtridge said that in terms of the modular industry, which must be treated as stick built, companies that build

less expensive models don't tend to make 15" overhangs, whereas companies that make higher quality homes do. Her sense is that is where the 15" overhang came from to try and make sure that those higher quality modulares would be the modulares that came here.

Commissioner Johnson said that the overhang average was 8", which was why they came up with 12", which was then changed to 15". Rick Rogge said that from the Board of Adjustments standpoint their concern was not what the standards were but how to handle variances, what the criteria should be. He felt the board was confused on what changes needed to be made – needed some guidelines. Ms. Daughtridg said the first criteria under question was regarding the devaluation of property issue and whether or not an appraisal of the new property was truly reflective of value impact on existing property – this was raised by the attorney. Issue needs to be reworded. A standard is set and is expected to be upheld except under very odd conditions. Councilman Macon feels that it is a bad ordinance, you shouldn't dictate architectural design – voted against the ordinance. Cited situation with Portside Subdivision, 75% of houses completed with 12" overhangs and were required to get a variance to finish the development. Feels the ordinance is too detailed. Ms. Daughtridg feels that most of the variance requests are done, pretty much through the transition. Portside got a blanket variance for the remaining lots, there was no hardship issue on people already there, some financial impact. People wanting to go through the time and trouble of getting a variance to the appearance standards may not have a difficult time doing it. Mr. Rogge asked about having an Architectural Review Board as a potential solution. Councilman Macon said there used to be one for the Central Business District but they were essentially ignored and the board dissolved. Said he was asked to be at the meeting by the Mayor specifically for this subject.

Commissioner Johnson asked what criteria we are currently operating under. Ms. Daughtridg stated that there will be no more variances until some criteria are in place. The BOA was allowed to process the last two variances established under the administrative criteria because they were in process. Council was asked if they had a problem with using the criteria on the Portside case until something was resolved because of the nature of the case and they didn't have a problem with that, but her sense of that allowance was that they didn't want to have any more go forward without some criteria. Reviewed appearance standards - requirement of 15" overhangs, excluding gutters, with discretion of gable ends; 6/12 roof pitch on majority of structure with allowance on porches and dormers; landscaping, shrubs were removed from initial recommendation – Councilman Macon said the Council felt that requirement would involve too much government. Commissioner Johnson asked how they could safeguard against minority modular homes from being built between two 1.5 million dollar homes? Councilman Macon stated that you cannot dictate taste, said he had a problem with the last two variance criteria. BOA discussed possibly changing the fifth one to 5%. Councilman Macon doesn't feel you would ever be able to meet the fourth criteria and #5, is not sure if it should be more or less. Ms. Daughtridg stated that the criteria has to be applicable for a variance request for all of the standards, that's part of the difficulty.

Review of criteria for variance:

1. Deviation from the appearance standards will not be incompatible with the overall architectural scale and design of the neighboring properties. (*What defines area of neighboring properties? – 200 feet adjacent to property.*)
2. Deviation from the appearance standards will not impose hardship on neighboring properties such as quantifiable devaluation of property. The applicant must present evidence based on existing tax valuations and certified real estate appraisals to refute any such claims. (*Concerns are that tax valuations are not necessarily representative of market value; attorney is concerned about the certified real estate appraisals – couldn't really quantify devaluation of someone else's property by establishing a value for a different property. The thought process was that the new house would be appraised and compared to the tax values of surrounding property. Attorney had a problem with the language.*)
3. Deviation from the appearance standards is supported by a duly incorporated Homeowners' Association or by petition of support from a majority of the adjacent property owners.
4. Deviation from the appearance standards is necessary because of demonstrated safety concerns or natural hazard considerations. (*Board recommended removing this item from the criteria.*)

5. Deviation from the appearance standards is necessary to relieve unusual financial hardship (10% or more of the cost of the structure). *(Board recommended changing to 5%.)*

In addition, Board recommended coming up with different language for item 2 (Town Attorney recommendation) and requiring 2 out of 4 conditions. Board would like staff to set up special meeting for P&Z and BOA, either September 24th or 25th or October 1st or 2nd to prepare a resolution for Council.

- b. Board was given copies of the Hazard Mitigation Plan to look at strategies/policies and to review and make recommendations to discuss at next meeting.

- c. Commissioner Johnson asked if the Town was through with Canal Drive, asked about the street being raised 12" – 18". Work still going on, valves, etc.

- d. Board asked about sign ordinance. New intern will be quantifying the non-conforming signs to create a base. Will be sending a copy of the sign ordinance with the privilege license renewals next year as an informational item.

ITEM 6 Adjournment. Commissioner Doetsch made a motion to adjourn the meeting at 8:35 p.m., seconded by Commissioner Keith and voted unanimous.

Respectfully submitted,

Pat Leisenring, Secretary
Planning and Zoning Commission