

The Morehead City Board of Adjustment conducted a regular monthly meeting on Thursday, August 28, 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  
Laura Drewyor, Dick Gambill, Joe Green, Beth Taylor and Bill Ward

ABSENT: Holly Briggs and Dave Robertson

OTHERS PRESENT: Zoning Enforcement Officer Joyce Veltman, Planning Director Linda Staab, Secretary Jeannie Vaughan, City Attorney Derek Taylor, Mike Shutak of the Carteret News-Times, Jennifer Stallings of the Gam, Commissioner John Nelson, Richard Homovec, Larry Holler, Sharon Holler, Mike Hawkins, Attorney Andy Harris, Ben Crabtree, Libbie Crabtree, and Lisa Smith.

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 and Dave Robertson). The motion carried unanimously.

**MINUTES:** July 24, 2008

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

**BUSINESS:**

***A. Request submitted by East Coast Seafood Inc. for a special situation under Article 20-3.6 of the Unified Development Ordinance (UDO) to allow an alternative parking lot and landscaping design at 4251 Arendell Street (Tax PIN 636616838407000) which is zoned CM (Commercial Marina District).***

Laura Drewyor made **MOTION**, seconded by Dick Gambill, to open the public hearing. The motion carried unanimously. Joe Green was excused from voting on this case as only five members were needed.

Those wishing to give testimony were sworn in (Joyce Veltman, Linda Staab, Larry Holler and Mike Hawkins).

Zoning Enforcement Officer Joyce Veltman introduced the request. Slides were shown depicting the location of the property which is zoned CM (Commercial Marina). The property is currently vacant but was previously occupied by a restaurant. The parking lot from the previous use remains on the property. The applicant desires to utilize this parking lot and is requesting a special situation permit, an option that is allowed in Morehead City's parking regulations. In this case, ten-foot landscape strips would be required along each front property line - Raleigh Avenue, Savannah Avenue, and Arendell Street. The proposed plan is to provide eight-foot landscape strips along each front property line and an additional four-foot landscape strip at the building. The number of plants would not be reduced.

The hearing has been advertised, and notices were mailed to property owners within one hundred (100) feet to notify them of the request.

Contractor Mike Hawkins of 206 Bridge Point Drive in New Bern spoke in favor of the request. The property consists of existing curb and gutter as well as a concrete parking area. Landscaped islands and trees are proposed for the parking lot and along the footprint of the building. The proposed landscaping strips will be eight feet wide along the outside of the property and four feet wide next to the building. Mr. Hawkins stated that based on the proposed building size, there is not enough room to have both the required ten foot landscaping strips around the outside and the desired plantings near the building.

This request will be a retrofit because of the concrete that already exists. Laura Drewyor questioned whether this request should be for a variance and Ms. Staab said no, that this is a special situation for landscaping and parking due to the existing parking lot and curbing on the property.

No one spoke in opposition to the request.

Bill Ward made **MOTION**, seconded by Beth Taylor, to close the public hearing. The motion carried unanimously.

**CONSIDERATION AND DETERMINATION OF CASE HEARD:**

Bill Ward commented that he likes the proposed plan and that because some of the infrastructure already exists, the request is valid. All members agreed.

Dick Gambill made **MOTION**, seconded by Bill Ward, to grant the special situation permit because of the already existing infrastructure. The motion carried unanimously.

***B. Request submitted by RMP, Inc. for a special-use permit under Article 8-8 of the Unified Development Ordinance to allow a change of nonconforming-uses from two residential and two commercial units to four residential units at 1201 Evans Street (Tax PIN 638619513075000) which is zoned R5S (Residential and Single-Family District).***

Laura Drewyor made **MOTION**, seconded by Dick Gambill, to open the public hearing. The motion carried unanimously. Bill Ward was excused from voting on this case as only five members were needed.

Those wishing to give testimony were sworn in (Attorney Andy Harris, Richard Homovec, Ben Crabtree, and Libbie Crabtree).

Zoning Enforcement Officer Joyce Veltman introduced the request. Slides were shown depicting the location of the property which is zoned R5S (Residential Single-Family). Adjoining property is developed as follows: a vacant lot to the west, single-family dwellings to the north and south, and a nonconforming duplex to the east. The applicant plans to convert the building from two residential and two commercial units to four residential units. The two new units will be accessed from Evans Street and the two existing units will continue to be accessed from 12<sup>th</sup> Street.

Ms. Veltman addressed the special-use criteria: A written application was submitted. The proposed development is utilizing an existing nonconforming building with nonconforming uses and the change from one nonconforming use to another nonconforming use is allowed by Article 8 of the UDO. The building already exists so the footprint size will not change. The parking situation needs to be addressed by the applicant. The hearing has been advertised, and notices were mailed to property owners within one hundred (100) feet to notify them of the request.

City Attorney Derek Taylor reviewed Article 8-8 of the UDO and said that the proposed use can have no greater impact on the surrounding area than the current use.

Attorney Andy Harris of 304 North 35<sup>th</sup> Street spoke on behalf of the applicant. The proposal is to have four residential units that are each two stories. Ten parking spaces are currently required for the two commercial units and only four will be required for the two new residential units, thus reducing the impact on the surrounding area. Mr. Harris addressed the special-use criteria: 1) the proposed use will not adversely affect the health and safety of residents or workers in the town; 2) the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses; 3) the proposed use will not be adversely affected by the existing uses 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.

Dick Gambill questioned the location of off-street parking and Mr. Harris said that there is no off-street parking. All parking is on the streets and it is on a first-come, first-served basis. There is no room on the property for off-street parking. In response to Joe Green, Mr. Harris indicated that landscaping is planned around the building along with the remodeling.

Libby Crabtree of 1205 Evans Street spoke against the request as submitted. She asked Mr. Harris if the applicant had considered purchasing the empty lot next door to use for parking and Mr. Harris said yes, but that the property is too

expensive. Ms. Crabtree stated that there is a major parking problem in the area because everyone has to park in the street. She said that she supports the renovation of the building but not the proposed residential use.

Richard Homevec of 205 South 12<sup>th</sup> Street spoke against the project. He questioned the unit configurations and Mr. Harris said that one of the new units will have two bedrooms with two baths and the other new unit will have three bedrooms with two baths. Mr. Harris went on to say that the applicant is planning to preserve the architectural facade of the building but a lot of work needs to be done to bring the structure up to code. Mr. Homevec questioned whether the Public Utilities Department had been contacted about the proposed plan and Mr. Harris said no. Mr. Homevec said that his biggest concern is parking because historically, it has been a problem for the area. Joe Green asked how much commercial traffic is drawn by the current businesses. Mr. Homevec replied not much.

Ben Crabtree of 1205 Evans Street spoke against the project as submitted. He asked Mr. Harris if the intention of the applicant is to market the units as single-family dwellings and Mr. Harris said yes. Mr. Crabtree said that Evans Street only allows parking on one side of the street and therefore, everyone who lives in the area must park on either Evans Street or 12<sup>th</sup> Street. He said that the current commercial use of the building brings very little traffic to the area and adding apartments or condos will bring more traffic and the residents will have to fight for parking. He said that he would support a renovation of the building, but parking is a huge issue so he would not support multiple dwellings on the property. Mr. Crabtree said that he wants the building to be torn down and a single-family home to be built on the property.

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

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

Joe Green questioned the types of commercial businesses that would be allowed and Ms. Veltman said that the same types of businesses that have been in the building would still be allowed, but other businesses could apply for a special-use permit from the Board of Adjustment to change the nonconforming-use. Mr. Green commented that a new commercial shop could make parking worse and have longer hours. He stated that residential units would be better for the area than commercial establishments because they would produce less traffic and fewer parking issues. In response to a question from Beth Taylor, Ms. Veltman stated that parking is available on both sides of 12<sup>th</sup> Street.

Laura Drewyor made **MOTION**, seconded by Joe Green, to grant the special-use request. The motion carried unanimously.

***C. Request submitted by Next Media Outdoor Inc. for a variance from Articles 19-9.1 and 19-12.2(H) of the Unified Development Ordinance to allow replacement of a billboard (off-premise) sign not meeting the separation distance from another billboard (off-premise) sign at 5133 Highway 70 (Tax PIN 635612964386000) which is zoned CH (Commercial Highway District).***

Zoning Enforcement Officer Joyce Veltman stated that the City would like to have the case heard even though the applicant was not present for the hearing.

Joe Green made **MOTION**, seconded by Dick Gambill, to open the public hearing. The motion carried unanimously. Joe Green was excused from voting on this case as only five members were needed.

Ms. Veltman introduced the request. Slides were shown depicting the location of the property which is zoned CH (Commercial Highway) which is one of the three districts where off-premise signs are allowed to be constructed along Highways 70 and 24. The site is the previous location of Bob-Bal-Lou's Restaurant. Belk's is further to the west and Brush Strokes Sign Company is to the east. The site is owned by Harbrook Bank II LLC which also owns the lot to the immediate west where the other off-premise sign is located. A 2003 photo of the sign which advertised "Triple S Oceanfront Resort" was shown to the Board. In May 2008, a tornado went through the area and damaged the sign (slides were shown depicting the damage). The support posts were broken off at ground level. At some point, the sign was reinstalled without a permit or inspections. Upon meeting with Mr. Williamson, agent for Next Media Outdoor, it was

determined that the sign did not meet the five-hundred-foot separation requirement between billboards. The variance application indicated that four hundred seventy feet separated the two signs, a thirty-foot shortage from the required distance. Using the Town's GIS (Geographic Information System) Program, it was determined that the separation distance was actually four hundred thirteen feet, an eighty-seven-foot shortage. This application is for a variance from the five-hundred-foot separation requirement. The sign ordinance addresses nonconforming signs as far as normal maintenance and repair and separates that from damage caused by nature. As long as the structural integrity is not compromised, the sign can be repaired or replaced. In this case, however, the structural integrity was compromised and therefore replacement of this sign will require a new footing which must be engineered and inspected. This sign is now like any other new sign installation and requires the five-hundred-foot separation from another off-premise sign.

Ms. Veltman reviewed the variance criteria under Article 5-3.2:

A. *Special conditions and circumstances must exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.* There are none.

B. *Literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.* There are no other nonconforming signs in the area.

C. *Special conditions and circumstances do not result from the actions of the applicant.* Yes, they do. The applicant chose to replace the sign without a permit and without any inspections.

D. *The hardship is of a physical nature and not economic.* The hardship is of a physical nature because of the separation distance requirement.

E. *Granting of the variance will not confer upon the applicant any special privilege to use the applicant's property in a manner that is denied to other owner's of land, structures or buildings within the same zoning district.*

Granting of the variance will confer upon the applicant a special privilege.

Staff does not support the granting of the variance. The hearing has been advertised, and notices were mailed to property owners within 100' to notify them of the request.

No one spoke in opposition to the request.

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

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

The Board discussed the variance criteria:

A. *Special conditions and circumstances must exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.* The Board Members all agreed that no special conditions or circumstances exist.

B. *Literal interpretation of the provisions of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.* The Board Members all agreed that others in the area do not have the right to install signs with a distance of less than five hundred feet between them per the UDO.

C. *Special conditions and circumstances do not result from the actions of the applicant.* The Board Members all agreed that the applicant installed the sign without a permit.

D. *The hardship is of a physical nature and not economic.* The Board Members all agreed that the hardship is of a physical nature because of the separation distance requirement.

E. *Granting of the variance will not confer upon the applicant any special privilege to use the applicant's property in a manner that is denied to other owner's of land, structures or buildings within the same zoning district.* The Board Members all agreed that a special privilege would be conferred upon the applicant should the variance request be granted.

Bill Ward made **MOTION**, seconded by Laura Drewyor, to grant the variance request. All were opposed, so the motion failed. The request was unanimously denied.

***NEW BUSINESS:***

A. Tripp Mudge has been appointed by the County to serve a three-year term as an Extraterritorial Member on the Board of Adjustment and Holly Briggs has been reappointed to serve another three-year term as an In-Town Member on the Board of Adjustment. Both will be sworn in at the next Board of Adjustment meeting.

B. Chairman Walker will not be able to attend the September meeting. Vice-Chair Laura Drewyor will oversee the meeting.

Beth Taylor made **MOTION**, seconded by Joe Green, to adjourn the meeting. The motion carried unanimously and the meeting was adjourned at 7:20 p.m.

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Jeannie Vaughan  
Secretary