

Joel Macon
Mayor

Alan Gilbert
Councilman

Jerry Johnson
Councilman



Dan Wilcox
Mayor Pro Tem

Pat Efird
Councilwoman

Timothy Owens
Town Manager

TOWN OF CAROLINA BEACH
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Carolina Beach, North Carolina 28428
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Planning & Zoning Commission Minutes

July 10, 2008

7:00pm

ITEM #1 Call to Order & Roll Call 7:02pm

Chairwoman McQuillen calls the meeting to order.

Commissioners Present: 6

Greg Reynolds
Betsy McQuillen
Jim Miller
Jim Rees
Shawn Underwood
Sarah Efird

Commissioners Absent: 1

Bill Parker

Staff Present: Gary Ferguson – Planning Director, Ed Parvin – Senior Planner, Jeremy Hardison – Zoning Administrator, and Karen Crenshaw - Secretary

ITEM #2 Approval of the Minutes 7:02pm

June 11, 2008 – Mr. Rees moves to approve the minutes as presented. Mr. Reynolds seconds. All ayes.
Motion carries unanimously (6 to 0).

ITEM #3 Staff Report on Recent Council Meeting(s) 7:04pm

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

ITEM #4 Public Discussion 7:05pm

None

ITEM #5 **Road Closure** – Consider a request to close a 15’ alley that runs 110’ +/- from Elton Ave to another existing 15’ alley
Applicant: Bill Doyle

7:05pm

Mr. Parvin presents his memo

SUMMARY OF THE REQUEST

The petitioner, Bill Doyle, is requesting to close an unnamed alley in Ocean Heights Subdivision between lots 7 and 8 to accommodate future development. When right-of-ways are closed, 50% goes to each adjacent property owner. In this circumstance the petitioner owns the property on both sides of the alleyway, therefore, after closure the property will remain in single ownership. The petitioner, Bill Doyle plans to combine both portions of the alleyway onto one lot referenced in Appendix 4. The recombined lot is referenced as “Lot 1R.”

HISTORY OF THE ALLEYWAYS IN OCEAN HEIGHTS SUBDIVISION

1. The subdivision was originally recorded in 1952 with alleyways running along the rear property lines and in some instances running along the side lot lines (see **appendix 1** showing the original plat).
2. Since that original plat many changes have occurred including the addition of Dow Road which cuts through Ocean Heights leaving a piece of the originally platted area split off to the south (see **appendix 2**).
3. In December 2002 Town Council voted to close the alleyway that extends from Glenn to Elton Avenue (see **appendix 3**).
4. The extension of the 2002 closed portion of alleyway that runs south of Elton, adjacent to the side yard lines of lot 7 and 8 remains open. (see **appendix 4**).

STAFF RECOMMENDATION

After review by staff this 110’ portion does not serve any public purpose. The alleyway to the rear of the properties on Elton is being utilized to hold utilities and should remain open.

THE PROCESS FOR STREET/ALLEYWAY CLOSURES:

1 - Petition or Request for Street/Alley Closing

The petition was received on May 28, 2008. The Technical Review Committee reviewed this item at its June 16, 2008 scheduled meeting with the following comments:

Utilities

No utilities exist in the alleyway and there were no needs for the alleyway after future development occurs.

Planning

No individual owning property in the vicinity of the alley would be deprived of ingress and egress to their property.

The petitioner shall provide the Town with a plat for recording at the New Hanover County Register of Deeds. The plat shall be signed by Planning Staff only after Town Council approval of the closure.

Police – None

Town Manager – None

2 - Resolution of Intent to Close

The Town Council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. The resolution will go to the July 07, 2008 Town Council meeting.

3 - Publication of Resolution of Intent to Close and Notification to Adjoining Property Owners

The resolution shall be published once a week for four successive weeks prior to the hearing, a copy thereof shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley.

Publication Dates: July 16, 23, 30 and August 6, 2008

4 – Planning and Zoning Review

At the Town of Carolina Beach the Planning and Zoning Commission typically reviews road closure applications in order to accommodate a more thorough assessment before Town Council review. This can be done without stalling petitions due to the General Statute requiring 4 weeks of notifications prior to Town Council’s public hearing. P&Z will review this item at their July 10, 2008 regularly scheduled meeting.

5 - Public Hearing Following Four Weeks of Advertising

Town Council Public Hearing on August 12, 2008: At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual. If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley.

6 - Record at Register of Deeds the Resolution Ordering Street Closed

A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street or any portion thereof, is located.

7 – Ownership of the right-of-way after closure

All right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

Commission Questions

Ms. McQuillen asks if the sewer line runs along this alley; Mr. Parvin answers that utilities run along the southside of it, that he is aware of a fire hydrant.

Applicant

The applicant is not present.

Public Comments

None

Commission Questions/Discussion

Between 7:07pm and 7:10pm there was an error in the recording program and thus specific notes during this time cannot be generated.

Motion

Mr. Underwood moves to recommend approval of the road closure as presented, and to advise that it is consistent with the Land Use Plan. Ms. Efirid seconds. No discussion. All ayes. **Motion carries unanimously (6 to 0).**

ITEM #6 **Conditional Use Permit** – Consider a request for a CUP for an existing swimming pool and parking at 701 Elton Ave

Applicant: Ocean Heights/Randy Crouch

7:10pm

Jeremy Hardison presents his memo

BACKGROUND/HISTORY:

The applicant is requesting a Conditional Use Permit for a Planned Unit Development and a public swimming pool located at 701 Elton Ave in the Ocean Heights subdivision. The swimming pool will be used by 26 lots owned by the applicant. The applicant applied for a building permit to construct a swimming pool as an accessory use to a 2-unit dwelling located on the same lot. Currently there is a 600 square foot pool and 277 square foot pool house on the lot, the 2-unit dwelling was never constructed. When we requested a survey of the pool it did not meet the required setbacks for the district. The owner then applied for a variance of 5 feet to the Board of Adjustment and was denied based upon not meeting all 6 Findings of Fact. The applicant is now requesting relief for the setback through a Planned Unit Development for the placement of the pool and a Conditional Use Permit for a public swimming pool as a principal use with associated parking and a picnic area. The principal reason for this request is the pool was mistakenly constructed into the setback and a variance request was denied.

ANALYSIS:

Zoning

701 Elton Ave is located in the MH zoning district. The lot is a corner lot and the setbacks are listed in the table below. Under planned unit developments with a conditional use permit the minimum setback from public or private street rights of way is ten (10) feet and must be recommended for approval or denial by the planning and zoning commission and formally approved or denied by town council. The applicant is requesting a 15’ setback form the street right of way.

Zoning Setbacks	Front	Rear	Side	Corner
MH required	20’	10’	7.5’	12.5
provided	15	28.70	54.19	29.80

Lot Coverage			Open Space requirements for PUD	
MH maximum	40% (includes buildings decks, steps)		25%	
provided	13%		35%	

Parking

The applicant is providing 9 parking spaces with a drive isle width of 24’ and each parking space is 9’X18’ with one handicap space provided. The required parking is for each 75 square feet of pool area and 1 space for each 2 employees which the applicant has met.

Landscaping

The applicant is providing a 5’ “Type A” landscape buffer yard around the property including a fence along the perimeter of the pool and pool house.

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.

Due to the pedestrian nature of the development planning staff recommends that an ADA compliant 4' width side walk be installed 300' from the pool property along Elton Ave and Blanch Ave. See attached map showing the recommendation.

Infrastructure and Storm water

The applicant plans to maintain all storm water on-site and curb and gutter does seem to be necessary. Water and sewer lines have been reviewed by Operations and determined to be adequate.

Land Use Plan Consistency:

The proposal is in general conformity with the Town Land Use Plan. The policy emphasis for this area: Includes an eventual transition from manufactured housing to single-family and duplex units. The plan supports developments that allow for more open space, pedestrian facilities, and stormwater control.

Neighborhood Contact

Town Notifications	Planning Commission	Town Council
Signs Posted	6/26/08	6/26/08
Adjacent letters	June 20th	June 20th
Advertisement Date	June 25th & July 2	June 25th & July 2

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;
- (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;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (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;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

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.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

- (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 Technical Review Committee reviewed this proposal at its 6/16/08 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:

Fire - None

Planning - Put dimension of parking space and drive aisle width; must have 25% open space (pool counts)

PZ & TC – road closure first on the agenda

Operations - None

Manager - Minimum 1 handicapped space, service vehicle space

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Storm water and Operations, Fire and Inspection. Planned unit developments and public swimming pools are allowed with the approval of a Conditional Use Permit for MH zoned properties. Staff recommends the following conditions if the proposal is to be recommended for approval:

1. The storm water plan must be submitted prior to issuance of a certificate of occupancy. The storm water system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of certificate of occupancy.
3. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint. Any increase in building footprints shall constitute a major modification
4. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide the required 9 parking spaces.
5. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
6. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
7. Refuse collection agency that will be used must be included on final site plan. Before the issuance of a building permit a letter of approval from the refuse collection agency stating the waste removal plan is adequate for this site
8. A sign permit must be obtained for any new signs located on the property.
9. Maintenance of permanent open space parking, streets, drainage systems, utilities, swimming pools, and other such facilities- shall be provided for including:
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.

- c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
- 10. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
- 11. Prior to issuance of certificate of occupancy, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
- 12. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in Article 14 of the zoning ordinance.
- 13. Sidewalks shall be installed 300' from the pool property unless otherwise determined by the Town Council upon review and recommendation by the Planning & Zoning Commission.

Commission Questions

Ms. McQuillen says in the staff recommendations the definition of public swimming pools references New Hanover County Health Department's rules and regulations. She notes that even though this falls under a PUD, this is a public pool, and asks if staff should note something about that; Mr. Hardison says that New Hanover County has requirements that will be enforced by the county. Ms. McQuillen asks if the language should actually be included as a condition. Mr. Ferguson and Mr. Hardison agree it would be a good idea. Mr. Underwood asks if there were TRC comment; Mr. Hardison explains that if there was nothing listed next to the department name, then it means it did not have any input. Ms. McQuillen asks if the sidewalk will go all the way up to the public right-of-way; Mr. Hardison further explains that the 300ft comes from the Town's parking regulations, and it is simply a different formula for the criteria. Mr. Ferguson thinks it should say to Hiram Ave instead of 300ft. Ms. McQuillen wants signage in the drop-off area so people won't park there; Mr. Hardison says this can be a condition. Ms. McQuillen has many questions about this pool, since it was approved originally under a regular building permit. Mr. Ferguson explains that they are converting a residential pool to a commercial pool and it will drain just like a single-family house swimming pool. However, there should be a condition for sanitary pick-up. Mr. Underwood asks if it will certainly meet the requirements for a community pool; Mr. Ferguson says it will, although some people may think it is too small for a community pool. Ms. McQuillen asks who governs community pools; Mr. Hardison answers the Health Department. The commission has concerns over how this became a problem, because the assumption is that the primary structure is supposed to be built prior to the accessory structure. Mr. Hardison explains that since the two were on the same building permit, the Town was under the impression that before the C/O was given for the pool that they would construct the duplex. The applicant kept assuring the Town it would be done, but then he drove by and noticed the pool was close to the road and asked for a survey. It turns out there was a mistake in the original survey, which was used to construct the pool. Mr. Ferguson explains that it also went to the Board of Adjustment, and although the surveyor gave a good explanation, the BOA was not satisfied.

Applicant

Randy Crouch, 637 Settler's Lane, Kure Beach – the setback problem was one he inherited, due to his purchase after the fact. Mr. Miller asked how he acquired this property; Mr. Crouch answers that they bought out Pinnacle Development, the original builders who constructed the pool. Mr. Miller asks if he knew about the setback problem when the purchase was made; Mr. Crouch answers no, and that they had assumed that with the pool being constructed it was in compliance. He was not aware that it had never been issued a C/O.

Public Comments

None

Commission Questions/Discussion

Mr. Miller asks why this is a PUD; Mr. Parvin explains that it meets the criteria in Article 13, which is the PUD ordinance. Ms. McQuillen and Mr. Miller think that several things, perhaps too many things, fall under a PUD. They have concerns that the reason this is coming forth as a PUD is simply to reduce setbacks. Mr. Parvin explains that there is a lot of flexibility with PUD language and what it can be used for. Mr. Miller still has a problem with the fact that there was an error by the surveyor. Ms. McQuillen asks if Ocean Heights has any regulations within its subdivision. Does the town have any existing documents of homeowners’ rules and regulations; it was never set up like a homeowners’ association like Carolina Sands. Mr. Parvin explains that this subdivision was originally recorded in 1952, so it was not established with an HOA. Mr. Rees asks about the existing clubhouse; Mr. Hardison explains that a little bath house/cabana was permitted with the duplex.

Motion

Mr. Underwood moves to recommend approval of this CUP, with staff recommendations 1-13, under staff recommendation #13 change to: sidewalk installed from the parking lot to Hiram Ave, under staff recommendation #17 to require adequate sanitation pickup, and to create #14 under staff recommendations that the pool should comply with the New Hanover County Health Department rules and regulations, specific standards 1-7, general conditions 1-4, and to advise that it is consistent with the Land Use Plan. Ms. Efird seconds. All ayes. **Motion carries unanimously (6 to 0).**

ITEM #7 **Conditional Use Permit** – Consider a request for a CUP for an existing 7ft fence located at 507 Monroe Ave

Applicant: Johnny Arnette

7:44pm

Jeremy Hardison presents his memo

BACKGROUND/HISTORY:

The applicant Mr. Johnny Arnette is requesting a Conditional Use Permit for a 7 foot fence located at 507 Monroe Ave. The 7 foot fence currently exists and is constructed a couple of inches off the rear and side lot lines. There is currently a single-family home located on this 100 X 125 foot lot. The applicant bought the property in February of 2008. The former owner admits to constructing the fence and never getting a permit in January of 2007 (see attached letter dated 6/4/08). Mr. Arnette claims that he added a 16 foot section to the east and an 8 foot section of fence to the west to be consistent with the existing height of the fence. Neither owner had a permit to do the work. The dwelling was constructed in 2003. Mr. Arnette built a storage room addition to the dwelling in April of 2008. The inspector noticed the fence and at that time Mr. Arnette was instructed to get a permit for the new portions of the fence. Mr. Arnette applied for a 6’ fence for an 18’ section on the east side. A permit was issued that specifically stated that the maximum height is 6 feet for the fence. He was issued a final for the fence but upon a second inspection it was discovered that the 18’ section of fence on the east side of the fence was 6 feet 6 inches and leading to the rear yard to the west side of the property the fence was 7 feet.

ANALYSIS:

Zoning

The ordinance provides standards for the erection, construction, location, and maintenance of fences and ensures that hazardous or nuisance situations do not result from such. The maximum height for fences is 6 feet. A conditional use permit shall be required for fences exceeding the height restrictions according to Article 10.4 of the zoning ordinance (article 10 is attached). No fence shall be erected in any location that prohibits the owner of the property on which said fence is erected from having access, for maintenance purposes, to all sides of such fence. Single-family homes are located on all adjacent sides of the fence.

There are no additional requirements to parking, landscaping, and stormwater for single family dwellings requesting a fence higher than 6 feet.

Land Use Plan Consistency:

The proposal is in general conformity with the Town Land Use Plan. Although the land use plan does not specifically mention fences or fence height the permitting of fencing in the residential III is a common characteristic for residential development and authorization of fencing in this area has continued without much debate.

Neighborhood Contact

Town Notifications	Planning Commission	Town Council
Signs Posted	6/26/08	6/26/08
Adjacent letters	June 20th	June 20th
Advertisement Date	June 25th & July 2	June 25th & July 2

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;
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;
3. Refuse and service area, with particular reference to the items in (1) and (2) above;
4. Utilities, with reference to locations, availability, and compatibility;
5. Screening and buffering with reference to type, dimensions, and character;
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;
7. Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

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.;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
4. That the location and character of the use if developed according to the plan as submitted
5. 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 Technical Review Committee reviewed this proposal at its 6/16/08 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:

Planning – meets requirements for a CUP

Town Manager – None

Police – None

Utilities – None

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Storm water and Operations, Fire and Inspection. Fences over the 6 foot height limit are allowed with the approval of a Conditional Use Permit. Staff recommends the following conditions if the proposal is to be recommended for approval:

1. No Additional fencing shall be erected by any person until a permit has been issued.
2. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in Article 14 of the zoning ordinance.
3. All fences shall at all times be kept in good repair. If at any time a fence should become unsafe or poorly maintained, the building inspector or code enforcement officer shall notify the owner of such condition, and upon failure of the owner to correct such situation within a thirty-day period, the building inspector or code enforcement officer shall take appropriate legal action to have such fence(s) repaired or removed.
4. All fences permitted shall meet the structural requirements of the North Carolina State Building Code and other wind resistant construction requirements that may be specified or suggested by the building inspector
5. Mr. Arnette shall seek permission from adjacent property owners for purposes of maintaining the fence and the growth of the grass around it.
6. If more than 50% of the fence is destroyed/removed for what ever reason the entire fence shall be replaced in conformance with the building code and the zoning ordinance that is in effect at that time.

Commission Questions

Mr. Rees asks if there is adequate room between this fence and the neighbor's chain link fence for maintenance; Mr. Hardison shows some pictures on the screen and it the area in between is highly vegetated. Ms. McQuillen asks who originally inspected this fence; Mr. Hardison answers Van Paxton, the Town's building inspector, did and he thought the fence was sturdy. The issue was brought to the Town's attention that the fence might not only be 6ft tall, and a re-inspection was requested. Mr. Rees mentions the change in height from 6'6" to 7'4." Mr. Hardison interprets that the ground level is street level and the top of the fence is supposed to be 6ft from ground level.

Applicant

Johnny Arnette, 507 Monroe Ave – The fence had been there a year prior to his purchase of the house. After he bought it, he hired a contractor to replace a couple of sections as well as extend it slightly on one side. He says the person who filed the complaint does not live near him and cannot see his home or fence from where she lives. Ms. Efird confirms that the fence was there at least a year ago because that is when she and her mother looked at the house.

Public Comments

Alan Nance, 101 N 5th St – lives on the back side of the fence. Three years ago he asked the Town to construct a 7ft fence on his property, and was told it could not exceed 6ft in height. Ms. McQuillen tells Mr. Nance that if he did want to put up a 7ft fence he could now come forward and ask for a Conditional Use Permit to do so.

Stephen Levesque, 416 Raleigh Ave – the fence was built in January 2008, not a year ago. Mr. Levesque says he built his fence taller than 6ft three years ago and the Town told him he had to cut it back to 6ft. Mr. Arnette should have to meet the requirements in the Town Code – the 6ft height limit. Everyone should have to meet the same requirements. He feels that if this CUP is approved, then it will spread the word that people don't need to get a permit, nor meet the code. Ms. McQuillen explains that if the CUP is issued, then Mr. Arnette would, in fact, meet the Town Code.

Charles Bell, 1080 St. Joseph St 8A – he is the prior owner of the home and was the person who had the fence constructed. He was not completely negligent in that he talked to neighbors on both sides and there were no objections. He had the property surveyed, too. The properties behind the home were rental properties and were not maintained. The fence was built in January 2007, and it was completed shortly thereafter. He built the fence above 6ft so he wouldn't have to see the properties in the back, as well as to be able to have extreme privacy in his backyard. The house has been improved attractively ever since the new owners purchased it from him, and they are an asset to the community. He asks the Commission to recommend approval of this CUP request.

Donna Levesque, 416 Raleigh Ave – Her attention was brought to the fence back in April. She had applied for a fence permit back in April, and at the time asked Ed Parvin if there was any criteria she could meet to construct a fence over 6ft tall and he told her about a variance from the Board of Adjustment, but he did not tell her about a Conditional Use Permit. Mr. Parvin believes they did go over the Conditional Use Permit option, too. Ms. Levesque stands her ground that they did not. She says Mr. Paxton failed to do his job for the Town of Carolina Beach because he signed off that the fence was only 6ft tall.

Peter Powell, 201 N 5th St – his property is directly across the street from the Arnette's home. He is here to speak in favor of the fence. When the fence was constructed in January of 2007, he had no concerns or comments at the time although it looked high. He still has no concerns, and the fence is of good construction and looks appealing. He is not sure how reducing the height by 6 inches to a foot would improve the fence either functionally or aesthetically.

Joseph Whitley, 504 Monroe Ave – lives across the street from the Arnettes. He thinks the fence is beautiful, and hopes the Commission votes favorably.

Stephen Levesque, 516 Raleigh Ave – tells the Commission that the issue is not about how pretty or functional the fence is, but rather that the applicant did not obtain a permit and did not meet Town Code.

---End of Public Comment---

Commission Questions/Discussion

Ms. Efird says that she lived nearby to this house last year and the fence was there. Mr. Rees says the issue is not just this fence, but rather that other people have tried to get a taller fence and were told by previous planning staff that they couldn't or it was misinterpreted. He also adds that he does not like having to review a Conditional Use Permit for something after it has already been built. Mr. Underwood notes that the fence was already in place when Mr. Arnette purchased the property and he only made minor modifications; however, it would be nice to have the CUP granted prior to construction rather than after the fact. Ms. McQuillen feels this fence is not intrusive. There is so much vegetation surrounding this property that it is difficult to see the fence oftentimes. She thinks this fence meets the requirements and does not have a problem with it. Ms. Efird agrees. Mr. Miller has a problem with the fact that the fence and the fence section replacements were constructed prior to even asking for a Conditional Use Permit. Mr. Ferguson explains that since he came to the Town, his policy is to always give people options if there are any in the Zoning Ordinance. He will continue that practice unless the Town Council, Town Manager, or Planning & Zoning Commission were to instruct him otherwise. Unfortunately under a prior administration Mr. and Mrs. Levesque were not afforded the options and thus had to cut their fence to 6ft. Ms. McQuillen notes that under the best of circumstances, the CUP would be granted ahead of time, but it was not and a CUP is a way to rectify a situation.

Motion

Ms. Efird moves to recommend approval of this CUP, specific standards 1-7, general conditions 1-4, staff recommendations 1-6, and to advise that it is consistent with the Land Use Plan. Ms. McQuillen seconds. Mr. Reynolds, Mr. Underwood, Mr. Rees, Ms. McQuillen, and Ms. Efird – ayes. Mr. Miller – nay.

Motion carries by a 5 to 1 vote.

ITEM #8 **Discussion and Recommendations** for an updated Standards of Practice **8:20pm**

Mr. Parvin explains that we are still waiting on the Town Attorney's input, especially regarding the conflicts of interest section. Staff will bring this forward again when it is ready.

ITEM #9 **Non-Agenda Items** **8:22pm**

1) Consider reducing advertising requirements for P&Z meetings – Mr. Ferguson explains that currently P&Z follows the same advertising requirements as those for Town Council. It is a bit expensive, a bit cumbersome, but it does somewhat slow down the opportunity for amendments to the ordinance and getting things accomplished in a more timely way. The proposal would perhaps be to advertise the agenda in the Wednesday Island Gazette just prior to the Thursday night P&Z meeting only for those items that truly come up last minute. The Commission, overall, does not think advertising the day before gives the public enough notice, but they would consider a week prior. Mr. Rees also likes that there are two notices and thinks that should not decrease. Ms. Crenshaw adds that staff definitely wants to make sure the public is getting proper notice, but also make it so projects can still move forward in a timely manner, thus perhaps reducing advertising requirements slightly from the strict rules Town Council must follow would be a good idea. She reminds the Commission, too, that the more strict rules were put in place when the Commission went Quasi-Judicial, and now that the Commission no longer is, then perhaps advertising does not need to be quite as strict anymore.

2) Parking – Mr. Ferguson and the Commission discuss the excerpt on parking provides in the packets. Ms. McQuillen thinks it is a good idea to use the money from the parking meters to help pay for new parking lots and/or a garage; this would lessen the burden on the taxpayers. Mr. Underwood says that was the original idea, but over time it went into the general fund instead.

ITEM #15 **Adjournment** **8:37pm**

Ms. Efird moves to adjourn. Mr. Underwood seconds. All ayes.

Respectfully submitted by Karen Crenshaw, Planning & Zoning Commission Secretary