

**MINUTES**

**ZONING BOARD OF ADJUSTMENT**

**BRUNSWICK COUNTY, N.C.**

**6:00 P.M., Thursday  
May 11, 2023**

**Commissioners Chambers  
David R Sandifer Administration Building  
Brunswick County Government Center  
Old Ocean Highway East, Bolivia**

MEMBERS PRESENT

Robert Williamson, Chairman  
Mary Ann McCarthy, Vice Chairman  
Clayton Rivenbark  
Marian Shiflet  
Ron Medlin

MEMBERS ABSENT

Virginia Ward, Alternate

STAFF PRESENT

Dennis Rabon, Zoning Administrator  
Bryan Batton, Assistant County Attorney  
Hugo Bryant Junior, Zoning Tech

**I. CALL TO ORDER.**

The Chairman called the meeting to order at 6:00 p.m.

**II. ROLL CALL.**

**III. CONSIDERATION OF MINUTES.**

Ms. Shiflet made a motion to amend the minutes of April 13, 2023 Board of Adjustment Meeting to correct the spelling of her name under members present. Mr. Rivenbark made a motion to approve the minutes of April 13, 2023 Board of Adjustment Meeting with the amendment. The motion was seconded by Ms. Shiflet and unanimously carried.

**IV. FUNCTIONS OF THE BOARD OF ADJUSTMENT.**

Ms. McCarthy explained that the Board of Adjustment is a quasi-judicial Board assigned the function of acting between the Zoning Administrator or Planning Director, who administer the Unified Development Ordinance (UDO), and the courts, which would

have the final say on any matter. The Board's duties are to hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or Planning Director; to grant Special Use Permits and to grant Variances.

Ms. McCarthy said that the public hearing is not to solicit Board public opinion about how the Board should vote on a matter; rather, it is a time for submittal of relevant, factual evidence in the record by the applicants, proponents, opponents, and staff. All parties involved must be affirmed or sworn in as required by the North Carolina General Statutes. The opposing parties have the right to cross examine witnesses and file documents into the record.

Ms. McCarthy stated that the Chairman will announce the case; the Zoning Administrator will submit into evidence the Staff Report; the applicant or person filing the application will present relevant evidence to the Board as it relates to the Approval Criteria outlined in Section 3.3.9.B. of the UDO; the opposition will have an opportunity to speak; and then the Zoning Administrator will provide recommended conditions based on the approval criteria and information provided during the public hearing. Once all parties have addressed the Board, all parties will have the opportunity for rebuttals and the Chairman will summarize all evidence presented. All parties will have the opportunity to comment on the summation given to the Board. Once the summary is accepted, the public hearing session will be over, and the Board will discuss the matter amongst themselves and vote to grant or deny the Special Use Permit and/or Variance.

Ms. McCarthy informed the audience that if anyone was not satisfied with the outcome of the Board's decision, they may file an appeal to Superior Court.

**V. AGENDA AMENDMENTS.**

There were none.

**VI. SWEARING IN OF APPLICANT, WITNESS, AND OTHER INTERESTED PARTIES.**

The Chairman swore in and/or affirmed Dennis Rabon, Penny Whisnant and Lana Humphrey, as to their testimony being truthful and relevant to the respective case.

**VII. NEW BUSINESS.**

- A. 23-04S Special Use  
Applicant: Penny Whisnant  
Location: 843 Ocean Highway W. Supply, NC 28462  
Tax Parcel 16700046  
Applicant requests a Special Use Permit For a “Veterinary Clinic, Animal Hospital and Kennel” consistent with Section 5.3.5.U. of the Brunswick County Unified Development Ordinance (UDO).

Mr. Rabon addressed the Board. Mr. Rabon read the Staff Report (see attached).

Ms. Penny Whisnant provided an opening statement, stating that she took over the grooming business from the previous owner as they were going out of business. Ms. Whisnant added that she was not aware of the need to acquire a Special Use Permit as she did not have to apply for one in her previous County. Ms. Whisnant stated that the signs that are on the property are just extra signs, and they aren't necessary to be out. Ms. Whisnant added that if in the future they would like to add the signs out front they will apply for the correct permits. Ms. Whisnant stated that the dogs that are brought to the business are only there for a quoted three to five hours. Ms. Whisnant added that the only reason for the fence is due to customer complaints asking if their dogs have been taken out to walk. Ms. Whisnant added that for safety reasons she wanted to have a closed controlled area for the dogs to get exercise and then they are brought back in. Ms. Whisnant added that the dogs are not left out for extended periods of time, they are only out for a short walk and then returned to the interior of the building. Ms. Shiflet asked if the business is currently open and if the signs that were an issue per the staff report removed. Ms. Whisnant stated that the business is open and the signs have been removed. Vice Chairman McCarthy asked Ms. Whisnant understood all the conditions read by Mr. Rabon. Ms. Whisnant stated that she did understand the conditions read in the staff report by Mr. Rabon.

Ms. Lana Humphrey provided a statement, stating that she is a representative of the property owner the Rodzik Law Group. Ms. Humphrey added that Ms. Whisnant is the tenant of the property owner, in speaking for the property owner he has no disputes for the intended use. Ms. Humphrey stated that they are willing to help Ms. Whisnant with the process for the markings of the handicap space(s). Ms. Humphrey added that they will also work with Ms. Whisnant on the driveway permit required through the North Carolina Department of Transportation (NCDOT).

Chairman Williamson asked if there was anyone who wished to speak for or against the case. There were no additional speakers. Chairman Williamson closed the public hearing and proceeded to provide a summation of the case. The Board discussed the worksheet and determined the following.

Having heard all the evidence and arguments presented at the hearing, the Board of Adjustment, at its regular meeting, determined that the application is complete, and subject to the conditions imposed below, **the following findings are made.**

1. A written application was submitted and complete in all respects.
2. The use, “Veterinary Clinic, Animal Hospital and Kennel,” for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. All surrounding property is Commercial Low Density (CLD), including the proposed Veterinary Clinic, Animal Hospital and Kennel site.
  - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of properties.
3. The use, “Veterinary Clinic, Animal Hospital and Kennel,” for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. Section 5.2 of the Brunswick County Unified Development Ordinance Lists Veterinary Clinic, Animal Hospital and Kennel as a permissible use in the CLD Zoning District if approved by the Board of Adjustment through the Special Use Permit Process.
  - b. Section 5.3.5.U. of the UDO outlines the additional criteria for Veterinary Clinic, Animal Hospital and Kennel if approved by the Board of Adjustment through the Special Use Permit process.
  - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
  - d. The applicant is aware of all standards required by the UDO and has agreed to comply with the standards.
4. The use, “Veterinary Clinic, Animal Hospital and Kennel,” for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. No testimony or evidence was presented at the hearing that the proposed use will adversely affect the health and safety of the public.
  - b. The applicant has been informed that a permit from the North Carolina Department of Transportation will need to be applied for and kept on file with the Brunswick County Planning Department.

5. The use, “Veterinary Clinic, Animal Hospital and Kennel,” if developed as proposed, will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
  - a. The Board concurs with the Staff Report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
    1. **Circulation:** All access to the site will occur from Ocean Highway (US 17). The applicant must submit a change of use driveway permit application to the North Carolina Department of Transportation for review and approval.
    2. **Parking and Loading:** Vehicles will be parked in the existing gravel parking lot. There are currently 5 parking spaces for this building. The square footage of the Pad & Paw Pet Spa is 1,120 square feet. One space per 250 square feet of area is required for a Kennel, thus a minimum of 5 spaces will be needed and are provided. One of those spaces will need to be upgraded to ADA standards, including signage.
    3. **Service Entrances and Areas:** Same as public entrance.
    4. **Lighting:** No additional lighting is required.
    5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. There are currently 3 unpermitted signs on the property which the applicant has been advised to remove. Any new signage must be reviewed and permitted prior to installation. Signage is a separate permitting process.
    6. **Utilities:** Public water and sewer are provided by Brunswick County.
    7. **Open Space:** There are no additional open space requirements for this use.
    8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
    9. **Screening, Buffering and Landscaping:** Existing screening, Buffering and landscaping of the site is sufficient.
    10. **Effect on Adjoining Property:** The effects on adjoining property is minimal as clients will remain indoors and there is adequate separation between uses.
    11. **Compatibility:** The proposed use is permissible in the C-LD Zoning District with Special Use Permit approval by the Board of Adjustment.
    12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
  - b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.5.U. Veterinary Clinics, Animal Hospitals, and Kennels in the Unified Development Ordinance, specifically:
    1. In the RR district, the use shall be permitted as a limited use subject to the standards in this Section. **Not applicable, as the parcel is zoned Commercial Low Density.**
    2. A 300- foot separation shall be maintained between the outdoor areas where animals are kept and any property line of any adjacent residential use in a residential district. **Not applicable, as all adjacent properties and uses are commercial.**

3. A minimum six-foot high wall shall be installed and maintained between outdoor areas where animals are kept and any property line of an adjacent residential use in a non-residential district. **Not applicable, as there are no adjacent residential uses. However, applicant has installed a 10 x 14 wooden fence that is 6' in height for the purpose of exercising dogs while at the spa.**
4. The facility shall be constructed, designed, and located on the site to minimize noise, odor, and other impacts on neighboring properties. Adequate waste disposal shall be required to maintain sanitary conditions and control odor. **This is an existing structure. Owner purposes to take care of waste daily through typical collection and bagging for disposal means.**
5. With the exception of kennels, all facilities shall be licensed by the Animal Health Division of North Carolina Department of Agriculture and Consumer Services, Article 3, and all other required permits or certificates shall be acquired and maintained. **N/A as the proposed use falls under the Kennel use.**

## VIII. DECISION

### 1. MOTION TO GRANT PERMIT

“Vice Chairman McCarthy made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below as the project:

- a. **will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,**
- b. **will be in conformance with all special requirements applicable to the use,**
- c. **will not adversely affect the health and safety of the public, and**
- d. **will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance.”**

### CONDITIONS

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use application and kept on file by the Brunswick County Planning Department.
3. The use is limited to animal grooming.
4. The applicant shall submit and obtain a driveway permit from North Carolina Department of Transportation for the northern access driveway.

5. The applicant must comply with Federal ADA and the Brunswick County Unified Development Ordinance (UDO) standards for required handicap space(s).
6. If the specified conditions addressed in the Special Use Permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Rivenbark and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5 of the Brunswick County Unified Development Ordinance.

**IX. STAFF REPORT.**

No staff report was provided.

**X. ADJOURNMENT.**

With no further business, Vice Chairman McCarthy made a motion to adjourn. The motion was seconded by Ms. Shiflet and unanimously carried.