

Board of Adjustment  
September 24, 2009  
Minutes

The Morehead City Board of Adjustment conducted a regular monthly meeting on Thursday, September 24, 2009, in the Municipal Building Auditorium, 202 South Eighth Street, which started at 5:30 p.m. The following were present:

MEMBERS: Chairman James Walker  
Laura Drewyor, Dick Gambill, Joe Green, and Dave Robertson

ABSENT: Holly Briggs, Tripp Mudge, Beth Taylor and Bill Ward

OTHERS PRESENT: Zoning Enforcement Officer Joyce Veltman, Secretary Jeannie Vaughan, Planning Director Linda Staab, City Attorney Derek Taylor, Mike Shutak of the Carteret News-Times, Steve Roberts, Brandon Roberts, Scott Capps, Ophelia and L.P. Chambers, Andy Blades, Attorney Andy Harris, and Zach Manousaridis.

Chairman James Walker called the meeting to order and gave the invocation.

The roll was called and Laura Drewyor made **MOTION**, seconded by Dick Gambill, to excuse the called-in absences (Holly Briggs, Beth Taylor and Bill Ward). The motion carried unanimously.

**MINUTES:** June 25, 2009

Chairman Walker called for changes or amendments to the minutes. Laura Drewyor made **MOTION**, seconded by Joe Green, to adopt the minutes as submitted and dispense with the reading. The motion carried unanimously.

Dave Robertson came in at 5:36pm, after the minutes had been approved.

**BUSINESS:**

**A. Request submitted by BSR Properties, LLC for the expansion of an existing Special-Use Permit under Article 8-7 of the Unified Development Ordinance (UDO) to allow additional retail and storage space at 1306 Bridges Street (Tax PIN 638618418965000), which is zoned R5 (Residential District).**

Joe Green made **MOTION**, seconded by Laura Drewyor to open the public hearing. The motion carried unanimously.

Those wishing to give testimony were sworn in (Joyce Veltman, Steve Roberts, and Ophelia Chambers).

Zoning Enforcement Officer Joyce Veltman introduced the case. Steve Roberts has submitted an application for a special-use permit to allow the expansion of a nonconforming-use. Slides were shown depicting the location of the property which is zoned R5 (Residential). Surrounding zoning is R5 to the east, west, and north and CD (Downtown Commercial) to the south. There are single-family residences to the north, a vacant lot and residences to the east, a Time Warner substation and residences to the west, and commercial property to the south. In July 2002, a special-use permit was granted under Article 8-8 of the UDO to permit a change from an existing nonconforming-use, a warehouse, to another nonconforming-use, a cabinet shop. The current request is to expand the facility and operation by adding two additions to the existing building; one on the south side for a showroom and office and one on the west side for a warehouse. Lot coverage is limited to 40%, and with the existing building of 3220 square feet plus the two proposed additions, there will be 39% lot coverage. Parking is required at a rate of 1 for every 600 square feet of warehouse/storage area and 1 for every 225 square feet of retail/office area. Ten spaces are required and shown on the site plan. In addition, a 12 x 60 space is required for loading and unloading. Setbacks for the district are 15 feet for the front and rear and 7 feet for the sides. The rear setback will not be affected, the front setback is met by providing 28 feet from the building to the property line, and the side setback on the west side is met. The existing building encroaches into the required 7-foot side setback on the east, but the front addition is proposed to be 8 feet from the property line.

Staff is concerned about the storage containers that already exist on the property and the existing damage to the sidewalk which may or may not have been caused by delivery trucks. The applicant has been in contact with the Public Works Department regarding the condition of the sidewalk. Furthermore, it appears that the alley is blocked during deliveries and that the delivery trucks have to back out into the street when leaving the site.

Ms. Veltman addressed the special-use criteria: A written application was received. The proposed use is not in conflict with any known plans. The proposed use is not contrary to regulation purposes other than the existing nonconforming-use and structure which received a special-use permit in July 2002. Per previous testimony, setbacks, lot coverage, and parking requirements have all been met. In question is the usability of the loading/unloading area marked on the site plan. There are no additional standards for this use. Ms. Veltman requested that two existing storage containers and a hoist be removed should the special-use permit be granted. The hearing has been advertised, and notices were mailed to property owners within 100' to notify them of the request.

The applicant, Steve Roberts of BSR Properties LLC, requested approval of the special-use expansion.

Mr. Roberts addressed the special-use criteria: 1) the proposed use will not adversely affect the health and safety of residents or workers in the town as it has been there for the past 7 years with no problems; 2) the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses because it already exists; 3) the proposed use will not be adversely affected by the existing uses, again because it already exists; and 4) the proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, of the vehicular movement, or noise or fumes or of the type of physical activity. The showroom is open by appointment only. Mr. Roberts has one delivery employee, two salespeople, and one shop employee with no particular set hours of operation. There should be no increase in traffic due to the expansion. Mr. Roberts also testified that he spoke with the Morehead City Public Works office about replacing the sidewalk along the front of the property.

Ms. Veltman suggested that Mr. Roberts put in a buffer between his property and the adjacent residential property and Mr. Roberts agreed.

Ophelia Chambers of 1310 Bridges Street testified that she is concerned about an increase in vehicular traffic, the existing sidewalk damage, and the possibility of increased taxes; however, she is not against the request. She commented that the current business status has no impact on her or her property.

No one spoke in opposition to the special-use expansion request.

Laura Drewyor made **MOTION**, seconded by Dick Gambill, to close the public hearing. The motion carried unanimously.

#### ***CONSIDERATION AND DETERMINATION OF CASE HEARD:***

David Robertson commented that the expansion should have little or no impact on the area. He also said that neighbors do not seem to have issues with the business as it exists now and that the additions should improve the appearance of the property. All members agreed.

Laura Drewyor made **MOTION**, seconded by Joe Green, to approve the special-use request contingent upon four conditions: 1) remove all storage containers on site and refrain from any future use of temporary or other storage containers or structures on property which are not shown on the "proposed site plan" and "living areas" diagrams submitted with the application; 2) plant a vegetative buffer between the residential homes on the north and the property; 3) access points to the property must be coordinated with and approved by the City's Public Works Director; and 4) remove existing hoist from property. The motion carried unanimously.

***B. Request submitted by Z & M of Beaufort, Inc. (Zack Manousaridis, Agent) for a Special-Use Permit under Article 11 of the Unified Development Ordinance (UDO) to allow a bar/cocktail lounge at 702 Arendell Street (Tax PIN 638620715447000), which is zoned DB (Downtown Business District).***

David Robertson made **MOTION**, seconded by Laura Drewyor, to open the public hearing. The motion carried unanimously.

Those wishing to give testimony were sworn in (Joyce Veltman, Planning Director Linda Staab, Zack Manousaridis, Andy Blades and Attorney Andy Harris).

Zoning Enforcement Officer Joyce Veltman introduced the request. Zack Manousaridis of Z & M of Beaufort, Inc. submitted an application for a special-use permit to operate a bar/cocktail lounge at 702 Arendell Street. The property is zoned DB (Downtown Business) which allows bars/cocktail lounges as a special-use. A map showing the location and surrounding zoning of DB to the east, west and south and OP (Office and Professional) to the north was shown to the Board. An aerial map revealed that adjacent uses were a parking lot to the south, offices to the east and west, and a vacant lot and single-family dwelling to the north. The proposed floor plan was shown to the Board. The Building Inspector was forwarded the proposed floor plan and had no comments at this time. The Unified Development Ordinance (UDO) bar/cocktail lounge definition was reviewed.

Article 14-26 lists additional requirements for bars and cocktail lounges as follows:

- 1) *A requirement of a 300-foot separation (if the facility is on Arendell Street between 4<sup>th</sup> and 10<sup>th</sup> Streets) between a bar/cocktail lounge and an existing or proposed church, school or daycare facility. There are no known or proposed churches, schools or daycare facilities within the 300-foot area; however, the Board granted a special-use permit in February 2008 for a church at this same location. The church has moved and is no longer using this site.*
- 2) *Live entertainment is only allowed inside the enclosed building. If the Board should grant the special-use permit for the use, this would be automatic.*
- 3) *A proposed bar/cocktail lounge in CD or DB is subject to any approved design criteria. This will be the case should the special-use permit be issued. Cocktail lounges are not permitted on any lot in the CD or DB district that directly abuts or is directly across the street from a residentially zoned parcel. A review of the zoning map for this area shows surrounding zoning as DB and O&P.*
- 4) *Bars and cocktail lounges in CD or DB are not allowed to play, operate or cause to be played or operated, any amplified or non-amplified musical instrument or sound reproductive device in a manner that causes a noise disturbance on neighboring premises or public areas. A noise disturbance is presumed to exist where sound caused by activity is plainly audible within an occupied structure not the source of sound or within a public area more than 60 feet from the property line of the establishment and the applicable hours are 10 pm to 10 am. This will be automatic should the Board grant the special-use permit.*
- 5) *The applicant is responsible for preventing patrons from loitering on public or private property in the vicinity of the establishment. Once again, this would be applicable should the Board grant the special-use permit.*

With regard to the special-use criteria, a written application was received. The proposed development does not affect adversely the general plans for physical development of the town. No inconsistencies were found with the Land Use Plan or the UDO. The proposed use will not be contrary to stated purposes of the regulations. The purpose of the DB District is to promote a diversified central business district that is pedestrian friendly and serves both city residents and visitors. It serves as a center for shopping, dining, fishing, diving, and arts and entertainment. No issues were detected with the ordinance or district purposes and the use is allowed with a special-use permit. The ordinance does not have a minimum area requirement for the use and the site is in a parking exempt area so there are no requirements for off-street parking. The DB District has no minimum requirements for area, setbacks or parking for the use. Standards for each particular use for which a permit may be granted have been met. The hearing has been advertised, and notices were mailed to property owners within 100' to notify them of the request.

Attorney Andy Harris, representing the applicant, requested approval of the special-use permit and distributed a hand-out to each Board Member addressing the special-use criteria. Mr. Harris then reviewed the special-use criteria: 1) the proposed use will not adversely affect the health and safety of residents or workers in the town because it will be a sports bar which will not involve the handling or disposal of hazardous, explosive or other dangerous materials; 2) the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses, it should compliment them by bringing commercial activity to the area; 3) the proposed use will not be adversely affected by the existing uses, again because the uses are similar; and 4) the proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, of the vehicular movement, or noise or fumes or of the type of physical activity.

Mr. Harris testified that although the DB District has no minimum requirements for parking for the use, parking for employees will be available directly behind the building. Parking for patrons will be along the streets and across Arendell Street in Captain Bill's parking lot.

Andy Blades, owner of the property, testified that the building was built in the 1940's and has been used as a movie theater as well as a roller skating rink. There were no noise complaints with either of those uses. Mr. Blades said that the walls are extremely thick and well insulated. The upstairs balcony area has been used as a projection area as well as for offices. The balcony area will not be open to the public.

No one spoke in opposition to the special-use request.

Planning Director Linda Staab asked for a condition of no live bands to be placed upon any approval for the downtown bar since testimony had been given that there would be no bands. Zack Manousaridis responded by saying that would not be acceptable to him as he plans to occasionally have live bands. Ms. Staab commented that she wants some assurance that if any reasonable complaint is received from a nearby resident, specifically about vibrations emanating from the bar, action will promptly be taken to rectify the problem. Mr. Manousaridis agreed.

Laura Drewyor made **MOTION**, seconded by Joe Green, to close the public hearing. The motion carried unanimously.

#### ***CONSIDERATION AND DETERMINATION OF CASE HEARD:***

Dave Robertson made **MOTION**, seconded by Joe Green, to approve the special-use request subject to the following conditions: 1) the owner of the property, Andy Blades, must rescind the special-use permit issued for a church at 702 Arendell Street; and 2) any reasonable complaints made by residential property owners within a three hundred foot radius of the property regarding vibrations emanating from the bar must be addressed immediately. The motion carried unanimously.

#### ***NEW BUSINESS:***

##### ***Election of Officers:***

Laura Drewyor nominated James Walker as Chairman, seconded by Joe Green. The vote was unanimous.

David Robertson nominated Bill Ward as Vice-Chairman, seconded by Laura Drewyor. The vote was unanimous.

Joe Green made **MOTION**, seconded by David Robertson, to adjourn the meeting. The motion carried unanimously and the meeting was adjourned at 7:21 p.m.

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Jeannie Vaughan  
Secretary