

CAROLINA BEACH

Planning and Zoning Commission Meeting Minutes
Thursday, September 10, 2020 @ 6:30 PM
Council Chambers
1121 North Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Planning and Zoning Commission meeting was held on Thursday, September 10, 2020, at 6:30 PM in Council Chambers.

PRESENT: P&Z Chairman Keith Bloemendaal, P&Z Vice Chairman Deb LeCompte, P&Z Commissioner Melanie Boswell, P&Z Commissioner Mike Hoffer, P&Z Commissioner Jeff Hogan, P&Z Commissioner John Ittu, and P&Z Commissioner Wayne Rouse

ALSO PRESENT: Planning Director Jeremy Hardison and Planner Miles Murphy

CHAIRMAN BLOEMENDAAL CALLED THE MEETING TO ORDER

APPROVAL OF MINUTES

1. Review and Approve Meeting Minutes from August 13, 2020

ACTION: Motion to accept the minutes as submitted

Motion: Vice Chairman LeCompte

Second: Commissioner Rouse

Vote: UNANIMOUS

STAFF UPDATE

Town Council and Other Updates

- Land Use Plan Approved – Moves on to Division of Coastal Management
- Hidden Hills Phase II Approved
- Speed Limit Change on Dow and Ocean
- Town Sign
- 308 Carolina Beach Avenue North Applied for New Construction – Mixed Use

Mr. Hardison said Council appointed two new members that will start in October, Ethan Crouch and Todd Piper. He thanked outgoing Chairman Bloemendaal and Commissioner Hoffer for their years of service on the board.

Mr. Murphy reported the following statistics for the past month:

Permitting

- 24 permits (renovation, repair, grading, additions, fence)
- 7 residential new construction
- 5 certificates of occupancy

Code Enforcement

- 13 complaints received
- 12 resolved

Demolition

- 906 Canal Drive
- 109 Cape Fear Boulevard
- 404 North 7th Street
- 308 Carolina Beach Avenue North
- 1505 Bonito Lane
- 1037 Saint Joseph Street

New Business

- Beach Vibe Create Works – 801 Saint Joseph Street
- Marshall's Locksmith – 801 Saint Joseph Street
- Cross Eyed Crab – 11 Boardwalk Way, Suite 140

Coming Up

- Text amendment: sign ordinance overhaul
- Text amendment: conditional zoning and table of permissible uses
- Text amendment: road improvement standards
- Planned Unit Development: 8-unit – 202 Carolina Beach Avenue South

PUBLIC DISCUSSION

None

DISCUSSION ITEMS

2. Consider a Conditional Use Permit to approve the operation of day care facilities at 105 Dow Road, Seaside Chapel

Chairman Bloemendaal asked why the board is not talking about easing the process of allowing churches to be day care facilities, especially during these times. Mr. Murphy said the Town can't change the table of permitted uses without a text amendment. He said staff would be taking a look at uses and giving input on what needs to remain conditional and what can be done by permit by right to see about loosening it up. Mr. Hardison said part of the process is evaluating all uses and deciding which ones need a 90-day review and which can be permitted by staff, so this will come back to the board in the future to see what uses can be streamlined.

The following individuals were sworn in by Andrea Deopp-Norris: Mr. Murphy, Jeremy Hardison, Ned Barnes.

Chairman Bloemendaal opened the evidentiary hearing.

Chairman Bloemendaal: Mr. Murphy can continue. Sorry, I didn't have my cheat sheet out.

Mr. Murphy: No worries. I apologize for the false start as well. So, as I said, we are looking at a Conditional Use Permit for a daycare to be located at 105 Dow Road for Seaside Chapel. This is a

wonderful 2019 aerial view here that you can see of the current facility as well as the fenced playground area, which is a proposal as a part of this CUP. So daycares are permitted in R-3 through, as we said, conditional use. Otherwise R-3 is a single-family-only district, so that's part of why this was originally placed as a conditional use, but as we discussed times do change so we'll see what happens moving forward, but for now they do need the Conditional Use Permit in order to proceed. The current conditions, as you can see here, are wonderful views from 8th Street. On the right is the area roughly where the fenced playground area will be going somewhere in this region here with the with the proposed landscape buffering it from 8th Street. These are the current conditions from the looking from Hamlet towards the buildings, views taken from the grass parking lot that they utilize there as well as the views from Charlotte. On your left side is the building that is going to be used as the primary daycare location. The design here, as I said, they will be utilizing about a two-thirds of the building on the left there. Primarily want to make sure they have kitchen use, bathroom use, and, you know, area for the children as well as on the lower design, you can see the fenced playground area, which is intended for that fenced playing ground. They have a landscape buffer that they are including. There will be drop-off and pickup coming off of Charlotte in front of that building as well as ample extra parking in the rear should it be required, and this is, and just highlighted again, the area that's intended for the daycare activities on the interior of that building. So staff is requiring additional buffering, as you can see here, by the green on the edge of the fenced playground area. This is just to give that a little bit of a, you know, a blocking from everyone on 8th Street there, but all the other buffering and tight distances were handled into the original 2005 Conditional Use Permit for the chapel, so that's not something really improved. We're just looking at the small improvements here. Stormwater does not require the parking lot to be finished beyond its current condition. Child care daycare ratios are handled outside of the Town. That's something state-regulated, and no additional improvements were required or requested from Technical Review Committee. In regards to the specific standards, ingress and egress will remain via Charlotte. The design accommodates two-way traffic and sufficient parking, and, as I said, extra is available. Parking is contained on the property. Trash collection will not change. Utility provision will not change. Landscape buffer is being required on the 8th Street side of the proposed fenced playground area. Signage is proposed at this time, and all signage will have to meet standard zoning requirements for approval, and there is no substantial change to any required yards or open space. The general conditions, the density falls within the standard R-3 requirements as well as it meets the setbacks. The proposed CUP meets all other conditions and specifications. The proposed structures will and use will conform with the neighboring properties that is located on its own parcel as a church which operating the daycare, and the future land use is primarily for single family but, as we said, this is a Conditional Use Permit to allow, that has been to allow daycares in the past on in these R-3 zones. So the big prohibition in the R-3 Residential-3 Land Use Plan is the multi-family. That's what the concern was, and staff recommends the approval of the proposed Conditional Use Permit for the operation of a day care service at 105 Dow Road, Seaside Chapel, with the addition of that landscaping buffer.

Chairman Bloemendaal: Alright. Thank you, Miles.

Mr. Murphy: Yes, sir.

Chairman Bloemendaal: If the applicant is present and would like to present any evidence or his representation, legal arguments in support of the request, it is that time. Mr. Barnes, surprise. Please state your name and address for the record.

Ned Barnes: Ned Barnes, 814 Carolina Beach Avenue North. Chairman, commissioners, um I've been here 35 years, and as far as I know the church has been here as long as I've been here, if not longer. Um, but I think we all recognize the fact with what we're going through now with COVID, uh and the other factor I was thinking of when I looked at this application is and we found uh in our real estate practice so many younger families are moving to the beach than they ever have before, and the need for daycare is just exhausted here on the island. Um what they're looking at again is just putting in a fence, a 50-by-50-fence, to for the children, which is going to be required and also meets the state requirements. Uh if you look at their business plan, they're going to meet or exceed all the state requirements for a child day care center, and as Miles correctly pointed out, we think there's no issue at all with the seven specific. The ingress egress remains the same. Parking remains the same. There's no need at all for any additional off-street parking. Refuse doesn't change. Utilities don't won't change. Um screening and buffering be the same but for their willingness to comply with the buffering that the TRC and the staff has recommended. Uh the signage, there'll be no additional signage other than what's there with the church that exists currently, and again the yard and open space will be the same but for the fact that they'll be installing the 50-by-50-foot fence again, which is going to be required by the state for the facility. As far as the general conditions, it certainly won't endanger in any way the health or safety of the public. Uh it currently meets all required conditional conditions and specifications as a general condition, and we certainly don't think it will impair any of the value of adjoining properties. As I say, the church has been there for many, many, many years, and it will be in harmony with the area. Again, the church has been there for 30-some-odd years, so I'll request that.

Chairman Bloemendaal: Thank you. I have a question for you, Mr. Barnes

Mr. Barnes: Sure.

Chairman Bloemendaal: Did they, have they stated hours yet?

Mr. Barnes: Right now they're looking at from 2:00 to 6:00.

Chairman Bloemendaal: Full day?

Mr. Murphy: Mr. Barnes, could you repeat that just so?

Chairman Bloemendaal: Just for the record.

Mr. Barnes: They're planning on 2 to 6 during the normal school days, but they are able to handle children or have children at the facility when it's a teacher's workday or a holiday that they will have can handle children there the entire day.

Chairman Bloemendaal: Anyone else on the board have questions for Mr. Barnes?

Commissioner Rouse: Just one, Mr. Barnes, and if uh she has to answer or one of the witnesses then I can wait for the answer and it won't affect my vote. I'm just wondering what the capacity will be out of uh curiosity.

Chairman Bloemendaal: 25.

Mr. Hardison: Can we get that on the mic? Yeah, it's 25. So the minutes can get it.

Mr. Barnes: 25.

Commissioner Rouse: OK, the answer is 25. I'll referee.

Commissioner Boswell: And it's Monday through Friday?

Chairman Bloemendaal: Alright. Anybody else have any questions? Mr. Barnes, thank you.

Mr. Barnes: Thank you.

Chairman Bloemendaal: If anybody else has been sworn in and would like to say anything else that's this is the time to do that. OK, uh make a motion to close the public hearing.

Commissioner Ittu: Second.

Chairman Bloemendaal: Alright. Discussion among the commission? Anybody have any comments, questions, any problem with any of the general or specific conditions?

Commissioner Rouse: I'll start it off. Uh, looks to me like the only difference because it is a church and it's been there and the folks are really nice there. They've helped me on several occasions find lost animals, but the only difference I see in practice is what days and what times people will be on the church property

Chairman Bloemendaal: Right.

Commissioner Rouse: Personally I think it would be an asset for some of the younger families moving in uh as well as, you know, the uh unusual times we're in and could be in again, so I'm in favor of it.

Chairman Bloemendaal: Yeah, I think we should be talking about a text amendment instead of just one property, but that's just me personally. I'm all for it especially, you know, as Ned said, a lot more young families, and I'm seeing that as a builder as well, a lot more younger families are moving here and there's kids and there's a need. So anybody else?

Commissioner Boswell: No, I mean, I support it. I know that it is something that is needed on the island. We do um, you know, especially with this, even without COVID the local daycare is usually full, so this would be, you know, an asset. And with the state, I can tell you living in different states and dealing with daycare centers, North Carolina, the state requirements are so strict. I don't see how it would be anything but an asset to the community.

Chairman Bloemendaal: Imagine that.

Commissioner Rouse: My guess is you'll be full pretty quickly.

Chairman Bloemendaal: Alright. Um, Mr. Hoffer? OK. Come on, it's my last meeting. Alright. I'm gonna uh go ahead and make a motion that we approve.

Mr. Murphy: Commissioner, before you read.

Chairman Bloemendaal: Did I miss something?

Mr. Murphy: Nope, uh you're fine, but uh include in the motion the landscape buffer. I neglected it to add it in the line itself so.

Chairman Bloemendaal: OK.

Mr. Murphy: Just as a note there.

Chairman Bloemendaal: As long as we approve of that, I will.

Mr. Murphy: Yes, sir.

Chairman Bloemendaal: I'm just kidding. Uh I'm going to make a motion we approve the Conditional Use Permit uh for the operation of a day care facility at 105 Dow Road, Seaside Chapel, with the condition recommended by TRC for a buffer on the 8th Street side of the fence for the playground. The use meets all required conditions and specifications, the location and character of the use if developed according to the plan as submitted. Motion on the table.

Commissioner Rouse: I'll second.

Chairman Bloemendaal: All in favor?

Board: Aye (motion passed unanimously).

Chairman Bloemendaal: Thank you, guys. Alright. Check mark.

3. Consider amending Chapter 40 Sec. 40-72 and Sec. 40-548 to address floating homes

Mr. Murphy said that for the record the Town is addressing this matter in a permissible use update, but staff couldn't bring the whole thing at once and didn't want to piecemeal it.

Mr. Hardison said a structure on a barge that arrived at Carolina Beach Yacht Club right before Fourth of July weekend received complaints from people who live in Oceana, the adjacent neighborhood. Town staff investigated under current regulations, which allow liveaboard boats but not floating homes. The current Harbor and Marina Ordinance defines floating homes are those built on a floating platform without means of propulsion. Mr. Hardison said the structure in question is registered as a vessel with the State of North Carolina and has two outboard motors that demonstrated propulsion. Therefore, this structure meets the ordinance as written. The Oceana Marina Association and Oceana Owners Association have applied for a text amendment to change the ordinance because members feel the regulations are ambiguous, but after consulting with legal counsel Town staff decided to address the matter as a zoning issue because zoning deals largely with impacts on adjoining properties while the Harbor and Marina

Ordinance is primarily safety-based.

Most of the board's discussion focused on whether the structure should be classified as a boat or a floating home. Chairman Bloemendaal said he did not want to see the structure defined based strictly on the way it looks because that could set a dangerous precedent. He said the floating structure definition is confusing.

Mr. Hardison said that while the structure is registered by the State as a boat, the Coastal Area Management Act (CAMA) has defined it as a floating structure. Commissioner Hoffer asked what CAMA's rationale was for this. Mr. Hardison said CAMA made the determination because the structure is on a floating platform and met the definition of a floating structure rather than a boat that is designed to maneuver through water, so now it must go through a permitting process with CAMA.

Mr. Hardison said allowing floating homes in certain areas of the Town is also an option for the board to consider.

Vice Chairman LeCompte said the Town has been put in a position to become a referee for something they never approved because the structure's owner found a way to skirt regulations by meeting the propulsion requirement. She said if the Town is going to change the rules, there should be some teeth behind the regulations so this doesn't keep happening.

Commissioner Hogan asked whether the structure would be eligible for a sticker that indicates U.S. Coast Guard certification for weight limit and occupancy. He said that could be a way to help define it, whether or not it meets the propulsion requirement.

Commissioner Rouse said he did not feel comfortable casting a vote either way without more information. Commissioner Boswell said if there is no vote, the issue might keep happening. Chairman Bloemendaal said the board needs to do things right and find a better way to define why it's not allowed before voting.

Chairman Bloemendaal asked if anyone was ready to make a motion or vote. No one indicated they were. He said maybe the board could come to a consensus on some direction for Town staff. Vice Chairman LeCompte said she would be in favor of a public hearing on the matter so the public can give input into what they want. Commissioner Ittu agreed that he would like to know how residents feel about it.

Vice Chairman LeCompte asked if a CAMA permit was granted. Mr. Hardison said not yet, but the owner is in the process of trying to obtain one. Commissioner Rouse suggested not addressing the matter until CAMA decides about the permit. Mr. Hardison pointed out that even if CAMA allows the structure, the Town doesn't have to allow floating structures and added that the current Land Use Plan does not allow floating structures. He said the new Land Use Plan that has not yet gone into effect does not address the matter.

Commissioner Boswell said the board could consider sending the matter to Council to let the Town's elected officials handle it. Chairman Bloemendaal said he thinks the board would be derelict in its duty if it does not either send the issue back to Town staff to revisit or take a vote on it now. Vice Chairman LeCompte said she agreed.

Commissioner Rouse asked if the issue needs to be addressed at all since it is not in the new Land Use Plan. Chairman Bloemendaal said every ordinance does not have to be in the Land Use Plan. Mr. Hardison said it did not come up during the process because it was not recognized as a community issue at the time.

ACTION: Motion to ask staff to go back and look at considering amending Chapter 40 Sec. 40-72 and Sec. 40-548 to address floating homes and give the board more definition/clarification on what a floating structure is versus what a boat is, specifically liveaboard boats

Motion: Chairman Bloemendaal

Second: Commissioner Hoffer

Vote: UNANIMOUS

NON-AGENDA ITEMS

Mr. Hardison said the board will need to appoint a Chairman and Vice Chairman at the October meeting.

Chairman Bloemendaal said he wanted to thank everyone for the opportunity to be on the board, which he considered a great learning experience.

Commissioner Hoffer said he will still be actively pursuing goals through his work on the Town's Bike/Pedestrian Committee, and he requested that board members back him up when things are not moving forward.

Commissioner Rouse said he considered it an honor serving with both men.

ADJOURNMENT

Chairman Bloemendaal made a motion to adjourn at 8:10 PM.