

NEW BERN BOARD OF ADJUSTMENT MINUTES

September 30, 2013

The New Bern Board of Adjustment held its regularly scheduled meeting on Monday, September 30, 2013 at 6:30 pm preceded by a 5:30 pm work session in the City Hall Courtroom, 2nd floor, 300 Pollock Street.

Members Present: Ms. Sarah Afflerbach – Chairman
Mr. Peter Adolph
Mr. Barry Evans
Mr. Kenneth Brown
Mr. Benjamin Beasley
Mr. David Herndon
Mr. Jeffrey Midgette
Ms. Renee Murphy
Mr. John Murrell
Mr. PJ Walker

Members Excused: Ms. Lois Jamison
Mr. Willie Newkirk, Sr.
Ms. Beth Walker

Members Absent: None

Staff Present: Mr. Bernard George, Planning Division Manager

Chairman Sarah Afflerbach called the meeting to order.

Mr. Bernard George opened with a prayer.

Roll call was taken and a quorum declared.

Minutes: Reading of the minutes from the previous meeting was waived by unanimous consent. Minutes were approved with a motion by Mr. Peter Adolph and a second by Mr. Beasley. Minutes were approved by unanimous vote of the Board.

Chairman Afflerbach asked if any board members had reason to declare a conflict of interest with agenda items or declare ex parte communications. None did.

Chairman Afflerbach requested all those in attendance with intent to speak come forward to be sworn in. Three audience members and staff member Bernard George were sworn in.

New Business:

A. Consideration of a special use permit application to construct a Wal-Mart Neighborhood Market (grocery store) at 2915 Neuse Boulevard between South Glenburnie Road and Colony Drive. (Ward 4)

Staff Comments: Mr. George provided an overview of this item to include a video of the property under discussion. Mr. George advised the lot under consideration is a 7.36 acre lot. Noting the video, Mr. George pointed out neighboring businesses to the proposed site. One such business was a recently completed Wendy's fast food restaurant. Mr. George advised at the time the Wendy's was developed, street improvements were required to be made by the developer. Mr. George noted this area consists of a mix of commercial and industrial uses.

As he described the proposed site plan, Mr. George noted building elevations as well as the site plan were included in each member's packet. The building itself has 41,117 square feet. Mr. George noted Plaza Drive, which would be accessible at the rear of the property, would connect to Glenburnie Road as well as a main entrance on Neuse Boulevard. This development will include a gas service station as well. With the extension of the Highway 17 N Bypass, some of the previously heavy traffic flow on Glenburnie Road has been re-routed. The Bosch Boulevard/Highway 43 connector that will eventually come out along Highway 17 S. will further reduce the amount of traffic along this corridor.

The Departmental Site Plan Review committee reviewed and approved the proposed project site plan during its meeting on September 13, 2013. Staff found that the special use permit application is complete and complies with the requirements of the Land Use Ordinance.

Mr. George advised that Wal-Mart representatives in attendance include the traffic engineer, architect and site engineer. Mr. George noted they will go into more detail on the plans during their presentation.

Applicant Comments: Mr. Andrew Moriarty with Bohler Engineering advised they have been retained by Wal-Mart to develop the plans for this proposed development. Mr. Moriarty advised Mr. Ryan Stevenson, traffic engineer and Mr. Dave Wilgis, project architect are also in attendance.

Mr. Moriarty noted the site location. He advised they are proposing three entrance points; one on Plaza Drive, which currently dead-ends into the proposed property line, and two on Neuse Boulevard (east end of property and west end of property). There are 165 parking spaces proposed which is adequate for the building being proposed.

The proposed use is a neighborhood market, including a drive-thru pharmacy and loading area at the rear of the building. Landscaping and screening has been incorporated into the plans surrounding the property consistent with the Ordinance requirements. Landscape islands have been incorporated into the parking lot as well. The facility has been very well planned, with

clear understanding of expectations to operate effectively.

Mr. Moriarty noted this particular corridor is a commercial corridor and their proposed use is consistent with the existing corridor. He noted that public health and safety has been considered, with multiple access points into the development. He also feels the facility will be an enhancement to the neighborhood and will improve business and real estate values in the area.

Mr. Ryan Stevenson with Raven, Kemp & Associates, advised their firm was hired to consider traffic flow for this proposed development. They met with NCDOT regarding the access locations and have their approval for the points as shown. They will be widening Neuse Boulevard to provide a left turn-lane to aid in traffic flow and for safety reasons. This lane would extend along the site frontage of the property, then narrow down and end just beyond. They have also studied the intersection of Glenburnie & Neuse and feel the intersection is adequate and their development will not have a negative impact on traffic.

Mr. David Wilgis, architect, advised he feels the elevations of this development are harmonious with the area and are an enhancement to the area.

Public Comments: *Mr. Pete Monty, owner of property at 3205 Neuse Boulevard – across from the proposed development* - advised he welcomes Wal-Mart and the project. His main concern is that pedestrian foot traffic has not been adequately considered. There is a large mobile home community close to the property and there is elderly housing along the back property line of the proposed development. These and other residential neighborhoods comprise a large portion of the pedestrian traffic in that area. Mr. Monty suggested the city might be able to enhance sidewalks in the area to provide a safe pedestrian traffic way.

Motion to close the public comment segment was made by Mr. Barry Evans. Mr. Kenneth Brown seconded the motion. Public comment segment closed.

Board Discussion: Chair Afflerbach requested additional information on how Neuse Boulevard will be widened and how the new traffic lane will flow. She requested a description of what is currently there and how they intend to widen the road.

Mr. Ryan Stevenson, utilizing the site plan, pointed out the main entrance of the proposed development. He advised currently there are 4 lanes of traffic with no center lane. The project proposes to widen Neuse Boulevard on each side, creating enough room to put in a center turn lane which would tie into the left turn lane at the intersection of Glenburnie and Neuse. Beyond the main entrance to the development the turn lane begins to taper down, eventually ending prior to the railroad tracks. Mr. Stevenson noted they anticipate re-striping and re-surfacing Neuse Boulevard where the turn lane is created. Mr. Stevenson advised other driveways along that section will also benefit from this improvement.

Ms. Afflerbach stated she couldn't tell from the site plan how the turn lane begins from Glenburnie. Mr. Stevenson advised the existing left turn lane at the intersection, will be picked up and extended full-width to the western most entrance to the development.

Mr. David Herndon questioned if this widened extension is within current DOT right-of-ways. Mr. Stevenson advised it is.

Mr. Peter Adolph questioned who does the widening: Wal-Mart, the City or the County. Mr. Stevenson advised the development pays for this improvement.

Mr. Benjamin Beasley questioned if that was the only area that would be widened. Mr. Stevenson advised that to be correct. Mr. Beasley asked if there would be an entrance or exit at the carwash. After clarifying the location, Plaza Drive, Mr. Stevenson showed on the site plan where the connection to Plaza Drive will provide an access from Glenburnie. This allows some traffic to bypass the intersection, alleviating additional traffic stress in the intersection.

Ms. Renee Murphy questioned where the Wal-Mart delivery trucks will enter, exit and navigate through the development. Mr. Andrew Moriarty spoke, advising they anticipate the vehicles utilizing the western access from Neuse Boulevard, using the far section of the parking lot to access to rear of the building.

Ms. Murphy also voiced concern with the neighboring residential areas and the pedestrian safety in the area. In an earlier meeting, Mr. Moriarty had discussed with staff plans to put in a pedestrian connection to the property immediately behind the development. This area is a wetlands area, which poses a challenge in getting a walkway through there.

Ms. Murphy asked if trucks are flowing in and out of the rear of the building, what type of screening/fencing will be installed to keep people from walking through that area to the neighboring property. Mr. Moriarty advised there will be a significant landscape buffer along the back of the property. Ms. Murphy asked if this area would be well lit. Mr. Moriarty advised it would be.

Mr. Jeff Midgette questioned if there would be something to differentiate from the left turn off Neuse Boulevard onto Glenburnie and the left turn off Neuse Boulevard going north to the proposed development property. He advised at times there are issues with the current traffic and congestion. What will differentiate the right/left turns? Mr. Stevenson noted they will work with DOT on appropriate striping and signage. Mr. Midgette suggested utilizing what they are doing on the 70 corridor, a concrete median to eliminate ability to turn off Neuse Boulevard into the existing gas station. Mr. Stevenson advised he is still working with the DOT. They have not required a median at this point, but he will discuss it as an option. Mr. Midgette feels that area is a hazard and something additional may be needed.

Chair Afflerbach questioned if the City has plans to put sidewalks along this stretch of Neuse. Mr. George advised the City has entered an agreement with the DOT to begin sidewalk installation along Neuse up to the hospital. A pedestrian plan has been established with pedestrian paths up to Glenburnie Road completed in phasing.

Mr. George also advised during the Departmental Site Review meeting, the issues with traffic

conflict in the area as voiced by Mr. Midgette were discussed. The City spoke with DOT representatives for this area that are currently reviewing plans for this driveway and the improvements, and will consider the issues and how to reduce the potential for traffic conflict in this area. Prior to development approval, the DOT will finalize the required improvements.

Ms. Afflerbach confirmed that at this time, there are no immediate plans to install sidewalks along the proposed development and the area on Neuse. Mr. George confirmed that to be correct.

Mr. Murphy questioned Mr. George on how to address the pedestrians getting across Neuse Boulevard from the mobile home communities across from the proposed development. Mr. George advised the City Board of Aldermen are in the process of addressing that in their budget allocation process. They have allocated sidewalk improvements in several areas of the City, one of which is along Neuse Boulevard. Each budget year there is a certain amount of the budget that will be allocated for sidewalk installation.

Mr. Brown asked how difficult it would be to have crosswalks in these areas. Ms. Murphy questioned if that would require a traffic light. Mr. George advised crosswalks are generally located at intersections.

Chair Afflerbach advised installation of sidewalks is something the board could stipulate as a recommendation for safety. Mr. Evans questioned at whose expense. Chair Afflerbach advised it would be at Wal-Mart's expense. She reiterated this is a public safety issue and is part of their requirements in making a decision. Ms. Murphy suggested a small bridge or crossover from the senior residences, as many of those individuals do not drive.

Mr. Herndon stated he was not clear as to where the suggested sidewalks would go and requested clarification on where the sidewalks may be proposed. Mr. Moriarty pointed out the areas under discussion.

Chair Afflerbach questioned if there will be a fence around the retention pond. Mr. Moriarty advised there would be a 4' chain link fence around it.

Ms. Afflerbach asked for clarification on the number of parking spaces and why they are reducing the amount of spaces. Mr. Moriarty provided information that indicated the number of spaces were more than adequate for the development.

Mr. Midgette asked what type of gas station would be on the property. Mr. Moriarty stated just gas pumps would be provided for the public.

Ms. Murphy asked if this would be similar to the gas station at the Sam's Club in Jacksonville. Mr. Moriarty advised it would be.

Ms. Murphy questioned parking, noting Mr. Moriarty stated there would be 165 parking spaces. She questioned how many of those spaces are allotted for employees and general public. Mr.

Moriarty advised there is no dedicated employee parking. Mr. Evans reiterated 6 spaces on the north side and another 20 spaces on the east were reserved for overflow parking.

Mr. Midgette questioned what the vehicular traffic expectation is for a store of this size. Mr. Moriarty advised it varies. Chair Afflerbach pointed out on the plans it states 5,830 trips per day.

Ms. Murphy asked what the hours of this store would be. Mr. Moriarty advised it would be a 24-hour store. Ms. Murphy found that interesting given the number of other grocery stores as well as the existing Wal-Mart are also 24-hour stores.

Mr. Evans advised he is on the appearance commission for the City of New Bern, and had a few comments regarding two of the tree selections for the development. The Oak that was selected, was a caliber of 2 ½-3. He suggested they reduce it to a 5-gallon size. The 2 ½-3 inch caliber tree won't grow for about 5 years. The 5-gallon tree will cut the cost in half and its growth pattern is faster than the currently selected caliber of tree. The Trident maple trees selected, due to the compaction of the soil and heat rate, don't do as well as a Chinese Pistache, which is also approved by the City of New Bern and will save money. He also noted the Blue Spruce by the back docking area is not a good selection. He advised in our climate, the failure rate is close to 100%, and if they survive, they won't thrive due to the heat and humidity. He suggested they consider replacing the Blue Spruce with a Green Giant, which is an evergreen and provides the same coverage area as the Blue Spruce.

Chair Afflerbach stated this list was compiled by the appearance commission to be presented and considered by the Board of Aldermen for the Land Use Ordinance, but to her knowledge, the list had not yet been adopted. Mr. Evans advised it was his understanding that the Board of Aldermen approved it and put it online.

Chair Afflerbach confirmed this development to be in an overlay district. She then asked if the City had requirements for windows per wall area in this overlay district. Mr. George advised not in the Neuse Boulevard overlay district. He further stated that the recommendation is that buildings are not constructed with all glass and that not more than 60% of the façade should be glass. All onsite utilities are to be consolidated to limit utility clutter, he added.

Chair Afflerbach questioned if there would be nursery and seasonal items in front of the store. Mr. Wilgis advised the store is more grocery oriented rather than seasonally oriented. Ms. Murphy asked if this was mostly a grocery and pharmacy store. Mr. Wilgis confirmed this to be true, with very little general merchandise.

Chair Afflerbach asked if there would be façade lighting on the building. Mr. Wilgis advised the back of the building and the exit doors will have façade lighting. Mr. Wilgis also explained the layout of the entrance to the building.

Chair Afflerbach asked if there would be a sign off Plaza Drive as well as Neuse Boulevard. Mr. Moriarty advised they have discussed this with staff, but unfortunately there isn't anywhere to put it that isn't on the right of way or private property. They would like to have one there, but

they don't control any land there.

Mr. Midgette asked about the pharmacy traffic, requesting location of the pick-up window as well as how the cars will access it. Mr. Wilgis pointed out the window location and the flow of traffic.

Mr. Evans addressed the safety issue. Going up Neuse, turning onto Colony Drive towards Elizabeth Avenue, Mr. Evans noted sidewalks will probably be installed there as that will be a back entrance to the Craven 30 project.

With no additional questions, Chair Afflerbach requested the board cover each criterion before making any motions. She noted previously they looked at the Table of Permissible Uses that has an S and a Z, which requires a special use permit and is the reason the applicants are in front of the board.

Chair Afflerbach reiterated that Mr. George stated the application is complete, and she agrees in looking at the plans presented.

Pertaining to the question of if the development will comply with the Ordinance, Chair Afflerbach noted they have talked about parking, and the reduced number of spaces. She pointed out that if the plan is approved it will be a slight change from the Ordinance, but feels based on their traffic flow patterns, daily trip estimates and meetings with the City, the number of spaces presented are acceptable.

Chair Afflerbach discussed the consideration that the use will not materially endanger the public health and safety if located where proposed and developed. She noted there has been a lot of discussion regarding sidewalks and traffic during the meeting and reminded the board they can put conditions on this development if they feel it is warranted.

Chair Afflerbach also noted other issues of public health and safety to be considered include the pond in the back and how that is secured, as presented with a fence, as well as lighting on the site and consideration of how it is distributed around the site.

Other things to consider include discussion topics of how the pharmacy traffic and loading/unloading traffic will affect traffic flow.

Chair Afflerbach noted one item not discussed in detail during the presentation is whether it will substantially devalue the adjoining or abutting property, or the use is a public necessity. She noted no one from the public attended to speak against this.

Chair Afflerbach noted in question of if the location and character of use as developed is in harmony with the area and in general conformity of the plan of the city. She stated while she is not a fan of the expanse of split-face CMU, there is quite a bit of it in New Bern.

Keeping these factors in mind, Chair Afflerbach advised a motion for the project could be crafted

that the requested permit is within its jurisdiction according to the Table of Permissible Uses.

Motion made by Mr. David Herndon that based on the facts of the Board discussion, the property is located within a C-3 commercial district. Based on the fact the project would be on 7.36 acres which is in excess of 2 acre requirement for a special use and in accordance with Section 15-146, use 2.210 the requested permit is within the jurisdiction according to the Table of Permissible Uses. Mr. Herndon made a motion that the request is within its jurisdiction. Mr. Kenneth Brown seconded the motion.

Chairman Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach requested a motion that the application is complete.

Motion made by Mr. Kenneth Brown that they accept the application as being complete through the City's chain of command and all permit information has been provided. Ms. Renee Murphy seconded the motion.

Chairman Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach requested a motion that if completed as proposed in the application the development will comply with all the requirements of this ordinance.

Motion made by Mr. Jeff Midgette to accept the application package as being complete and adhering to all state, local and federal guideline requirements as presented.

Chair Afflerbach suggested Mr. Midgette re-state so the motion is just our ordinance and that some of the things that were looked at as being facts that the project complies to the ordinance, include landscape plan, planting plan, the general size, etc.. She requested he put some of those facts into the motion.

Motion made by Mr. Jeff Midgette that the board accept the application as being complete due to the fact it adheres to the City's Ordinances concerning landscaping, frontage, ingress/egress, lighting and safety measures that the City puts forth. Mr. Peter Adolph seconded the motion.

Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach requested a motion 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.

Motion made by Mr. Kenneth Brown that the Board approve that the use will not endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved because of the site improvements such as the widening of Neuse Boulevard, fencing around the pond and lighting around the building.

Chair Afflerbach asked the Board if there were any conditions on this motion. The board members did not have any.

Motion was seconded by Mr. Barry Evans.

Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach requested a motion that the use will not substantially reduce the value of adjoining or abutting property or the use is a public necessity.

Motion made by Ms. Renee Murphy that the use will not substantially reduce the value of adjoining or abutting property due to the fact no one has come forward from the adjacent properties. Therefore it is obvious that any concerns the public may have had, have been addressed, and recommends accepting proposal as is. Mr. Benjamin Beasley seconded the motion.

Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach requested a motion that the location and character of the use if developed according to the plan 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 made by Mr. Kenneth Brown that the location and character of the use if developed according to the plan 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 and the plan has been recommended by all the City's appropriate departments. Motion was seconded by Mr. Peter Adolph.

Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

Chair Afflerbach requested a motion to grant the Special Use Permit.

Motion made by Mr. Peter Walker to grand the Special Use Permit. Motion was seconded by Mr. Peter Adolph.

Chair Afflerbach requested Mr. George take an individual roll call.

Mr. George took a roll call. **Motion unanimously passed with a vote of ten (10) Yes's, and zero (0) No's.**

With no further discussion, meeting adjourned.

Sarah Afflerbach, Chairman

Bernard George, AICP, Secretary