



NEW BERN

CITY OF NEW BERN

City of New Bern

Board of Adjustment

April 26, 2021 Meeting

1. Call to Order: 5:30 pm

2. Roll Call

Members Present: Ross Beebe
Peter Dillon
Kip Peregoy
Jim Morrison
John Riggs
Barbara Sampson

Members Absent: Jonathon Foster

Members Excused: John Murrell

3. New Business

Consideration of a Special Use Permit request for a scrap materials salvage yard. The property is located at 2912 Neuse Blvd and is further identified as Craven County Parcel Identification Number 8-242-088.

Chairman Peregoy asked if anyone was in attendance and planning to speak, if so they would need to be sworn in. Staff member Seth Laughlin swore in Robert "Pete" Chiles, professional engineer representing the applicant.

Staff Member Seth Laughlin presented the request for the Board of Adjustment to consider a Special Use Permit for a scrap metal salvage yard. Robert Chiles Engineering on behalf of SMM Southeast, LLC has requested the Board of Adjustment hold a public hearing at its regular meeting on April 26, 2021, to consider a Special Use Permit application request for a scrap materials salvage yard within their existing facility located at 2912 Neuse Blvd. The property is further identified as Craven County parcel identification numbers 8-242-088.

The 3.24 acre tract is currently vacant although this was the site of a metal recycling/scrap yard for many years. The proposed project was conditionally approved by the City's Departmental Site Plan Review Committee on 4/09/2021. The applicant has agreed to all required changes to the Site plan as recommended by staff. Staff finds the proposed project is consistent with the plans, rules, and regulation of the City of New Bern with no further changes.

Public Comment opened by Robert Chiles representing the applicant. Mr. Chiles stated that the applicant is basically restarting the former scrap metal business, including some upfitting in the buildings, cleaning up the site and starting to put the site back to work. Mr. Chiles stated the area would benefit from a metal recycling center as the closest facility is in Havelock.

Board Member Sampson asked if the application covered the entire site. Mr. Chiles replied that it does.

Chairman Perego asked Mr. Chiles if he could address a recorded acreage discrepancy between tax records which show 3.24 acres and the application which states 5.11 acres and include the railroad right-of-way (ROW). Mr. Chiles stated that the applicant has a recorded survey and deed which show the site containing a former railroad spur and extending up to the railroad centerline. He stated that the aerial photo shows the site occupying this railroad ROW and stated that the business has historically occupied that area with no complaints from the railroad and they will continue to do so.

Chairman Perego pointed out that from a legal standpoint of granting a special use permit, the Board should consider confining the approval to the 3.24 acres recognized in tax records.

Board Member BeeBee asked if the Board's authority could impact land area outside of a tax parcel line.

Mr. Chiles responded that the railroad ROW is not zoned, so the special use permit could not be granted for such land, so the area that they are actually requesting in the application is within the blue triangle shown on the map, the 3.24 acres shown on the GIS.

Chairman Perego stated that the site plan showed proposed concrete to be poured in the railroad ROW area. Mr. Chiles confirmed this stating that area has been occupied historically by the metal recycling business and stated that he has accounted for this area in the impervious area stormwater calculations.

Staff Attorney Mosely explained that one of the duties before the board is to consider substantial competent evidence and if there is any evidence that the applicant doesn't have rights to the ROW, then any opponent to the application could bring that up. Staff

Attorney Mosely continue; if the Board does not find any evidence to the contrary, then they may use this information in issuing any conditions.

Mr. Chiles stated that competent evidence of his client's access to the property is that the area in question is within an existing fence, and fences usually indicate where people have rights to be, and that fence has been on site for 25-30 years.

Board Member Morrison asked if the revised site plan indicated two entrances to the site now. Mr. Chiles explained that there is one entrance on the south corner that had been used in the past. He stated that they propose to reuse that entrance now, and one exit on the other side of the scales on the northern side.

Board Member Morrison also asked if the sidewalk installation along Neuse Blvd will cause a loss of the existing screening. Mr. Chiles replied that there is enough room between the proposed sidewalk and screening to accommodate both.

A. Testimony

1. The requested permit is within the BOA's jurisdiction according to the table of permissible uses:

Comment: *Mr. Chiles replied yes with special use.*

2. The application is complete:

Comment: *Mr. Chiles replied yes.*

Comment: *Chairman Peregoy stated again that the permit would cover the 3.24 acres shown on the tax records.*

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

Comment: Staff Member Laughlin explained that the application successfully completed site plan review process with only minor changes recommended, which the applicant agreed to.

4. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted:

Comment: *Mr. Chiles stated that the applicant does a good job keeping the site clean and access is controlled. No one will be endangered by the proposed business.*

Comment: Board Member Dillon asked if there are any past environmental issues with the site. Mr. Chiles confirmed that the applicant had conducted a phase 1 or phase 2 environmental assessment on the property which didn't identify any issues that they are aware of.

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

Comment: Board Member Sampson asked what kind of scrap the site will be buying. Mr. Chiles explained that it will be primarily cars.

6. 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 plan of development of the city:

Comment: Board Member Morrison asked if the site is a 24-hour, lighted operation. The applicant responded that the hours will be roughly 7-5.

Motion to close public comment: Jim Morrison
Second: Peter Dillon
Vote: 6-0

B. Vote

1. The requested permit is within the BOA's jurisdiction according to the table of permissible uses:

Motion: Jim Morrison
Second: Ross Beebe
Vote: 6-0

2. The application is complete:

Motion: Peter Dillon
Second: Jim Morrison
Vote: 6-0

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

Motion: Jim Morrison
Second: Barbara Sampson
Vote: 6-0

4. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted:

Discussion: Board Member Sampson asked about ingress egress to be sure access would be safe. Chairman Peregoy explained the ingress/egress as proposed.

Motion: Jim Morrison
Second: Peter Dillon
Vote: 6-0

5. **A)** The use will not substantially reduce the value of adjoining or abutting property;
B) or that the use is a public necessity:

5 A) Motion: Jim Morrison

Second: Richard Parsons
Vote: 6-0

5B) Motion: Peter Dillon
Second: Jim Morrison
Vote: 6-0

6. 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 plan of development of the city:

Motion: Jim Morrison
Second: Barbara Sampson
Vote: 6-0

Approve or Deny issuance of the Special Use Permit

Motion to Approve: Ross Beebe
Second: Peter Dillon

Chairman Peregoy asked if the motion to approved could be amended to state that the permit would only cover the 3.24 acres shown on Craven County GIS maps.

Vote: 6-0

Chairman Peregoy asked if there were any conditions to be proposed by the Board. Hearing none, can a member of the Board make a motion that the permit will have no additional conditions:

Motion: Ross Beebe
Second: Barbara Sampson
Vote: 6-0

Motion to Adjourn: Ross Beebe
Second: Barbara Sampson
Vote: 6-0

Meeting time 33.32

Date Approved: 7-26-2021



Jim Morrison, Chair

Attest: 

Seth Laughlin, Recording Secretary