

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

6:00 P.M., Thursday
June 28, 2018

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

MEMBERS ABSENT

None

STAFF PRESENT

Helen Bunch, Zoning Administrator
Brandon Hackney, Project Planner
Bryan Batton, Assistant County Attorney

OTHERS PRESENT

Cynthia Trivette
Alan Lewis
Cynthia Cowell
Kevin Henry
Patrick Newton
Vernon Eakins
Jeff Earp
Sheldon Adams
Sylvia Holleman

Teresa Rabon
Jerry Henry
Hal Rabon
Twanda Mitchell
Tommie Henry
Eric Worley
Ben Richardson
David Judy

I. CALL TO ORDER.

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

II. ROLL CALL.

All members were present. There is one (1) vacancy on the Board.

III. CONSIDERATION OF MINUTES OF THE MAY 10, 2108 MEETING.

Vice Chair Ward made a motion to accept the minutes of the May 10, 2018 meeting as written. The motion was seconded by Mr. Cruse and unanimously carried.

IV. AGENDA AMENDMENTS.

There were none.

V. FUNCTIONS OF THE BOARD OF ADJUSTMENT.

Vice Chair Ward 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.

Mrs. Ward 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. Ward 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. Ward 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.

VI. SWEARING IN OF APPLICANTS, WITNESSES, AND OTHER INTERESTED PARTIES.

The Chairman swore in and/or affirmed Ms. Helen Bunch, Cynthia Trivette, Alan Lewis, Cynthia Cowell, Kevin Henry, Patrick Newton, Vernon Eakins, Jeff Earp, Sheldon Adams, Sylvia Holleman, Teresa Rabon, Jerry Henry, Hal Rabon, Twanda Mitchell,

Tommie Henry, Eric Worley, Ben Richardson, and David Judy as to their testimony being truthful and relevant to the respective case.

VII. NEW BUSINESS.

- A). 18-06S Special Use Permit
Applicant: Cynthia Trivette
Location: 2370 Midway Road, Bolivia NC 28422
Tax Parcel 18700024
Applicant requests a Special Use Permit from Section 5.2.3 and 5.3.8.C. of the Brunswick County Unified Development Ordinance (UDO) for an Outdoor RV Resort.

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

Chairman Robert Williamson asked the applicant, Cynthia Trivette, if she would like to move forward with the Special Use Permit request, being that there are only four members present. A simple majority must vote in favor of the request for the request to be granted. Ms. Trivette stated that she wished to move forward with the case.

The Chairman asked Ms. Trivette to explain what she is requesting in the Special Use Permit. Ms. Trivette stated that she is asking permission to put an Outdoor RV Resort on the property. She stated that the engineer overseeing the project, Alan Lewis, could provide more detailed information regarding the project.

Mr. Lewis stated that he has coordinated very closely with staff to assure he has followed the requirements of the UDO. He stated that he has reached out to North Carolina Department of Transportation (NCDOT) and has provided Ms. Bunch with an email from NCDOT stating that they will require a standard driveway. He continued that a deceleration lane on Midway Road will not be required due to the trip generation numbers not being sufficient enough to warrant such. Mr. Lewis stated that the plans show great detail of the utility, water and sewer lines, the grading plan, the sedimentation and erosion control plan, the storm water management plan, all which will have to be submitted to State agencies upon approval. He stated that the approval process will take several months, possibly up to six months, before any construction will begin on the property, assuming approval from the Board of Adjustments. Mr. Lewis stated that Ms. Trivette will have the option of renting the individual sites or have the option to sell the sites, much like a small subdivision lot. Mr. Lewis stated that a unique feature to the project is designing the sites to preserve open space between each site. He stated that the parcel is currently wooded, and the plans include preserving the existing vegetation between sites to create privacy between each of the RV users. He stated that he has also provided the project boundary buffer on the site plan, where he plans to utilize the existing vegetation and will augment as necessary to meet the opacity requirements. Mr.

Lewis stated that it was very important in their design and conditions to accommodate to the neighbors and that Mr. Smith (sitting in the audience) will be the caretaker of the property and will be living onsite. Mr. Lewis stated that a quiet time will be enforced from 11:00 p.m. to 6:00 a.m. He continued that the street buffer that has been enhanced, utilizing the existing trees and vegetation so that the sites running parallel to Midway Road will not be visible from the road. Mr. Lewis stated that the storm water permit will be a Low-Density state permit, although the County requires detention, so a retention pond has been designed in the lower topographical areas. He stated that he has identified sensitive environmental areas and has had the Army Corps of Engineers identify the wetlands on the property. He stated that there was no disturbance with any wetlands in the design. Mr. Lewis stated that the UDO mandates the development to connect to sewer, so a force main sewer line will be running along the Midway Road right-of-way connecting to the shopping center at the intersection of Midway Road and Southport-Supply Road (NC 211). Mr. Lewis stated he has coordinated with the County Engineer regarding dedication of the sewer line to the County once it is installed, which will allow others along the route to connect if desired. He stated that a water main is already existing along Midway Road. He continued that the project must comply the requirements with the State Fire Code, which will require a water main into the property with a fire hydrant onsite and a two-inch water line to provide public water to each site. He stated that there will be a small office onsite with a general store for the RV users that will be open from approximately 9:00 a.m. to 6:00 p.m. He stated that there is a possibility for remote check-in for guests upon arrival.

The Chairman asked Mr. Lewis the size of each lot. Mr. Lewis stated that the lots are a bit larger than the minimum requirement. Ms. McCarthy stated that the plans show forty-three (43) feet by sixty-three (63) feet. Ms. McCarthy asked the lot width for the R-7500 zoning district. Ms. Bunch replied the lot width for R-7500 is seventy-five (75) feet.

The Chairman asked if there are any restrictions as to what can be allowed on the lot other than an RV. Mr. Lewis responded that the lot can only have the RV and the two vehicles, which is specified in the details of the plans with the detailed drawing.

Mrs. Ward asked if there would be a minimum or maximum RV size allowed on each site. Mr. Lewis said that there would be a maximum, which would be determined by the size that the site could accommodate.

Ms. Bunch stated that permanent accessory structures, such as carports, cabanas, or decks, are not permitted, attached or detached. She stated that at-grade patios and uncovered steps are permissible. Mr. Lewis stated that most of the RVs have awnings that extend which are connected to the RVs themselves and retract when the RV leaves the site.

The Chairman asked if there are setback requirements for these lots as there are for typical residential lots. Ms. Bunch stated that there are setbacks. She stated that the minimum lot requirement for the RV Resort lot is twenty-four hundred (2,400) square feet, the minimum lot width is forty (40) feet, the setbacks are fifteen (15) feet for the

front setback and five (5) feet for the side and rear setbacks. She stated that the through lots (double-fronted lots) would have a ten (10) foot front and rear setback. Side setbacks remain the same.

The Chairman asked if the RVs can be made permanent. Ms. Bunch responded that the RV must have the ability to move. She stated the intent of the resort is not for the RV to be permanently affixed or have permanently affixed decks, although a detached storage structure is allowed on each parcel no greater than 100 square feet but would need to meet the setback requirements and must be permitted. The 100 square foot storage building is allowed because the RVs are allowed to legally park for an extended period.

The Chairman asked who would maintain the lawn once they are sold. Mr. Lewis stated that in the event of the lots being sold, a property owners association would need to be created, so that there would be a method for maintenance of the streets and open space. He stated that Waste Industries will service the onsite screened dumpsters.

Ms. McCarthy asked if someone could buy one of the lots and build a house. Mr. Lewis responded no, that only RVs are allowed on the lots. Mrs. McCarthy asked if there is a limit of time that someone could leave their RV. Mr. Lewis responded that the lot owner could leave the RV for an extended period and that the lot could be rented on a monthly or annual basis.

Mrs. Ward asked how wide the driveway would be, especially if larger RVs will be pulling into the site. Mr. Lewis replied that the driveway is 30 feet wide to accommodate the turning radius needed. He said that his staff used the RV template in the design to assure the movements of the RVs in the park would be successful.

Mrs. Ward asked about project lighting and illumination. Mr. Lewis responded that the lighting would be internally focused and that the buffer will damper any ambient light from the property. He stated that he envisions smaller lamp posts to provide adequate lighting to walk to the bath house, but not lit to the extent of a shopping center. Mr. Lewis stated that there will also be a laundry facility on site for the RV users to wash their clothes.

Ms. McCarthy stated that one of the requirements to obtain the Special Use Permit is to use discretion to balance higher density with improved amenities. She asked what, if any, amenities will be implemented into the project. Mr. Lewis responded that there is a playground area and it has been envisioned to have walking trail around the retention pond, although it is not currently shown on the plan.

Ms. McCarthy asked about the shaded portion on the site plan. Mr. Lewis responded that the shaded areas are future sites. He stated that those sites will not be a part of Phase One due to topographical concerns and minimizing grading on the site. Mrs. McCarthy asked if these future sites are also being approved in the meeting tonight. Mr. Lewis stated that he was told by staff that they would be approved if they are shown on the site plan.

The Chairman asked if there is anyone who would like to speak for or against the proposal.

Ms. Cynthia Cowell, neighboring property owner, addressed the board. She stated that she lives directly across the street and has concern that people will move into the RV Resort looking for a cheap way to live somewhere. She asked if there are any restrictions that will be implemented to mitigate this from happening. She also raised concern for the heavy traffic along Midway Road and the issue of turning large RVs into the site. Mr. Lewis stated that NCDOT bases their determination from peak hour traffic, and most arrivals or departures from the RV Resort will not be at peak hours. He also stated that based on his personal experience, the number of visitors coming or leaving will be minuscule, where the RVs are left onsite for days at a time.

Mr. Lewis stated that he will meet the county and state requirements regarding the pump station for the sewer line. He stated that the lift station will be located internally, not by the street.

Ms. McCarthy asked if the pump station will be enclosed. Mr. Lewis replied that the entire system will be completely enclosed. Mrs. McCarthy asked what happens in the case of a power outage. Mr. Lewis responded that there is a backup generator to be hooked up to the pump station in the case of a power outage, which is mandated by the County and State.

Ms. McCarthy asked how many people would stay in the average RV. Mr. Lewis responded that it is usually a couple, and possibly their children. Ms. McCarthy asked if there will be a limit to the amount of people allowed to stay on one site. Ms. Bunch stated that the owner operator can have a set of rules to address these types of issues. She continued that the rules can be much more stringent than what is required in the ordinance.

Ms. Cowell asked if there are any restrictions that can be made to restrict older RVs in the Resort. Mr. Lewis responded that may be discriminatory and would not assume that such regulations could be mandated. He stated that would hopefully be mitigated through the design of buffering each lot and the entire project from the street.

Ms. Bunch reminded the Board that although Ms. Cowell lives in the neighborhood, she is not a transportation expert and her input cannot be used to determine the decision of the Special Use Permit.

Mr. Cruse asked if there is a requirement that there has to be a motor tag on the RV. Ms. Bunch responded that the UDO would not allow the tag to be removed, as the RV has to be in a state of movability at all times.

Mr. Kevin Henry stated that he is with Pine Forest Plantation Equity Investment, which owns the property that surrounds the site. Mr. Henry stated that he is in favor of the project, that the RV Resort is needed in the area and in the County. He stated that he

would like clarification as to the amenity portion of the project. He encouraged as much amenity inclusion as possible, something more than just a picnic table, possibly implement a pool or a small clubhouse. Mr. Lewis responded that a pool is a possibility in the future, although the County's beaches are the main amenity to the site.

The Chairman asked if there is anyone else who would like to speak.

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 apply for and receive a Driveway Permit and Utility Encroachment Easement Agreement from the North Carolina Department of Transportation (NCDOT).
4. Indicate on the site plan how RV site parking will be delineated.
5. Provide a Landscape Plan that addresses the periphery buffer of 0.6 opacity, street buffer and screening for the dumpster area and sewer lift station. If natural vegetation is proposed for the periphery buffers, provide a note that additional landscaping may be required in buffer area where the existing vegetation is not adequate to meet the required opacity.
6. Provide street directional signage for the proposed one-way streets.
7. Provide copies of the Neighborhood Meeting on-site signage, sign-in sheet and meeting minutes.
8. Provide an instrument/mechanism guaranteeing adequate maintenance and continued operation of all assured open space and other private service facilities as outlined in Section 5.3.8.C.6.iii.(f) of the UDO.
9. Indicate on the site plan what is and is not permissible regarding accessory structures as outlined in Section 5.3.8.C.7.x. of the UDO.
10. Address the Operational requirements outlined in Section 5.3.8.C.11 of the UDO.
11. Address the Dedication and Improvements requirements outlined in Section 5.3.8.C.12 of the UDO.
12. 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 Ms. Bunch read the staff report, where she stated the use of an RV Resort requires a Special Use Permit in the

R-7500 Zoning District, which is to be approved by the Board of Adjustment. He further stated that Ms. Bunch read the proposed conditions that the applicant would have to meet and that the applicant stated they intend to meet all of the criteria within the conditions, if not exceeding. The Chairman stated that Ms. Bunch explained the difference between an RV Resort and a campground. He stated that Mr. Lewis explained the layout of the project, the road configuration, the size of the lots, the number of lots, and some of the restrictions and setbacks required in the RV Resort. He stated there was a question by a neighboring property owner regarding the deceleration lane and Mr. Lewis responded that NCDOT did not require a deceleration lane for this project. 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. 18-06S

Applicant: Cynthia Trivette

Property Location: 2370 Midway Road, Bolivia NC 28422

Parcel Number: 18700024

Zoning District: Medium Density Residential (R-7500)

Land Use Classification: Mixed-Use

Surrounding Zoning: North: OK, South: OK, East: OK, West: R-7500 & OK
(OK=Oak Island)

Proposed Use of Property: “Outdoor RV Resort”

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 expert testimony was provided, or report submitted by an appraiser regarding the value of properties. The periphery and street buffers addressed in the staff report and referenced on the site plan insures that the project will be in harmony with the surrounding community.

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 lists an Outdoor RV Resort as a permissible use in the R-7500 Zoning District if approved by the Board of Adjustment through the Special Use Permit process. Section 5.3.8.C. of the UDO outlines the additional criteria for Outdoor RV Resorts 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 of the conditions outlined in the Staff Report are met. The applicant is aware of these requirements.

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:

The applicant plans to extend public water and sewer to the site as opposed to the use of wells and septic systems. The extension of the utilities may open opportunities for others in the community to hook-up to public utilities. The North Carolina Department of Transportation (NCDOT) has been consulted about access from the parcel to Midway Road (NC 906). The resulting driveway will meet the requirements of NCDOT.

IV. WHETHER THE USE, 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:

- Yes
 No

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

The use, a “Outdoor RV Resort”, 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. The Board concurs with the staff report which outlines the review factors of Section 3.5.9.B and the additional review factors as stated in Section 5.3.8.C. for Outdoor RV Resorts in the Unified Development Ordinance.

V. DECISION:

Mrs. Ward 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 3.5.9.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 Permit application and kept on file by the Brunswick County Planning Department.
3. The applicant must apply for and receive a Driveway Permit and Utility Encroachment Easement Agreement from the North Carolina Department of Transportation (NCDOT).

4. Indicate on the site plan how RV site parking will be delineated.
5. Provide a Landscape Plan that addresses the periphery buffer of 0.6 opacity, street buffer and screening for the dumpster area and sewer lift station. If natural vegetation is proposed for the periphery buffers, provide a note that additional landscaping may be required in buffer area where the existing vegetation is not adequate to meet the required opacity.
6. Provide street directional signage for the proposed one-way streets.
7. Provide copies of the Neighborhood Meeting on-site signage, sign-in sheet and meeting minutes.
8. Provide an instrument/mechanism guaranteeing adequate maintenance and continued operation of all assured open space and other private service facilities as outlined in Section 5.3.8.C.6.iii.(f) of the UDO.
9. Indicate on the site plan what is and is not permissible regarding accessory structures as outlined in Section 5.3.8.C.7.x. of the UDO.
10. Address the Operational requirements outlined in Section 5.3.8.C.11. of the UDO.
11. Address the Dedication and Improvements requirements outlined in Section 5.3.8.C.12. of the UDO.
12. 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 Ms. McCarthy and unanimously carried.

- B). 18-07V Variance
 Applicant: Patrick Newton
 Location: 4498 Southport-Supply Road SE, Southport NC 28461
 Tax Parcel 20400032
 Applicant requests a Variance from Section 8.8.1.G.1 of the Brunswick County Unified Development Ordinance (UDO) to place an outdoor advertising sign to be two hundred (200) linear feet from another off-premise structure as opposed to the minimum three thousand (3,000) linear feet of separation for off-premise structures required by the ordinance.

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

The Chairman asked the applicant, Patrick Newton, if he would like to move forward with the variance request, being that there are only four members present and that all four members would need to vote in favor of the request for the request to be granted. Mr. Newton stated that he wished to move forward.

Mr. Patrick Newton addressed the Board. Mr. Newton stated that Ms. Bunch covered the need for the variance, although he wanted to emphasize a few key points about the request. He stated that he legally constructed the signs in 1993 and has continually operated and maintained the signs since their erection. He further stated that he is not requesting the signs to be relocated because he wants them to be relocated; he is requesting because the NCDOT is forcing them to be relocated in order to widen Southport-Supply Road (NC 211). He stated that the signs are nonconforming per the current ordinance and that he is not requesting any other variance than the existing nonconformity. He stated he purchased the lands and installed the signs twenty-five years ago with the primary reason of buying the land being to construct the signs. Mr. Newton stated that the signs generate income for him, but they also provide a valuable service to the businesses within the surrounding communities. He stated that two years ago he was informed of the NC 211 (Southport-Supply Road) improvements and the impact it would have on the existing signs. Mr. Newton stated that the new signs will be constructed to the current NC Building Code and safety standards. He stated the he is a licensed professional engineer and will oversee the construction of the signs. He stated that the structure will be modern steel and will be much more attractive than the wooden signs that are on the property currently.

Ms. McCarthy asked if NCDOT has already made the purchase of the land for the road widening. Mr. Newton responded yes, he has already received compensation. Ms. McCarthy asked what causes the sign to be nonconforming. Ms. Bunch stated that at the time of the sign's erection, there was not a county zoning ordinance. She stated that zoning was enacted in Brunswick County in January of 1994. Ms. Bunch stated that the nonconformity is the distance between the two signs. Ms. McCarthy asked Mr. Newton if he is only planning to move the signs away from the road, keeping the same distance that they are currently. Mr. Newton responded that they will keep the same distance with the signs moved back perpendicular to the road.

The Chairman stated that this wasn't a situation that is by choice, that NCDOT would have acquired the property one way or another. Mr. Newton stated that is correct, that he would have avoided these circumstances at all costs if it were up to him

The Chairman asked if the sign was lit. Mr. Newton responded that the sign is lit from dusk to dawn.

The Chairman asked for clarification regarding if the sign is moved then it would be within two hundred (200) feet of another sign. Mr. Newton explained that there are two signs on the property that need to be relocated due to the road widening, the first sign was able to be moved by right, although this made the second sign be nonconforming with the current ordinance and is the reason for the variance request.

Mrs. Ward asked if the sign can be placed further back on the property. Mr. Newton stated that the distance requirement is longitudinally along the highway, so the distance from the road is irrelevant to the nonconformity.

Ms. McCarthy asked if the sign will have an electronic display. Mr. Newton stated that he does not currently have any electronic displays, however he may convert the signs in the future.

The Chairman asked if the size of the signs will remain the same. Mr. Newton stated that the sign will be larger than the current sign but will be compliant with the ordinance requirements.

Mr. Vernon Eakins asked if the sign will be moved towards the rear of the property of closer to the side property line along the road. Mr. Newton responded that the signs will be moved straight to the rear property line, that neither sign will be closer to Mr. Eakins' property line.

The Chairman summarized that the applicant, Mr. Patrick Newton, requests a Variance from Section 8.8.1.G.1. of the Brunswick County Unified Development Ordinance (UDO) to place an outdoor advertising sign 200 linear-feet from an existing outdoor advertising sign as opposed to the 3,000 linear feet of separation required by the UDO. He stated that the Mr. Newton constructed the sign legally 25 years ago and North Carolina Department of Transportation (NCDOT). has recently acquired the land on which the sign resides to widen Southport-Supply Road (NC 211). He stated that Mr. Newton would like to construct a sign in the same location in relation to the existing right-of way for the newly proposed right-of-way from NCDOT. He stated that under the new ordinance, this requires a variance of 2,800 feet. He stated that Mr. Newton detailed the sign to be lighted and larger than the existing but in compliance with the current ordinance regarding size. Assistant County Attorney Bryan Batton stated that staff has discussed this situation and that in the UDO there is an allowance for nonconformities that result from government action, where in a situation that a conforming sign becomes nonconforming due to a condemnation, it would be allowed per the UDO. He continued that because the sign was already nonconforming as evidenced in the non-conforming use certificate issued for the sign by the Planning Department, the relocation was not allowed without a variance.

The Board discussed the worksheet and determined the following:

1. It is the Board's CONCLUSION that, unnecessary hardship will result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in

the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:

The action of the North Carolina Department of Transportation (NCDOT) to take the property for the widening of NC 211 (Southport-Supply Road) created the need to remove the sign, with the potential result being reduced income unless the sign is granted variance that would allow its relocation.

2. It is the Board's CONCLUSION that the hardship does result from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:

The location of the current sign in the path of the proposed NCDOT right-of-way forced the relocation of the sign to a different point on the parcel. The chosen location requires the least variance possible.

3. It is the Board's CONCLUSION that the hardship does result from the actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

The applicant did not choose to sell the property or move the sign. The decision of NCDOT to expand the right-of-way for Southport-Supply Road caused the hardship.

4. It is the Board's CONCLUSION that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

No testimony was provided regarding public safety. The applicant did not ask to have his land taken.

On the basis of all the foregoing, Mrs. Ward made a motion to grant the Variance. The motion was seconded by Mr. Cruse.

- C). 18-08V Variance
Applicant: Patrick Newton
Location: 4870 Southport-Supply Road SE, Southport NC 28461
Tax Parcel 205PA00101
Applicant requests a Variance from Section 8.8.1.G.1. of the Brunswick County Unified Development Ordinance (UDO) to place an outdoor advertising sign 200 linear feet from an existing outdoor advertising sign as opposed to the 3,000 linear feet of separation required by the UDO; a Variance from Section 8.8.1.K.2. of the UDO to place a sign 15 feet from a residential zone adjoining a permitted zone away from the roadway as opposed to the 50 feet required by the UDO; and a Variance from Section 8.8.1.L.1. of the UDO to place the sign 350' from the center line of an intersection as opposed to the 500 feet from the center line of an intersection required by the Ordinance. [All variances are required for the sign to be relocated.]

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

The Chairman asked the applicant, Patrick Newton, if he would like to move forward with the variance request, being that there are only four members present and that all four members would need to vote in favor of the request for the request to be granted. Mr. Newton stated that he would like to continue with the request.

Mr. Patrick Newton addressed the Board. Mr. Newton stated that this variance request is under the same circumstance as the previous variance that was requested. He stated that the signs are be forced to be relocated due to the widening of Southport Road (NC 211). He continued that unless all three variances are granted, he will not be able to relocate the sign. He stated the sign will be further from the intersection than the existing sign is currently located.

The Chairman stated that the distance of the sign from the residentially zoned property is proposed to be fifteen (15) feet as opposed to the fifty (50) linear feet regulated by the UDO. He asked if there is a house on the property currently. Mr. Newton responded that there is a house on the property which is abutting the rear property line. He stated that the existing sign is approximately fifteen (15) feet from the property and is nonconforming. The chairman asked if the sign will be any closer to the house than the existing sign is currently. Mr. Newton stated that it will be closer to the house but not to the property line.

Ms. McCarthy asked if the intersection of Southport-Supply Road and Oakview Drive will have signals installed with the NCDOT improvements along Southport-Supply Road. Ms. Bunch stated that it will not be a signalized intersection.

The Chairman asked if the sign will be lighted and will it remain the same size. Mr. Newton responded that the sign will be lighted and will increase in size but within the allowance of the current ordinance. He continued that the sign will be a steel monopole structure.

Ms. McCarthy asked for clarification on the distance from the residentially zoned properties. Mr. Newton reiterated that the sign is relocating outside of the widened right-of-way and will remain the same distance from the property line as the current sign. Ms. McCarthy asked the location of the other sign on the property. Mr. Newton stated that it is fifteen (15) feet from the western property line.

Ms. McCarthy stated that she has concerns about the brightness of the sign due to it being fifteen (15) feet away from a residential property line. Mr. Newton stated that the current sign is lit and is the same distance away from the property line as the proposed so is not increasing the nonconformity. He continued that he has never had a complaint from any neighbors in the past. Ms. Bunch stated there are outdoor illumination level requirements in the Unified Development Ordinance (UDO). She continued that the standards must be met and that illumination will be reviewed during the permitting process.

The Chairman summarized that the applicant, Mr. Patrick Newton, requests three variances to relocate the outdoor advertising sign on his property due to the condemnation from the NCDOT for the widening of Southport-Supply Rd (NC 211). He stated that the sign was constructed legally and has since become nonconforming due to the enactment of the ordinance. He stated that one variance is to relocate the sign 200 linear feet from an existing sign as opposed to the 3,000 linear-foot separation requirement. He continued that the second variance is to allow the relocation of the sign to be 15 feet from a property line that abuts a residentially zoned property as opposed to the 50-foot requirement (the sign will not be located any closer to the property line than the existing sign). He stated that the third variance is to allow the relocation of the sign to be 350 feet from an intersection as opposed to the 500-foot requirement. He stated that the ordinance allows a sign that is conforming to become nonconforming due to government action, although the variance request is a nonconforming sign relocating to continue to be a nonconforming sign, but not increasing the intensity of the nonconformity.

The Board discussed the worksheet and determined the following:

1. It is the Board's CONCLUSION that, unnecessary hardship will result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:

The action of the North Carolina Department of Transportation (NCDOT) to take the property for the widening of NC 211 (Southport-Supply Road) has created the need to remove the sign, with the result being reduced income unless a variance is granted that would allow the relocation of the sign to a nearby area.

2. It is the Board's CONCLUSION that the hardship does result from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:

The location of the current sign in the path of the proposed NCDOT right-of-way has forced the relocation of the sign to a different point on the parcel. The chosen location requires the least variance possible.

3. It is the Board's CONCLUSION that the hardship does not result from the actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

The applicant did not choose to sell the property or move the sign. The decision of NCDOT to expand the right-of-way for Southport-Supply Road at this location caused the hardship.

4. It is the Board's CONCLUSION that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

No testimony was provided regarding public safety. The applicant did not ask to have his land taken. The chosen location requires the least variance possible.

On the basis of all the foregoing, Mr. Cruse made a motion to grant the Variance. The motion was seconded by the Chairman.

- D). 18-09S Special Use Permit
Applicant: Funston Company
Location: 304 Old Town Creek Road NE, Leland NC 28451
Tax Parcel 0560005101
Applicant requests a Special Use Permit from Section 5.2.3 and 5.3.7.G of the Brunswick County Unified Development Ordinance (UDO) for a Class I Mining Operation.

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She identified the subject property and surrounding properties on a visual map.

Chairman Robert William asked the applicant, Jeff Earp, if he would like to move forward with the Special Use Permit request, being that there are only four members present. A simple majority must vote in favor of the request for the request to be granted. Mr. Earp stated that he wished to move forward with the case.

The Chairman asked Mr. Earp to explain what he is requesting in the special use permit. Mr. Earp stated that he is a farmer and developer in the area. He stated that the permit he has submitted is the first phase of a long-term development plan. He stated that he is the developer of Brunswick Forest and on a weekly basis needs to import fill material to backfill foundations for raised slab foundations. He continued that he is currently purchasing a significant amount of the fill from New Hanover County and hauling it to the development. He stated that his request is to create a development plan on the subject parcel that incorporates an amenity pond and a subsequent a storm water pond, using this dirt for the project at Brunswick Forest. Mr. Earp continued that a Special Use Permit is required when removing dirt from a site and exporting to another. He stated that county water has been run to the property and he has hired an engineering firm to engineer sewer to the site. He continued that he is anticipating the permits to be approved this year and the construction to begin next year, which would bring a beneficial value to the surrounding neighbors.

Ms. Bunch asked Mr. Earp to verify that he has not submitted any plans to Brunswick County in regard to the residential development. Mr. Earp stated that he has not and does not plan to submit for another nine months approximately.

The Chairman asked if Mr. Earp anticipates this permit being the only mining operation on the parcel. Mr. Earp concurred that he only has intentions of this one mining proposal.

The Chairman stated that the pond is designed to be 20 acres. He asked if developing this property would require a pond of this size. Mr. Earp stated that as a developer, he has noticed that his clients prefer ponds, lakes, and walking trails around water features. He continued that this creates more value by digging ponds than by developing golf courses. He stated the answer to the question is yes, that he would want to build a water feature that would be a central feature to the community, whether he is has a permit to export the dirt or not.

The Chairman asked Mr. Earp the timeframe that he anticipates the mining operation to take place. Mr. Earp stated that it would depend on the market . . . as little as two years but possibly up to five years.

The Chairman asked Mr. Earp how he plans to maintain the road which will haul the dirt. Mr. Earp responded that it is currently a soil road with ditches on both sides. He

continued that he would either use a water truck or install a sprinkler system to minimize the dust.

Mr. Sheldon Adams addressed the board, stating that he spoke with Mr. Earp prior to the meeting and was told it would be a nine-year project. Mr. Adams also asked who be responsible for the wells if they run dry. He also complained about the water runoff due to the tree thinning of the property. He presented pictures of such to the board members. Mr. Adams stated that he is also concerned about the noise from the machinery, especially if it is operating at night.

Ms. Bunch stated that this meeting is the County permitting process for mining activity, however it also must be approved by the State of North Carolina. She continued that the State is responsible for monitoring the mines and would be the contact for any investigations such as the wells running dry.

The Chairman asked Mr. Adams how far his house is from the proposed location for the mine. Mr. Adams responded a couple hundred yards. Mr. Adams asked what will happen if Mr. Earp hits rock while he is digging. Ms. Bunch responded that he would not be able to mine rock as rocks would require a different type of permitting due to the necessary use of conveyor systems, screening machines, crushing, etc. She continued that Class II Mining Operations are not permitted in the Residential Rural (RR) Zoning District which is the current zoning of the property.

Mr. Earp stated that pumps will be an enclosed quiet run pump. He continued that he currently uses these pumps in the Brunswick Forest development less than one hundred (100) feet from houses and never had a complaint. He stated that it will be a small operation, with one excavator, one water truck, one pump, and one machine to grade the road for maintenance. He stated that he has no intention of processing rock. He stated that he would be responsible if the well runs dry, which is a part of the State permit. He stated that he is also trying to mitigate any concerns about the drying of wells by running water and sewer lines to the community.

Ms. McCarthy asked Mr. Earp what he expected the hours of operation to be. Mr. Earp responded Monday through Friday 8am-5pm would be the reasonable time for operation. The Chairman asked if Mr. Earp would have any objection to setting the time restrains as conditions in the Special Use Permit. Mr. Earp had no objection.

Sylvia Holleman addressed the board, stating that she is concerned about the drying of the wells, the noise from the machinery, and the chemicals being used in the operation. She also stated she is concerned about the water runoff from the trimming of the trees. She stated that this operation is not in harmony with the rest of the community.

The Chairman asked Mr. Earp if there will be any chemicals used that may impact the groundwater. Mr. Earp responded no.

The Chairman asked Mr. Earp to respond to the concern that the tree cutting has resulted in an increase of water runoff into neighboring properties. Mr. Earp looked at the photos submitted by Mr. Adams and stated that the amount of runoff is regulated by the County and the State. He continued that there are requirements for the amount of water that can be removed from a site.

Mr. Earp stated that the topological map shows that the elevation of the proposed sand mine would not allow for water to run to Mr. Sheldon's property. He also stated that the trees have been thinned, but not clear-cut.

Ms. Teresa Rabon approached the Board and stated that she is also having issues with the water runoff onto her property as well. She stated that she has not had this issue in the past sixteen (16) years. The Chairman responded that if Mr. Earp has diverted water onto her property, then recourse should be taken with the appropriate agency. He continued that is not an issue that can be considered by the Board of Adjustment for the Special Use Permit.

Mr. Jerry Henry came before the Board and stated that most of the ditches were existing on the project site, although he believes that some of the ditches were not there prior to the work that has been done on the property and were newly created. He stated that the road is not in good shape and is constantly being repaired. He continued that he has concerns about the impact of traffic. He also stated that the installation of the water line will have a negative impact on the seniors in the area who cannot afford who tie into the line. Mr. Henry stated that he is also concerned about the wells running dry.

Mr. Cruse stated that the residential property cannot be considered with this special use permit. He continued that Mr. Earp could build the storm water pond and develop the property with the appropriate County approvals and that the Special Use Permit is only required due to removal of the dirt from the site.

Ms. Holleman stated that the State application copy she received in the mail for the mine was for 50 acres. Ms. Bunch clarified that the State has been notified that the County will only permit a 20-acre maximum parcel for a Class I Mining Operation.

Mrs. Ward asked Mr. Earp why land was thinned that was not in the area where the sand mine will be located. Mr. Earp responded that the tree thinning was to sell timber to generate income and to allow the tree tops to expand to allow for healthy trees, which will make the future development more appealing to his customers.

Mrs. Ward asked if the topography changed by clearing some of the trees. Mr. Earp stated that the topography did not change at all, as that would require extensive grading, which has not been done.

Mr. Hal Rabon approached the Board stating that he is also having issues with water runoff from the proposed site to his property. He also stated that he is worried about his well running dry.

Ms. Twanda Mitchell approached the Board. Ms. Mitchell stated that she is concerned about the impact on her property from the sand mine. She said that it is her impression that mining operations are an eye sore to communities. She concluded her comments by saying that she is also worried about the wells running dry.

Mr. Tommie Henry approached the Board and stated that he is concerned about the dump truck traffic on Old Town Creek Road, as the road has already deteriorated from the logging operation. He stated that he spoke with Mr. Earp prior to the meeting and that the initial plan was to have two ponds. Mr. Earp responded that his request is for one (1) 20-acre pond. He stated that from a topological standpoint, the placement of the pond is to accommodate the future residential development. Assistant County Attorney Bryan Batton stated that if Mr. Earp were solely digging a pond, then no special use permit would be required. It is only due to the sand being exported off the property that Special Use Permit is required by the County.

Eric Worley approached the Board and stated that is also worried about the wells running dry and the dump truck traffic on Old Town Creek Road. He also questioned when the property is developed if dirt will need to be brought to the site for construction being that it will have been removed for the mine now. Mr. Earp responded he will not need to bring any dirt to this site, as the site has an abundance of the material needed for a raised slab. Ms. Bunch asked Mr. Earp to discuss the reclamation process that the State requires for mines. He stated that a \$50,000 bond has been paid to reclaim the site and that the State will not allow him to leave the property without reclaiming it.

The Chairman asked how many trucks will be coming in and out of the mine daily. Mr. Earp stated that he has two trucks that would be cycling back and forth. He continued that he does not plan to operate every day, with use based on the timeframe of needing dirt for the Brunswick Forest lots.

Ben Richardson came before the Board and asked if the pit will be required to be fenced off. The chairman stated that he would not be required to fence the mine. Mr. Richardson asked if the access easement is also shown on any other recorded maps. He stated that the easement is the only access to his property. Mr. Earp stated that Mr. Richardson does not have access to that easement. He stated that his trust clearly states this. The Chairman asked if there are slope requirements for the mining pit. Mr. Earp responded that there are slope requirements which will be spelled in the State Mining Permit.

David Judy came in front of the Board stating that he is concerned about traffic and the related noise.

The Chairman asked if there is anyone else who would like to speak.

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 Tax Parcel 0560005101 in the manner denoted on the site plan. The special use is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit.
4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environment and Natural Resources (DENR). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
6. Consistent with the application, mining operations will be limited from 7:00 a.m. – 6:00 p.m. Monday through Friday only.
7. The applicant must ensure that the haul road remains dustless in nature during its use.
8. The applicant must provide to the Brunswick County Planning Department a Landscape Plan for the 10' project boundary buffer. The buffer must meet the 0.2 visual opacity requirement. If the opacity requirement cannot be met with existing vegetation, plantings must be added to meet the requirements.
9. The depth of each excavation pit shall not exceed 35 feet.
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, Jeff Earp, is requesting that twenty (20) acres of Tax Parcel 0560005101 be parceled for a Class I

Mining Operation. He stated that the use is permissible in the Rural Residential (RR) Zoning District with a Special Use Permit. He stated that Mr. Earp is planning to use the dirt for development in Brunswick Forest, while also digging an amenity for a future residential development. He stated that Ms. Bunch read the conditions the applicant would have to meet if the request is permitted. He stated that the pump used to move water from one area of the pit to another would be a quiet running pump. He stated that Mr. Earp will have one back hoe in the pit and will water the road with a sprinkler or water truck to minimize dust. He stated that Mr. Earp is responsible if the wells run dry and that no water can be transferred off the site. He stated that a fence is not required by the County or State, although a specific slope for the dirt pit is required. He continued that Mr. Earp will not use chemicals for the mining operation. He stated that most of the concern from the neighborhood is regarding the water runoff, which is not relevant to the Special Use Permit. He stated that there is a concern with traffic, but there will only be two dump trucks making trips between sites on a regular basis.

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. 18-09S

Applicant: Funston Company

Property Location: 304 Old Town Creek Road, Leland NC 28451

Parcel Number: Portion of 0560005101

Zoning District: Rural Residential (RR)

Land Use Classification: Low Density Residential

Surrounding Zoning: North: RR, South: RR, East: RR, West: RR

Proposed Use of Property: “Class I Mining Operation”

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:

The Staff Report states that this is a rural area, with the surrounding property zoned Rural Residential. As such, the proposed use is in harmony with the area. No expert testimony was provided, or report submitted by an appraiser regarding the value of properties. The applicant agreed to use quiet pumps for when pumping water from one pit to another and to limit operational hours to allow the quietness of the area to remain.

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 lists a Class I Mining Operation as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process. Section 5.3.7.G. of the UDO outlines the additional criteria for Class I Mining Operations 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 of the conditions outlined in the Staff Report are 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:

The Staff report stated that the mining operation must be setback a minimum of 40 feet from the property line, with a minimum 10' of buffer at 0.2 visual opacity surrounding the subject site. Buffer materials may include natural vegetation or plantings as required by the UDO. The Staff report indicated that the haul access road to the mine must be constructed of materials of a dustless nature. The Staff Report indicated that there will be regulation of the project by both Brunswick County and the State of North Carolina, as a Mining Permit from both entities is required.

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, a “Class I Mining Operation”, 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. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.7.G. for Class I Mining Operations in the Unified Development Ordinance

V. DECISION:

Mr. Cruse 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 Tax Parcel 0560005101 in the manner denoted on the site plan. The special use is to only be applicable to the mining site denoted on the site plan. The remaining parent parcel will not be a part of the Class I Mining Operation Special Use Permit.

4. The applicant must apply for and receive a State Mining Permit from the North Carolina Department of Environment and Natural Resources (DENR). Prior to the beginning of any excavation activities on the property, a copy of the State Mining Permit must be filed with the Brunswick County Planning Department.
5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
6. Consistent with the application, mining operations will be limited from 7:00 a.m. – 6:00 p.m. on Monday through Friday only.
7. The applicant must ensure that the haul road remains dustless in nature during its use.
8. The applicant must provide to the Brunswick County Planning Department a Landscape Plan for the 10' project boundary buffer. The buffer must meet the 0.2 visual opacity requirement. If the opacity requirement cannot be met with existing vegetation, plantings must be added to meet the requirements.
9. The depth of each excavation pit shall not exceed 35 feet.
10. The applicant must utilize enclosed quiet running pumps to pump water from one mining pit to another.
11. 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 Ms. McCarthy and unanimously carried.

VIII. STAFF REPORT.

Ms. Bunch stated that Setback Certification has been approved by the Board of Commissioners and will be implemented on July 1, 2018. Ms. Bunch stated that there will not be a July meeting and that Alan Lewis has been appointed to join the Board at the August Meeting.

IX. ADJOURNMENT.

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