

MINUTES

**Regular Meeting
Wake County Board of Adjustment
Wednesday, January 18, 2017
9:00 a.m., Room 2700
Wake County Justice Center
300 S. Salisbury St.
Raleigh, North Carolina**

Members Present: (7) Mr. Tim Clark (Chair), Mr. Brenton McConkey (Vice-Chair), Mr. Don Mial, Mr. Terence Morrison, Mr. Trenton Stewart, Mr. Billy Myrick, and Mr. John Barker

Members Not Present: (2) Mr. Blake Cason and Mr. Will Barker

County Staff Present: (6) Mr. Steven Finn (Land Development Administrator), Mr. Tim Maloney (Planning, Development, and Inspections Director), Mr. Chris Record (Planner I), Mr. Lee Gupton (Deputy Fire Marshal), Mr. John Pinder (Deputy Fire Marshal), and Mr. Russ O'Melia (Clerk to the Board)

County Attorneys Present: (1) Mr. Ken Murphy (Assistant County Attorney)

Item 1, Call to Order: Mr. Clark called the meeting to order at 9:01 a.m. with 7 members present.

IN RE MINUTES

Item 2, Approval of Minutes of the December 13, 2016 Meeting

Mr. Mial made a motion to approve the December 13th meeting minutes, and Mr. Myrick seconded. The motion carried unanimously.

Item 3, Approval of Written Decision Granting Special Use in the matter of BA-SU-2231-16

Mr. Myrick made a motion to approve the written decision granting special use in the matter of BA-SU-2231-16, and Mr. Mial seconded. The motion carried unanimously.

Before the case was heard, Wake County staff members Mr. Record and Mr. Finn were duly sworn.

Item 4, BA SU-2237-16

Voting Members: Mr. Clark, Mr. McConkey, Mr. Myrick, Mr. Morrison, and Mr. Stewart

Landowner: Bishop Capital, LLC

Petitioner: Will Edwards

PIN#: 0891-29-6918

Size: 8.62 acres

Location: The site is located at 13932 Old Creedmoor Road at the intersection with Creedmoor Road.

Zoned: Residential-80 Watershed (R-80W)

Land Use Classification: Non-Urban water supply watershed

The petitioner is requesting special use permit approval as required by section 4-11 of the Wake County Unified Development Ordinance (UDO) to establish a dog boarding facility for 20 dogs.

TESTIMONY AND EVIDENCE PRESENTED

Documentary Evidence: Staff report, PowerPoint presentation, site plans, application, video, aerial map, relevant sections of the Unified Development Ordinance were shown and/or available.

Testimony:

Mr. Record, Planner I, entered the staff report and PowerPoint presentation for BA SU-2237-16 into the record. Mr. Clark accepted the staff report and PowerPoint slides into the record. Mr. Record stated the petitioner's name, zoning classification, background and history of the petition. The properties to the north are residential and zoned Residential-80 watershed. The properties to the east are residential and zoned Residential-80 watershed. The properties to the south are residential and zoned Residential-40 watershed and Residential-80 watershed. The property to the west is residential and zoned Residential-40 watershed and Residential-80 watershed. The property owner, Will Edwards, purchased the subject property in 2015. The 8.62 acre parcel currently contains a 3,775 square foot horse barn, a shed, an old wooden barn and an old house that was constructed in the late 1800's. The applicant is proposing to convert the horse barn into a dog boarding facility for 20 dogs and to convert the shed into the office for the business. In order to meet the required 50 foot setback requirement for buildings related to the care of animals, the southwest corner of the barn will need to be moved 4.5 feet toward the interior of the property. Staff has recommended a condition of approval that a building permit to alter the barn be obtained. An outdoor dog run is also proposed as a part of this application. The old wooden barn is to be removed. The old house is proposed to remain but will not be utilized as a development feature for the Special Use. Access to the site is being proposed off of Old Creedmoor Road. Water for the use will be provided by an individual well to be located on the site. Wastewater will be provided by a new septic system. Six parking spaces are provided to meet the standard for kennels in the Unified Development Ordinance. The site plan shows the required 10-foot Type F streetfront bufferyard along Old Creedmoor Road and Creedmoor Road. A 40-foot Type C bufferyard is required along all other property lines. Existing vegetation will be utilized to satisfy the buffer requirement where present and this vegetation will be supplemented with additional plantings as required by the UDO. Impervious surface for non-residential uses in Residential-80 watershed is limited to 6%. The proposed plan indicates 5.46% impervious surface to be present on the site. Stormwater measures are not triggered. Adjoining property owners were notified by mail on December 22, 2016, and a public hearing notice was posted on the property on December 21, 2016.

Mr. McConkey asked if the parcel is subject to screening requirements around the perimeter. Mr. Record answered in the affirmative. Mr. McConkey asked about the outdoor dog run that will have a fence and evergreen landscaping as well. Mr. Record said that the dog run would have a fence and evergreen landscaping, and the dog run will not need an additional wall or screening since it meets the minimum 100-foot setback.

Mr. Clark asked if there is an ordinance requirement that limits the use to 20 dogs. Mr. Record said that there is no standard in the UDO regarding the number of dogs. He said that the applicant volunteered the 20-dog maximum within the application. Since the 20-dog limit is part of the application, twenty dogs would be the maximum number of dogs that they could have.

Sworn witness in favor of the application:

Will Edwards, 6605 Ascot Court, Raleigh, NC 27615

Mr. Edwards said that the property was 13 acres when he purchased it, and he subdivided it with the intention of building their primary residence on one lot and opening the dog boarding facility on the other lot. He said that he would like to refit the barn into a conditioned area where dogs could stay overnight as well as an open air, covered play area for dogs. He said that dogs would be monitored if they are outside in the dog run area. The size of the area would be adequate for 20 dogs. He may have one or two employees in the future. He said that he would be able to quell any nuisance since he would live on the adjacent parcel.

Mr. Clark asked about the existing old historic home. Mr. Edwards said that no one lives in that house.

Mr. Myrick asked about how the waste will be handled. Mr. Edwards said that the solid waste will be picked up 2-3 times per day, it will be disposed of in a locked receptacle, and it will be hauled away weekly by a private waste contractor.

Mr. McConkey asked about the barn. Mr. Edwards said that the south side of the barn has an opening. The north side of the barn has a sliding door. He said that he intends to have the whole barn enclosed, and a portion of the barn will be a conditioned space with insulation, drywall, and noise dampening coverings.

Mr. Stewart asked about the ground for the dog run area. Mr. Edwards said that it would be either grass or mulch.

Mr. Morrison asked about the topography of the site. Mr. Edwards said that there is a 1 – 1½ foot elevation change from the north to the south. He said it is fairly flat.

There was no one else who wished to speak in favor of or in opposition to the request. Mr. Clark closed the public hearing.

BOARD DISCUSSION:

The board discussed the five required findings.

(1) The proposed development will not materially endanger the public health or safety.

Mr. Morrison said that this would not be a high traffic use. There would be no impact on wastewater based on how the applicant will dispose of the waste. The site would have privacy, and there is a good plan to prevent dogs getting out. He said that the flat topography of the site is positive as it relates to wastewater and noise. Mr. John Barker noted the noise should not be an issue since the site will have double rows of trees as well as the dampening system inside the barn.

(2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.

Mr. Clark said that the staff report notes that the regulations and standards have been met. The site will have less than the 6% impervious surface maximum.

(3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

Mr. McConkey said that this is a large parcel. There would be plenty of separation between the use and the adjoining parcels. There are vacant parcels to the south and east. The property owner will live in a house to the west. There were no adjacent owners present in opposition to the petition. The site will have the proper setbacks in place, and the building will have improvements in place including enclosure of the barn and noise dampening measures.

(4) The proposed development will be in harmony with the area in which it is located.

Mr. Clark said that the buildings that will be used already exist on the site, and there are no substantial changes proposed for the site. The noise from the dogs is being addressed with the fencing as well as enclosing and sound proofing the building.

(5) The proposed development will be consistent with the Wake County Land Use Plan.

Mr. Clark said that this is a permitted use according to the Land Use Plan with a special use permit in the R-80W zoning district.

MOTION

Mr. Myrick made a motion in the matter of BA SU-2237-16 that the Board find and conclude that the

petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and the special use permit be granted with the recommended staff conditions. Mr. Stewart seconded the motion. By a vote of 5-0, the motion passed, and the special use permit was granted. So ordered.

FINDINGS OF FACT:

(1) The proposed development will not materially endanger the public health or safety. This would not be a high traffic use. There would be no impact on wastewater based on how the applicant will dispose of the waste. The site will have privacy, and there is a plan to prevent dogs getting out. The flat topography of the site is positive as it relates to wastewater and noise. The noise should not be an issue since the site will have double rows of trees as well as the dampening system inside the barn.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets, street intersections, and sight lines at street intersection and curb cuts.
- b. Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
- c. Soil erosion and sedimentation.
- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

(2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses. The staff report notes that the regulations and standards have been met. The site will have less than the 6% impervious surface maximum.

(3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity. This is a large parcel. There would be plenty of separation between the use and the adjoining parcels. There are vacant parcels to the south and east. The property owner will live in a house to the west. There were no adjacent owners present in opposition to the petition. The site will have the proper setbacks in place, and the building will have improvements in place including enclosure of the barn and noise dampening measures.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- b. Whether the proposed development is as necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

(4) The proposed development will be in harmony with the area in which it is located. The buildings that will be used already exist on the site, and there are no substantial changes proposed for the site. The noise from the dogs is being addressed with the fencing as well as enclosing and sound proofing the building.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(5) The proposed development will be consistent with the Wake County Land Use Plan. This is a permitted use according to the Land Use Plan with a special use permit in the R-80W zoning district.

Considerations:

- a. Consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
- b. Consistency with the municipal and joint land use plans incorporated in the Plan.

CONCLUSIONS OF LAW

The proposed development will not materially endanger the public health or safety. The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses. The proposed development will not substantially injure the value of adjoining property, or is a public necessity. The proposed development will be in harmony with the area in which it is located. The proposed development will be consistent with the Wake County Land Use Plan.

IT IS THEREFORE ORDERED:

- 1) The petitioner must record the notarized form pertaining to the Order of the Board in the Wake County Register of Deeds and return a copy to the Current Planning Section of Wake County Planning;
- 2) The petitioner must obtain a building permit to alter the proposed dog boarding facility building to comply with the 50 foot setback requirement;
- 3) The petitioner must obtain and complete all other appropriate permits from the Wake County Inspections Development/Plans/Permits Division and Environmental Services.

Item 5: New Business – Mr. Finn updated the board regarding recent development activity.

Item 6: Old Business – There was no old business.

Item 7: Adjournment

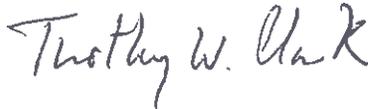
Hearing no additional business, the meeting was adjourned at 9:42 a.m.

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REGULAR MEETING
WAKE COUNTY BOARD OF ADJUSTMENT
January 18, 2017

All petitions complete, Tim Clark declared the regular meeting
of the Wake County Board of Adjustment for
Wednesday, January 18, 2017 adjourned at 9:42 a.m.

Respectfully Submitted:



Tim Clark
Wake County Board of Adjustment

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