

The Morehead City Board of Adjustment conducted a regular monthly meeting on Thursday, April 24, 2008, in the Municipal Building Auditorium, 202 South Eighth Street, which started at 5:30 p.m. The following were present:

MEMBERS: Chairman James Walker, presiding
Holly Briggs, Dick Gambill, Dave Robertson, and Beth Taylor

ABSENT: Laura Drewyor, Joe Green, Richard McIntyre, and Bill Ward

OTHERS PRESENT: Zoning Enforcement Officer Joyce Veltman, Chief Building Inspector Rick Schulz, Planning Director Linda Staab, Secretary Jeannie Vaughan, City Attorney Derek Taylor, Jerry Dominguez, Jeff McCann, Keri McCann, Mr. and Mrs. Jack McCann, Mike McCann, and Mike Shutak of the Carteret News-Times.

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

The roll was called and Dave Robertson made **MOTION**, seconded by Beth Taylor, to excuse the called-in absences (Laura Drewyor, Joe Green, Richard McIntyre, and Bill Ward). The motion carried unanimously.

MINUTES: *February 28, 2008*

Chairman Walker called for changes or amendments to the minutes. Holly Briggs made **MOTION**, seconded by Dick Gambill, to adopt the minutes as submitted and dispense with the reading. The motion carried unanimously.

BUSINESS:

A. Request submitted by Jerald A. Dominguez appealing the Building Inspector's 90-day time period allowed for repair/renovation of the dwelling at 2420 Mayberry Loop Road per Order issued February 22, 2008.

Holly Briggs made **MOTION**, seconded by Beth Taylor, to open the public hearing. The motion carried unanimously.

Those wishing to give testimony were sworn in.

Chief Building Inspector Rick Schulz introduced the appeal. Mr. Dominguez applied for a permit to renovate the property in January 2005. A progress inspection was done in July 2005 and no further work had been completed. On October 10, 2006, his permit expired by General Statute. Between the time of Mr. Dominguez obtaining the permit and today, legislation was passed (August 2005) requiring the owner of an abandoned or boarded up structure to either repair or demolish the structure. In February 2008, Mr. Schulz issued an Order to Repair the dwelling within 90 days as required by the Minimum Housing Code. Mr. Dominguez filed an appeal to the Order within the 90-day allotted time period. No work has been completed as Mr. Dominguez wants assurance that he will have adequate time (more than 90 days) to complete the repairs before putting time and money into the project. The Inspector does have the authority to extend the time, provided satisfactory progress is being made. The hearing was advertised, and notices were mailed to property owners within 100 feet of the Dominguez property.

Jerry Dominguez of 478 Howard Boulevard requested a 7-month extension to the allotted 90-day time limit. Mr. Dominguez stated that since purchasing the property in 2004, he has fixed the floor joists by adding additional supports underneath and put a new roof on the structure. He stated that he would like to have until the end of the year to complete the renovations because he can't get them done in 90 days.

Dave Robertson questioned the future use of the property. Mr. Dominguez said that it will be a rental property. Chairman Walker inquired how the new statute tied-in with Morehead City's Ordinances. Attorney Taylor responded, procedurally everything to this point had been in compliance with both state and local rules. Article 23-19.3 of the Unified Development Ordinance states any person that's aggrieved by an Order of the Inspector, may appeal it to the Board of Adjustment. There is a rule in both the State and Local regulations requiring demolition of a house if it takes

more than 50% of its value to repair. The property owner has chosen to repair the property instead of having it demolished, but he wants more than 90 days to complete the repairs. The Board has the authority to give Mr. Dominguez more time, but Mr. Dominguez needs to understand that if the project does not meet the Board's deadline, the house will be demolished, no matter how much time and money he has invested in the repairs. Beth Taylor asked Mr. Dominguez how much he thought the repairs would cost and he said less than \$30,000. Mr. Dominguez stated that he understands that if the project is not complete by the date designated by the Board of Adjustment, the structure will be demolished.

No one spoke in opposition to the request.

Dave Robertson made **MOTION**, seconded by Holly Briggs, to close the public hearing. The motion carried unanimously.

CONSIDERATION AND DETERMINATION OF CASE HEARD:

Chairman Walker reviewed the three options to the Board; 1) to uphold the building official's determination, 2) to overturn in part or whole the building official's determination, or 3) to modify the building official's determination. Dave Robertson commented that Morehead City needs affordable housing and supported Mr. Dominguez request for an extension. After some discussion of how the midpoint of the project could be defined, Dr. Robertson suggested four (4) months might be an appropriate date to complete all rough-in inspections. If rough-in inspections are not completed within that time period, the house would need to be demolished. Chairman Walker commented that since nothing has been done to the property in the last 3 years, the request should be denied.

Dave Robertson made **MOTION**, seconded by Dick Gambill, to modify the Order of the Inspector to allow Mr. Dominguez more time to repair the dwelling with the following stipulations: 1) all rough-ins must be completed by August 24, 2008, to the satisfaction of the building inspector; 2) a Certificate of Occupancy must be issued no later than December 31, 2008; and, 3) the house is to be demolished if either the rough-ins are not completed by August 24, 2008, or if the Certificate of Occupancy is not issued by December 31, 2008. The motion carried 4 to 1 with Chairman Walker casting the vote to deny.

B. Request submitted by Keri McCann for a special-use permit under Article 11 of the Unified Development Ordinance to allow a bar/cocktail lounge at 513 Evans Street which is zoned DB (Downtown Business) District.

Beth Taylor made **MOTION**, seconded by Dave Robertson, to open the public hearing. The motion carried unanimously.

Those wishing to give testimony were sworn in.

Zoning Enforcement Officer Joyce Veltman introduced the request. Jeff McCann and Keri McCann submitted an application for a special-use permit to operate a bar/cocktail lounge in an existing 4,629 square foot structure at 513 Evans 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 (DB) was shown to the Board. An aerial map revealed that adjacent uses were Bogue Sound to the south, 6th Street streetend to the west, a restaurant and retail to the north, and a restaurant to the east. 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 Evans Street between 4th and 10th Streets) between a bar/cocktail lounge and an existing or proposed church, school or daycare facility. All properties that fall within 300 feet of the site include retail businesses, parking lots, restaurants, or water and boat docks. There are no known or proposed churches, schools or daycare facilities within the 300-foot area.*
- 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, no residential.*

- 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 Director of the Downtown Morehead City Revitalization Association was contacted and she has no issues with this request. The hearing has been advertised, and notices were mailed to property owners within 100' to notify them of the request.

Jeff and Keri McCann of 104 North 21st Street spoke in favor of the request. Jeff McCann addressed 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 club; 2) the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses, it should compliment them; 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. Keri McCann stated that she hopes that with the new docks going in downtown, people will migrate to their club in the evenings.

Dick Gambill asked about the second floor deck area and Mr. McCann said that in their long-term plans they hope to have a banquet room upstairs.

No one spoke in opposition to the request.

Holly Briggs made **MOTION**, seconded by Dave Robertson, to close the public hearing. The motion carried unanimously.

CONSIDERATION AND DETERMINATION OF CASE HEARD:

Dave Robertson stated that the applicant had met all of the requirements and that it would be a nice addition to the downtown area. Holly Briggs and Beth Taylor agreed. Chairman Walker commented that the bar will occupy an empty building on the waterfront which will help the downtown area.

Dave Robertson made **MOTION**, seconded by Holly Briggs, to approve the special-use request. The motion carried unanimously.

NEW BUSINESS: No new business was discussed.

Beth Taylor made **MOTION**, seconded by Holly Briggs, to adjourn the meeting. The motion carried unanimously and the meeting was adjourned at 6:21 p.m.

Jeannie Vaughan
Secretary