



TOWN OF CAROLINA BEACH

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

PLANNING & ZONING COMMISSION MINUTES

November 18, 2010

7:00 P.M.

ITEM #1 Call to Order & Roll Call 7:00 pm

Greg Reynolds calls the meeting to order.

Commissioners Present:

Sarah Efird
Greg Reynolds
Leah Garcia
Brett Keeler
Tom Bridges
Jim Rees
Jessica Keenan

Commissioners Absent:

Staff Present: Gary Ferguson, Planning Director; Ed Parvin, Planner, Jeremy Hardison, Zoning Administrator; Kaysie Pralle, Secretary

ITEM #2 Approval of the Minutes 7:04pm

MOTION

Commissioner Keeler made the motion to approve the October 14th minutes. Commissioner Reynolds seconds the motion. **Motion passes unanimously (7-0).**

ITEM #3 Staff Report on Recent Council Meeting(s) 7:08pm

Mr. Ferguson provides a brief presentation on Town Council's motions and votes at the most recent Town Council Meeting.

ITEM #4 Public Discussion 7:09pm

None.

ITEM #5 Conditional Use Permit 7:10pm

Conditional Use Permit and a Vested Right for a "Site Specific Development Plan" to allow an addition and renovation to the existing fire station.

Applicant: Town of Carolina Beach

Location: 9 S. Dow Rd (PIN # 3130-15-2967), 815 Cape Fear Blv (PIN#: 3130-16-3009) and 811 Cape Fear Blv (PIN#: 3130-16-4004).

Zoning: (R-3)

Commissioner Reynolds requested to be recused from this item.

MOTION

Commissioner Keeler made the motion to recuse Commissioner Reynolds from voting on this item. Commissioner Keenan seconded the motion. **Motion passes unanimously (7-0).**

ED PARVIN PRESENTS HIS MEMO

SUMMARY OF THE REQUEST

The Carolina Beach Fire Department is requesting a vested right for a site specific development plan and a conditional use permit to add one bay and two offices to the current five bay fire department. Four of the bays will be reoriented to face Cape Fear Blvd. vs. Dow Road. In addition, renovations will occur for the existing berthing, living, kitchen, classroom, and office space. The request will: (1) expand the lot coverage by 5,814 square feet; and (2) increase the parking area from 9 to 28 parking spaces. If approved this site specific development plan shall not expire until December 31, 2016.

Government Facilities are allowed by conditional use permit in the R-3 zoning district. No conditional use permit was on file for the fire department. The site will be composed of three lots which include 9 S. Dow Rd., 815 Cape Fear Blvd., and 811 Cape Fear Blvd. New Hanover County records indicate that the fire department located on 9 S Dow was built in 1970. The house located at 811 Cape Fear Blvd. was built in 1976. The property at 815 Cape Fear is currently vacant. In total, the site consists of three parcels having a combined square footage of 43,750 square feet. The lots will be required to be recombined prior to pulling a building permit.

The total square footage of all building is approximately 15,884 square feet. This square footage includes the existing building and the proposed additions. All lots are located in the R-3 zoning district. The lots are not located in a flood or CAMA area.

Zoning Setbacks	Front (Dow)	Corner (Dow/Charlotte)	Corner (Dow/Cape Fear)	Rear (Eastern Property Line)
R-3 required	25'	12'6"	12'6"	10'
Provided	80'	30'	31'	58'

Lot Coverage	
R-3 maximum	40% (includes buildings, decks, steps)
Current	23%
Proposed	36%

In accordance with Sec. 14.8 of the zoning ordinance no conditional use shall be granted by town council unless the following provisions and arrangements, where applicable, have been made to the satisfaction of the council:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

The new on-site parking design allows for the fire trucks more room to maneuver and gives the bays on Dow Road direct access to Cape Fear Blvd from the parking lot. In addition, the four new bays will front on Cape Fear Boulevard which will keep the fire trucks from having to back onto a much busier Dow Rd.

- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

In accordance with the zoning ordinance a fire station is required to provide 1 parking space per person on duty + 5 additional spaces. In addition the three bedroom sleeper house on Cape Fear is required to provide 2 per dwelling unit + 0.5 per bedroom over 2. There are 5 persons on the largest shift + 5 additional spaces = 10 parking spaces + 3 spaces required for the 3 bedroom house = a total of 13 required parking spaces.

LAND USE	Existing Parking Spaces	Parking Provided	Required Parking
Fire Station	9	19	10
Fire Station SFR	Driveway with no marked parking	9	3
TOTAL:		28	13

- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;

The numbers and locations for roll-away dumpsters will not change. There will be three roll-aways stored on the southeastern corner of the fire station and one roll away stored on the southwest corner of the house.

- (4) Utilities, with reference to locations, availability, and compatibility;

No upgrades in water, sewer or power are required for the renovations and addition.

- (5) Screening and buffering with reference to type, dimensions, and character;

A type “B” buffer yard is required around the perimeter of the site. The buffer yard is being accommodated along Dow Road. Existing vegetation will remain to accommodate the buffer yard along Cape Fear Blvd. No changes in landscaping are proposed to the areas where the existing building footprint is not being modified (East and South).

- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

No new signs are proposed. Exterior lighting will be shielded to prevent impacts on adjacent right-of-ways and properties.

- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

The site will maintain the existing vegetation outside what is required to be removed to accommodate the new parking and drive isle areas.

General conditions.

- (1) 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 by the issuance of the C.U.P.;

Enhancements proposed to the Fire Department will create a more efficient, effective and safer operation to serve Carolina Beach.

(2) That the use meets all required conditions and specifications;

Town staff has reviewed the proposal to ensure it meets all code requirements.

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

This is an expansion of an existing use that is a public necessity. The nature of the use is valuable to the community and all local citizens.

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies.

The desired Future Land Use of the Residential 3 area includes single-family units only; however a core goal of the land use compatibility policies is to maintain the public health, safety, and welfare of the community. Ensuring the community has an adequate fire department is vital to move toward achieving other policies and land use patterns in the various land classification areas described in the 2007 Land Use Plan. Therefore, the proposal to enhance the capabilities of the fire department is in general conformity with the 2007 Land Use Plan.

SUMMARY OF THE ALLOWANCES REQUESTED FOR THIS SITE

1. Relief from providing sidewalks, curbs, and gutters; and
2. Waiver from providing the Type B landscape buffer yard along the north and east property lines.

PLANNING STAFF RECOMMENDATION

Staff recommends approval of the CUP as stated in the proposed grant order. The proposed grant order lists TRC conditions; the 7 specific standards; and the 4 general conditions. The 4 general conditions include a statement that the CUP is in general conformity with the 2007 Land Use Plan.

DISCUSSION

There was a general discussion amongst the commissioners, specifically addressing the setback for sidewalks along Dow Road.

MOTION

Commissioner Keeler made a motion to approve the Vested Right for a "Site Specific Development Plan" and a conditional use permit to renovate and expand the existing fire station in that it is consistent with the LUP and the four standards, all seven required findings in the chart conditions 1-4 with TRC comments and staff conditions. Commissioner Efird seconded the motion. **Motion passes unanimously (6-0).**

MOTION

Commissioner Keeler made the motion to reinstate Commissioner Reynolds. Commissioner Garcia seconded the motion. **Motion passes unanimously (6-0).**

ITME #6 Conditional Use Permit

7:35pm

Conditional Use Permit: The applicant is requesting a Planned Unit Development (PUD). Approximately 1,500 sq/ft (3 beds, 2 baths) single family unit on the Northern end of the lot in combination with an existing duplex.

Applicant: Charles Alexander

Requested Site: 303 S 3rd St Carolina Beach, NC 28428

PID: R09006-041-013-000

Zoning: R-1

JEREMY HARDISON PRESENTS HIS MEMO

SUMMARY OF THE REQUEST

Charles Alexander is requesting a Conditional Use Permit to construct one (1) single family home having three (3) bedrooms on a lot with an existing duplex. The application is to be reviewed under the provisions of Article 16 Planned Unit Development (PUD).

The lot is 50' X 125' which is 6,250 square feet and is located in the MX zoning district. The proposed structure will be located in an AE 13 flood zone. The maximum building height shall not exceed 50 feet in height. The existing duplex on the lot was built in 1969 and was remodeled last year. The current duplex does not meet setback requirements.

In 2008 the planning department received complaints about the condition of the existing duplex located on the lot. The property was in foreclosure and the town condemned the building following a minimum housing inspection. The applicant bought the property in 2009 and renovated the building to meet code. The existing duplex is currently being rented out.

It should be noted that under Session Law the time period for this CUP if issued, will not begin until January 1, 2012. The expiration will be after three years or on January 1, 2014. Mr. Alexander will also have an opportunity for a one year extension which would give this project validity until January 1, 2015.

Residence	Bedrooms	Footprint
Existing Duplex	2	935
Proposed SFR	3	1,518
Total	5	2,453

Zoning Setbacks	Front (Fayetteville Ave - 50'ROW)	Corner (S Third St-50' ROW)	Side	Rear
MX required	20'	12.5	7.5'	10'
Proposed Single-Family	10' (steps)	13.5'	8.5'	47'
Existing Duplex	95'	3'	3.2'	1'

The applicant is requesting an exception of 1.25 times the maximum allowable density in the MX district. Under the PUD allowance Sec 16.3 an exception may be allowed up to one and one quarter (1.25) times the maximum allowable density for the district in which the development is located. This exception was adopted as part of the zoning ordinance rewrite in 2000. Staff is not aware of council granting or denying the waiver for any development project.

Lot Coverage			Density (17 units/acre)
R-1 maximum	40% (includes buildings decks, steps)		2.43 With 1.25 = 3.0
Provided	39.2%		3

Parking

The single family home requires 3 parking spaces. The applicant is providing three (3) 9' X 18' parking spaces. The duplex has three (4) parking spaces provided. The site will include a total of seven (7) parking spaces. The applicant is requesting an exception from Article 7:

Parking design and construction.

- e. *Maneuvering.* All parking facilities shall be designed and constructed so that maneuvering shall take place entirely within the property lines of the facility and shall be arranged so that ingress and egress is by forward motion of the vehicle. Exceptions may be granted for single and multi-family dwellings.

The determination of required curb, gutter and/or sidewalk shall be made by the Town Council upon review and recommendation by the Planning & Zoning Commission. Installed curb, gutter and sidewalks shall be installed for the entire length of the property. Required sidewalk shall be based upon one or more of the following:

- a. reasonable evidence that the sidewalk would be essential for pedestrian access to community facilities;
- b. that such is necessary to provide safe pedestrian movement outside the street or street rights-of-way area;
- c. that such an extension could reasonably become an extension of existing sidewalks and/or other pedestrian ways.

The applicant is requesting a waiver from the required curb, gutter and/or sidewalk.

For all conditional use permits, the following standards and conditions must be met:

Specific standards. Applicant must make provisions for:

- (6) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

The on-site parking for the proposed single-family home has been designed by the applicant to back out onto S third S and Fayetteville Ave.

- (7) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

Off-street parking is provided on the lot as shown on the applicant's site plan.

- (8) Refuse and service area, with particular reference to the items in (1) and (2) above;

Roll aways will be utilized for each dwelling unit.

(9) Utilities, with reference to locations, availability, and compatibility;

Where water and sewer are not present the Town typically requires the developer to install the improvements along the public right-of-way. The applicant is requesting to utilize the existing water and sewer taps to run the utilities down the property.

(10) Screening and buffering with reference to type, dimensions, and character;

The applicant is providing a 5' "Type A" landscape buffer yard around the property which is required under Article 8.

(8) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

No signage is proposed for this site.

(9) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

25% open space is required; 44% is being provided.

General conditions.

(1) 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 by the issuance of the CUP;

Single family homes and duplex units are a desired use in the MX zoning district according to the 2007 Land Use Plan.

(2) That the use meets all required conditions and specifications with the following exceptions

a. To request an additional 1.25 times the allowable density.

b. Vehicles will back out on S Third St and Fayetteville Ave vs. maneuvering on-site to egress in a forward motion and;

c. Relief from providing sidewalks, curbs, and gutters.

*d. Asking for a wavier of 10' from the required 20' front setback off of Fayetteville Ave.
(recommended from TRC)*

(5) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

The proposed use is in keeping with the residential character of the neighborhood and will therefore not injure the value of adjoining properties.

(6) That the location and character of the use if developed according to the plan as submitted and approved

will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies

The desired Future Land Use of the Mixed Use 3 area includes a continued relatively dense residential and commercial lodging use, with single-family and duplex units becoming more prominent for the more landward portions of Mixed Use 3 (west of Lake Park Boulevard). Density will be comparatively high with 5,000 to 6,000 square foot lot minimums, and density ratios averaging around 17 units per acre, with higher density ratios for commercial lodging. Lot coverage will not be allowed to exceed 40%.

The Technical Review Committee reviewed this proposal at its September 20, 2010 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission after the following comments were addressed:

- Delineate parking spaces
- Relocate the driveways to Fayetteville Ave to reduce curb cuts on Third st
- Show Landscape Buffer type A

SUMMARY OF THE ALLOWANCES REQUESTED UNDER THE PUD ORDINANCE

The Applicant has requested the following:

1. To request an additional 1.25 times the allowable density.
2. Vehicles will back out on S Third St and Fayetteville Ave vs. maneuvering on-site to egress in a forward motion.
3. Relief from providing sidewalks, curbs, and gutters.
4. Asking for a wavier of 10' from the required 20' front setback off of Fayetteville Ave. *(recommended from TRC)*

DISCUSSION

There was a general discussion amongst the commissioner, specifically regarding parking for the PUD. Resident Harriett Hilton, 312 Atlanta Avenue expressed her approval of this project, but did say that parking continues to be a problem in this area.

MOTION

Commissioner Keeler to approve the request for a PUD on 303 S 3rd and that it meets the standards of 1-4 and is consistent with the LUP and consistent with all of the seven required findings and adhere to the TRC comments and staff conditions. Commissioner Bridges seconds the motion. **Motion passes unanimously (7-0).**

ITEM #7

Text Amendment

8:06pm

Text Amendment: Consider amending Article 3.9 of the Zoning Ordinance to allow for a reduction of the minimum front yard setback where adjoining lots have less than the required minimum yard.

GARY FERGUSON PRESENTS HIS MEMO

SUMMARY OF THE REQUEST

Recently staff has witnessed several situations where a property owner wishes to improve and or expand their residential development site consistent with their adjoining neighbor's properties. What they wish to do is bring into alignment their improved house with the houses next door or on either side of them. In some instances this is not possible because the adjacent houses are encroaching into the front yard setback. These adjacent properties are "grandfathered" because they built their homes in compliance with the zoning ordinance that was in effect at that time but the rules changed and they are now non-conforming.

As most non-conforming ordinances stipulate, expanding the degree of non-conformity is not allowed as it is perceived as making a bad situation worse. However, there is an instance where this expansion allowance may be a benefit to the neighbors, the property owner and the community at large. The example is when houses on each side of a vacant lot are encroaching into the front yard setback and the owner of the vacant lot wishes to keep some alignment with the adjacent houses so that his/her house does not appear like a missing tooth in a good smile. Some sense of house alignment in relationship to neighboring properties on the same side of the street may help to maintain the aesthetic appearance of the block. Because of this, as well as a "fairness" issue, staff is recommending this zoning amendment.

The language for this amendment comes from our non-conforming ordinance, particularly Section 18.2(g)(3) which was designed to address oceanfront lots where the lot area has been lost to erosion. We are recommending that this allowance be applied townwide with the same criteria for oceanfront lots which includes the following:

A front yard setback may be reduced to no less than the calculated average front yard setback distance for existing buildings on all lots located wholly or partly within two hundred (200) feet, as measured from each side lot line of the subject property. Calculating the average front setback shall be subject to the following criteria:

- a. All lots being in the same zoning district.**
- b. All lots shall front on the same side of the street.**
- c. All lots shall be considered as having the minimum required setback if said lots are vacant.**
- d. In no instance shall the calculated average front setback be reduced to less than fifty (50%) percent of the original setback.**

DISCUSSION

The commission had a general discussion regarding the alignment of the proposed new construction, with the existing structures along their street.

Resident Rick Rogge, 301 Spartanburg Ave. expressed visibility concerns.

MOTION

Commissioner Bridges made the motion to consider amending Article 3.9 of the Zoning Ordinance to allow for the reduction of the minimum front yard setback were adjoining lots have less than the required minimum front yard setback and are located within 200 feet on each side of the said lot. Commissioner Garcia seconded the motion. **Motion passes unanimously (7-0).**

ITEM #8 Non-Agenda Discussion: Accessory Dwellings in Single Family Zoning Districts 8:32pm

At the August 12th Planning and Zoning meeting, the commission asked staff to investigate options for accessory dwelling housing units with standards in the Town's single family residential areas. At the October 14th meeting, this item was tabled until the individuals are presented that wanted to be involved in the discussion. Today, Mr. Ferguson proposed sending a commission member to speak with Council about direction on this issue to bring back for discussion amongst the commission at the next meeting.

DISCUSSION

Fred Grady, 608 Cape Fear Blvd. suggested leaving the R3 area as is.

CONSENSUS

Commissioner Keeler will present this item to council in December, request direction and return to the commission with their recommendation.

MOTION TO ADJOURN

9:05pm

Commissioner Efirid made a motion to adjourn the meeting. Commissioner Keeler seconded the motion.

Motion passed unanimously (7-0).