

MINUTES
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY, N.C.

6:00 P.M., Thursday
May 12, 2016

Commissioner's Chambers
David R. Sandifer Admin. Bldg.
Brunswick County Government Center
Old US 17 East, Bolivia

MEMBERS PRESENT

Robert Williamson, Chairman
Virginia Ward, Vice Chairman
Robert Cruse
Mary Ann McCarthy
Clayton O. Rivenbark, Alternate

MEMBERS ABSENT

Jervie Babson

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Kyna Bryant-Hardy, Office Assistant

OTHERS PRESENT

Katie Mae Garner

Albert Parker, Jr.

I. CALL TO ORDER.

The Chairman called the meeting to order at 6:03 p.m.

II. ROLL CALL.

Mr. Jervie Babson was absent. Mr. Clayton O. Rivenbark served as Alternate.

III. CONSIDERATION OF MINUTES OF THE APRIL 14, 2016 MEETING.

Mr. Cruse made a motion to accept the minutes of the April 14, 2016 meeting as written. The motion was seconded by Mr. Rivenbark and unanimously carried.

IV. AGENDA AMENDMENTS.

There were none.

FUNCTIONS OF THE BOARD OF ADJUSTMENT.

Mrs. McCarthy explained 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.

Mrs. 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 records 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.

Mrs. 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.

Mrs. 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. SWEARING IN OF APPLICANT, WITNESS, AND OTHER INTERESTED PARTIES.

The Chairman swore in Ms. Helen Bunch, Mrs. Katie Mae Garner and Mr. Albert Parker as to their testimony being truthful and relevant to the respective case.

VI. NEW BUSINESS.

- A). 16-03S Special Use Permit
Applicant: Albert Parker, Jr.
Location: 65 Sellers Road NW, Supply NC 28462
Tax Parcel 16700011 (Portion of)
Applicant requests a Special Use Permit to locate an “Incinerator for the Disposal of Animal Remains” (Pet Crematory) per Sections 5.2.3. and 5.3.7.D. of the Brunswick County Unified Development Ordinance (UDO).

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She stated that the applicant, Albert Parker, Jr., requests to develop a Incinerator for the Disposal of Animal Remains (Pet Crematory) on the subject parcel. She further stated that the proposed will be located on a portion of Tax Parcel 16700011, also known as 65 Sellers Road NW. She identified the subject property and surrounding properties on a map displayed on an overhead projector. She continued that the Brunswick County Future Land Use Plan designates the subject parcel as Commercial. She stated the proposed use is only permissible in the C-LD Zoning District with Special Use Permit approval by the Brunswick County Board of Adjustment. Ms. Bunch proceeded to discuss the twelve (12) review factors (e.g., circulation; parking and loading; service entrances and areas; lighting; signs; utilities; open space; environmental protection; screening, buffering, and landscaping; effects on adjoining property; compatibility; and impacts on military installations) associated with the subject parcel. She stated that all access will occur from Sellers Road (SR 1344). She further stated that a revised driveway permit may be required. She continued that the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed use and provide the Brunswick County Planning Department with documentation from NCDOT stating improvements will or will not be necessary. Ms. Bunch stated that per Section 6.12.6.A. of the Brunswick County Unified Development Ordinance (UDO), one (1) parking space per 300 square feet of office area, one (1) space per 200 square feet of retail sales plus (1) space per 5,000 square feet of warehouse/storage area is required. She stated that a total of four (4) parking spaces are required. She further stated that four (4) parking spaces are delineated on the site plan. Ms. Bunch stated that any outdoor lighting must meet the lighting requirements stated in Section 6.9. “Outdoor Lighting” of the UDO prior to the installation. She stated that any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. She continued that signage is a separate permitting process. She further stated that the applicant has applied for a well and septic system, with the proposed locations shown on the site plan. Ms. Bunch stated that there are no open space requirements for this use. She stated that the applicant must meet all applicable Federal, State and Local Government requirements. She

further stated that a 20' deep street buffer adjacent to Sellers Road will be necessary. She continued that the applicant must install one (1) canopy tree or two (2) understory trees per one hundred (100) linear feet for all portions of the property fronting Sellers Road. Ms. Bunch stated that both the north and west adjacent properties are zoned RR, which will require a project boundary buffer of 0.6 opacity. She stated that the southern adjacent property is zoned C-LD, which will require a project boundary buffer of 0.2 opacity. She further stated that the use of existing vegetation is permissible, but must be documented. Ms. Bunch stated that the effect on adjoining property is lessened by the buffer requirements. She stated that the proposed use is permissible in the C-LD Zoning District with Special Use Permit approval by the Board of Adjustment. She further stated that the proposed use is not within five (5) miles of a military installation.

Ms. Bunch stated that there are additional approval criteria for this use outlined in Section 5.3.7.D., Incinerator for the Disposal of Animal Remains of the Brunswick County Unified Development Ordinance (UDO). She stated that in all permitted zoning districts, the incinerator apparatus (called a retort) must be a certified apparatus, installed and located within the enclosed building.

Mrs. Katie Mae Garner, daughter and business partner of the applicant, addressed the Board. Mrs. Garner stated that they are requesting a Special Use Permit to develop an Incinerator for the Disposal of Animal Remains (Pet Crematory) on the subject parcel. She stated that they will utilize a retort to cremate animal remains and that the process will be both smokeless and odorless. Mrs. Garner provided the Board with information regarding a retort [Exhibit A]. She stated that currently there are no regulations with regards to pet crematories. She concluded that Mr. Albert Parker, Jr. is available to provide testimony regarding the proposed request.

Mr. Albert Parker, Jr. addressed the Board. Mr. Parker stated that the retort is a machine that operates at a high temperature to turn bone into ash after grinding. He stated that the proposed process will be both smokeless and odorless. He further stated that if the retort does smoke that means there is an issue. Mr. Parker stated that they have contacted the Environmental Protection Agency in regards to air quality. He concluded that the proposed will meet all the conditions required to receive the Special Use Permit.

Mrs. McCarthy asked Mr. Parker if there is a Pet Crematory located in Brunswick County? Mr. Parker replied no, but there are several human crematories in the area.

The Chairman asked Mrs. Garner the location of the nearest residence? Mrs. Garner stated that the nearest residence is approximately 300 yards from the subject parcel.

Mr. Rivenbark asked Ms. Bunch if the trees that will be planted in the front yard buffer will be maple? Ms. Bunch stated that they are proposing to plant red maple trees but since there are power lines along the front property line the applicant will need to plant understory trees. She continued that a list of acceptable understory trees is located in Appendix A of the UDO.

With no further comments, Ms. Bunch read the conditions of approval of the Special Use Permit:

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 permit application and kept on file by the Brunswick County Planning Department.
3. The applicant must legally subdivide and record the parcel consistent with the site plan submitted to the Brunswick County Board of Adjustment with the Brunswick County Register of Deeds prior to project permitting.
4. The applicant must comply with all requirements specific to this use outlined in Section 5.3.7.D. of the Brunswick County UDO. The incinerator apparatus (called a retort) must be a certified apparatus, installed and located within an enclosed building.
5. The applicant the applicant must apply for and receive a driveway permit from the North Carolina Department of Transportation (NCDOT) or provide documentation from NCDOT that a revised permit will not be necessary.
6. Any Outdoor Lighting installed on the property must meet the requirement outlined in Section 6.9. of the UDO.
7. The Landscaping Plan must address the following:
 - a. Indicate the depth of each buffer area on the site plan.
 - b. Spell out the required plantings for each chosen alternative (i.e. 0.6 Opacity Alternative 2 = 3 canopy trees, 8 understory trees and 13 shrubs per 100 linear feet) on the site plan.
 - c. Street buffer adjacent to Sellers Road, 20' in depth with 2 understory trees per 100 linear feet of road frontage due to the utility lines. Note that the trees should have a natural height not to exceed 25 feet.
8. Provide a Storm Water Plan for review and approval by the Brunswick County Storm Water Administrator.
9. The applicant must comply with all Federal, State and Local requirements related to this use.
10. If the specified conditions addressed in this 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.

She stated that if approved, this development shall have a vested right for a period of three (3) years and a two (2) year extension may be requested by the applicant to the Brunswick County Board of Adjustment.

With no further comments, the Chairman summarized that the applicant, Mr. Albert Parker, Jr., requests to develop an Incinerator for the Disposal of Animal Remains (Pet Crematory) on the subject parcel. He stated that the proposed use is only permissible in the C-LD Zoning District with Special Use Permit approval by the Brunswick County Board of Adjustment. He further stated that the applicant testified that the process will be both

smokeless and odorless. He concluded that the applicant testified that the proposed will meet all the requirements and conditions of the ordinance. The Chairman asked if there were any comments to the summation? There were none.

The Board discussed the worksheet and determined the following:

Application No. 16-03S

Applicant: Albert Parker, Jr.

Property Location: 65 Sellers Road NW, Supply NC 28462

Parcel Number: 16700011 (Portion of)

Zoning District: Commercial Low Density (C-LD)

Land Use Classification: Low Density Residential

Surrounding Zoning North: RR, **South:** C-LD, **East:** C-LD, **West:** RR

Proposed Use of Property: “Incinerator for the Disposal of Animal Remains (Pet Crematory)”

FINDINGS OF FACT

Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its regular meeting, determined that application is complete / incomplete and finds:

- I. WHETHER THE PROPOSED USE IS IN HARMONY WITH THE AREA AND NOT SUBSTANTIALLY INJURIOUS TO THE VALUE OF PROPERTIES IN THE GENERAL VICINITY:

Yes

No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your Findings:

No evidence or testimony was provided with regard to property values. This is a commercial area with both commercial and residential uses in the area. The applicant stated that the process will be both smokeless and odorless.

II. WHETHER THE USE IS IN CONFORMANCE WITH ALL SPECIAL REQUIREMENTS APPLICABLE TO THE USE:

- Yes
 No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

Section 5.2.3. of the Brunswick County Unified Development Ordinance (UDO) lists an Incinerator for the Disposal of Animal Remains (Pet Crematory) as a permissible use in the C-LD Zoning District if approved by the Board of Adjustment through the Special Use Permit process. Section 5.3.7.D. of the UDO outlines the additional criteria for "Incinerator for the Disposal of Animal Remains (Pet Crematory)", if approved by the Board of Adjustment through the Special Use Permit process. 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. The applicant testified at the Board of Adjustment Meeting that all of the conditions required to receive the Special Use Permit are acceptable and will be met.

III. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL NOT ADVERSELY AFFECT THE HEALTH AND SAFETY OF THE PUBLIC:

- Yes
 No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your findings:

No expert testimony or evidence was provided that the use will adversely affect the health or safety of the public. The applicant testified that the process will be located within a building and will be both smokeless and odorless.

IV. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL ADEQUATELY ADDRESS THE TWELVE (12) REVIEW FACTORS IDENTIFIED IN SECTION 3.3.9.B. OF THE BRUNSWICK COUNTY UNIFIED DEVELOPMENT ORDINANCE:

- Yes
 No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

The use, Incinerator for the Disposal of Animal Remains (Pet Crematory), 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 (UDO) and the additional review criteria denoted in Section 5.3.7.D. of the Unified Development Ordinance, based upon the submitted Staff Report and requested conditions made by Staff as part of the report.

V. DECISION:

Mr. Rivenbark made a motion to Grant the Special Use Permit “because the proposed use if developed as proposed and subject to the conditions imposed below:

- 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 3.3.9.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 permit application and kept on file by the Brunswick County Planning Department.
3. The applicant must legally subdivide and record the parcel consistent with the site plan submitted to the Brunswick County Board of Adjustment with the Brunswick County Register of Deeds prior to project permitting.
4. The applicant must comply with all requirements specific to this use outlined in Section 5.3.7.D. of the Brunswick County UDO. The incinerator apparatus (called a retort) must be a certified apparatus, installed and located within an enclosed building.
5. The applicant the applicant must apply for and receive a driveway permit from the North Carolina Department of Transportation (NCDOT) or provide documentation from NCDOT that a revised permit will not be necessary.

6. Any Outdoor Lighting installed on the property must meet the requirement outlined in Section 6.9. of the UDO.
7. The Landscaping Plan must address the following:
 - a. Indicate the depth of each buffer area on the site plan.
 - b. Spell out the required plantings for each chosen alternative (i.e. 0.6 Opacity Alternative 2 = 3 canopy trees, 8 understory trees and 13 shrubs per 100 linear feet) on the site plan.
 - c. Street buffer adjacent to Sellers Road, 20' in depth with 2 understory trees per 100 linear feet of road frontage due to the utility lines. Note that the trees should have a natural height not to exceed 25 feet.
8. Provide a Storm Water Plan for review and approval by the Brunswick County Storm Water Administrator.
9. The applicant must comply with all Federal, State and Local requirements related to this use.
10. If the specified conditions addressed in this 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. Cruse and unanimously carried.

VII. STAFF REPORT.

- Ms. Bunch stated that there will be four (4) cases to be heard at the June 9, 2016 meeting.
- Ms. Bunch reported that Mr. Benny L. Smith (Case #16-01V) has been working with Planning Staff to move the detached accessory garage. She stated that the surveyor will go to the subject parcel and pin the location of proposed.

VIII. ADJOURNMENT.

With no further business, Mr. Rivenbark made a motion to adjourn. The motion was seconded by the Chairman and unanimously carried.