Minutes of 2-13-01 Board of Adjustment Meeting

Carolyn D Locklear on 02/28/2001 at 04:53 PM
Category: Board of Adjustment Minutes

-14-

WAKE COUNTY BOARD OF ADJUSTMENT

REGULAR MEETING FEBRUARY 13, 2001

The regular meeting of the Wake County Board of Adjustment was held on Tuesday, FEBRUARY 13, 2001, at 9:00 AM, in the Wake County Courthouse, Raleigh, North Carolina.

Members of the Board present: Chairman Jack Alphin, Mr. John Grace, Ms. Constance Ludwig, Ms. Genevieve Sims, and Mr. John Szeker.
Petitioners present: Mr. Robert Pitts, Mr. Charles Young, and Mr. Ronnie Thompson.
Attorney present: Mr. Scott Warren.
Staff present: Mrs. Melinda Clark, Mr. Mike Coughlin, and Mrs. Carolyn Locklear.

IN RE MINUTES

Chairman Jack Alphin called the meeting to order and asked if there were any additions or corrections to the minutes for January 9, 2001. Mr. John Szeker made the motion that the minutes be approved as submitted. Ms. Genevieve Sims seconded the motion. All members present voted aye. The minutes were adopted as submitted.

For the record, staff members, Mr. Mike Coughlin and Mr. Grant Gale and Board members Chairman Jack Alphin and Mr. John Szeker were present on the site tour on Monday, February 12, 2001.

Mrs. Melinda Clark and Mr. Mike Coughlin were sworn to present testimony for the staff.

Chairman Jack Alphin mentioned to the Board that he had a meeting with Mr. Michael Weeks and encouraged meetings between the two Boards. Chairman Alphin stated that Commissioner Weeks was very receptive of that and had already planned to organize a meeting.
Item No. 3 heard at the regular meeting of the Wake County Board of Adjustment held on Tuesday, February 13, 2001 was for a special use approval, Petition No. SU-1899-01. Petitioner is Robert M. Pitts, Jr., PE and the landowner is Carolina Power & Light Company. The following members of the Board heard and decided this application: Chairman Jack Alphin, Mr. John Grace, Ms. Constance Ludwig, Ms. Genevieve Sims, and Mr. John Szeker.

In this case, the petitioners request special use approval to construct a substation. The site is located at 8809 Honeycutt Road in the Barton’s Creek Township and is zoned Residential 40-Watershed/SHOD and consists of 11.63 acres.

The following staff member presented factual background in this case: Mrs. Melinda Clark.

Mr. Robert M. Pitts appeared in support of the petition.

No one appeared in opposition of the petition.

The above-named persons who presented testimony and evidence were properly sworn.

**SYNOPSIS OF TESTIMONY AND EVIDENCE PRESENTED**

Documentary Evidence: Application, site plan, video, and maps.

Testimony:

Mrs. Melinda Clark, Land Development Administrator, stated that the petitioner proposes to construct a 240 square foot control building and an electrical substation. The property is zoned Residential 40-Watershed with a Special Highway Overlay District. There exists on the property a 4,263 square foot block building that has been used as a retail parts store since 1950. The proposed substation will be located approximately 380’ south of this building. The required 50’ buffer yard with a Type A screen is shown along the north, east, and south property line with a 10’ buffer yard with a Type B screening along Honeycutt Road. There is a Neuse River Riparian buffer located on the southwestern portion of the property as shown on the site plan. The proposed impervious surface coverage of the site is 11.98%, which will not require storm
water management. No hazardous material in reportable quantities is proposed to be used or stored on the site. Access to the substation will be from a new 16’ gravel driveway off Honeycutt Road.

The site is located within the Non-Urban Area/Water Supply Watershed. The LUP’s Land Use Classifications Map designates the site as Residential (1du/ac). The LUP’s policies for NUA/WSW state in part that “new development should consist of only those types of land uses and/or development intensities that create service needs which can be adequately accommodated by the types of facilities and levels of service already found in, or typical of, non-urban areas, and that do not require the scope, types, and levels of facilities and services necessary to, and typical of, urbanized areas.” Therefore the proposal is consistent with the Land Use Plan.

Notification letters to adjoining property owners were mailed January 18, 2001 and a public hearing placard was posted on the property January 23, 2001.

Mr. Robert Pitts, 412 S. Wilmington Street, Raleigh, North Carolina, testified that CP&L proposes to build an electrical substation north of I-540 and west of Honeycutt Road to serve the Honeycutt Road area. Mr. Pitts stated that the fenced area of the substation will be approximately one acre and the substation will contain electrical equipment and a control building which will house monitoring and control equipment. Mr. Pitts stated there will be a transmission line that will parallel I-540 and then distribution lines coming out of the substation.

Chairman Jack Alphin asked Mrs. Melinda Clark to explain what type of screening will be needed because it appeared the substation would be visible from Honeycutt Road. Mrs. Melinda Clark stated that they are proposing to use existing vegetation and supplement that where necessary with a Type B screening. Mr. Pitts stated that the transmission line corridor should be visible but a screening would be placed across it to help block the view of the substation itself.

Mr. John Szeker asked Mr. Robert Pitts if CP&L own the whole 11.63 acres and if the Copeland Auto Supply Store going to remain in business there. Mr. Robert Pitts stated yes CP&L owns the 11.63 acres
and the Copeland store has nine years left on a ten-year lease to operate that store. Mr. Pitts stated the Copeland store was the original owner of the property prior to CP&L purchase.

**FINDING OF FACTS, CONCLUSIONS OF LAW AND ORDER OF THE BOARD**

Based on the testimony and evidence presented at the hearing, the Board of Adjustment found the following facts:

1. The proposed use is allowed in the zoning district where it is proposed to be located. The zoning district is Residential 40-Watershed/SHOD and the use is permitted by Section 1-1-37 (E)(3) of the Wake County Zoning Ordinance.

2. The use will not materially endanger the public health or safety if located where proposed and developed, based on evidence presented concerning traffic, services and utilities, soil erosion and sedimentation, and protection of water supplies.

3. The proposed special use will comply with all of the regulations that apply to all general and special uses within the district in which the property is located.

4. The proposed special use will comply with all standards expressly applied by the code to this type of special use.

5. The use will not substantially injure the value of adjoining or abutting property, and that if the use is developed according to the plan as submitted, and approved, will be in harmony with the area in which it is to be located, based on the considerations such as the relationship of the proposed use and the character of surrounding area and the use is not inconsistent with the Wake County Land Use Plan.

The Board therefore concluded that the requirements of Section 1-1-11(C) of the Wake County Zoning Ordinance would be met and that the Special Use Permit should be issued, subject to these conditions:

1. The petitioner must obtain a building permit from Inspections/Development Plans/ Permit for
construction.

(2) The petitioner must obtain a driveway entrance permit from the DOT.

(3) The petitioner must record the notarized form pertaining to the Order of the Board in the Wake County Register of Deeds and return copy to the Planning Department. The public hearing placard must be returned to the Planning Department prior to receiving the recording form.

(4) A final zoning site inspection to verify site plan compliance must be performed before a Certificate of Compliance is issued by Wake County Inspections/Development Plans/Permits Division.

Ms. Genevieve Sims made a motion to grant the special use request with the stated staff conditions and Ms. Constance Ludwig seconded the motion. All members present voted aye. So Ordered.
Item No. 4 heard at the regular meeting of the Wake County Board of Adjustment held on Tuesday, February 13, 2001 was for a special use approval, Petition No. SU-1897-01. Petitioner is Charles Young and the landowner is Faith Development Ministries Center. The following members of the Board heard and decided this application: Chairman Jack Alphin, Mr. John Grace, Ms. Constance Ludwig, Ms. Genevieve Sims, and Mr. John Szeker.

In this case, the petitioners request special use approval to operate a day care center. The site is located at 9725 Fayetteville Road in the Middle Creek Township and is zoned Highway District and consists of 14.68 acres.

The following staff member presented factual background in this case: Mrs. Melinda Clark.

Mr. Charles Young appeared in support of the petition.

No appeared in opposition to the petition.

The above-named persons who presented testimony and evidence were properly sworn.

SYNOPSIS OF TESTIMONY AND EVIDENCE PRESENTED

Documentary Evidence: Application, site plan, video, and maps.

Testimony:

Mrs. Melinda Clark, Land Development Administrator testified that the petitioner proposes to operate a child day care center within a 60’ x 60’ area of an existing 7,500 square foot education building. The existing church/recreation use was approved by the Board of Adjustment in February, 1990. The petitioner proposes to operate a day care facility for a maximum of 100 children between the ages of newborn to 5 years of age. The proposed hours of operation for the day care will be 7:00AM to 6:00 PM, Monday through Friday. There will be ten (10) employees. Section 1-1-28(A)(2)(f) & (h) require a minimum of 53 parking spaces for the existing church use and proposed day care. The site plan shows 117 existing parking spaces. Proposed access to the site will be from two existing 24’ wide paved driveways off
U.S. Hwy. 401-S. The site plan shows 50’ bufferyards with Type A screening along the north, east, and southern property lines. The site is served by an individual well and septic system. The existing impervious surface coverage is 20.8%. The petitioner proposes no new impervious surface coverage. Property to the south and west is zoned Highway District with commercial land uses. Property to the north is zoned Highway District with residential use. The eastern property line abuts an active Norfolk Southern Railway. Property adjacent to the east of the railroad track is zoned Industrial II with commercial uses.

The proposed child day care center is consistent with the Land Use Plan. Notification letters to adjoining property owners were mailed on January 18, 2001. A public hearing placard was posted on the site January 29, 2001.

Mr. Charles Young, 1509 N. Main Street, Fuquay-Varina, NC, testified that the church desires to place a day care in an existing building which is currently being used as an education building for the church. Mr. Young stated there will no changes. Mr. Young stated the desire is to serve the families in the church and the community as the area continues to grow residentially.

Chairman Jack Alphin asked Mr. Charles Young what was the size of the church. Mr. Charles Young stated that the attendance now is approximately 250. Chairman Alphin asked Mr. Young if the church use of the facility fills its capacity or will it be open to the community as well. Mr. Young stated the capacity for the day care will not be filled by the parishioners of the church and the community will use it also.

**FINDING OF FACTS, CONCLUSIONS OF LAW AND ORDER OF THE BOARD**

Based on the testimony and evidence presented at the hearing, the Board of Adjustment found the following facts:

1. The proposed use is allowed in the zoning district where it is proposed to be located. The zoning district is Highway District and the use is permitted by Section 1-1-37 (D)(10) of the Wake County Zoning Ordinance.

2. The use will not materially endanger the public health or safety if located where proposed and
developed, based on evidence presented concerning traffic, services and utilities, soil erosion and sedimentation, and protection of water supplies.

(3) The proposed special use will comply with all of the regulations that apply to all general and special uses within the district in which the property is located.

(4) The proposed special use will comply with all standards expressly applied by the code to this type of special use.

(5) The use will not substantially injure the value of adjoining or abutting property, and that if the use is developed according to the plan as submitted, and approved, will be in harmony with the area in which it is to be located, based on the considerations such as the relationship of the proposed use and the character of surrounding area and the use is not inconsistent with the Wake County Land Use Plan.

The Board therefore concluded that the requirements of Section 1-1-11(C) of the Wake County Zoning Ordinance would be met and that the Special Use Permit should be issued, subject to these conditions:

(1) The petitioner must obtain the necessary approvals from the Department of Health and Human Services, Division of Child Development.

(2) The petitioner must obtain a permit from Environmental Services to use the existing well and septic tank.

(3) The petitioner must obtain a change-of-use permit from Inspections/Development Plans/Permits and meet all building code requirements.

(4) The petitioner must obtain a driveway permit from the Department of Transportation.

(5) 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 Inspections/Development Plans/Permits/Division. The public hearing placard must be returned to Inspections/Development Plans/Permits prior to receiving the recording form.

(6) A final zoning site inspection to verify site plan compliance must be performed before a
Certificate of Compliance is issued by Wake County Inspections/Development Plans/Permits Division.

(7) Upon approval of the proposed site-specific development plan and special use by the Wake County Board of Adjustment, the applicant has two years in which to make application for and obtain the building permit. Failure to make application for and obtain the building permit within the two-year period shall render the Special Use Approval void. Within eighteen months after the issuance of the building permit, construction shall be complete and the use in operation.

Ms. Constance Ludwig made a motion to grant the special use request with the stated staff conditions and Mr. John Szeker seconded the motion. All members present voted aye. So Ordered.
Item No. 5 heard at the regular meeting of the Wake County Board of Adjustment held on Tuesday, February 13, 2001 was for a special use approval, Petition No. SU-1895-01. Petitioner is Tony M. Tate Landscape Architecture, PA. and the landowner is New School, Inc. The following members of the Board heard and decided this application: Chairman Jack Alphin, Mr. John Grace, Ms. Constance Ludwig, Ms. Genevieve Sims, and Mr. John Szeker.

In this case, the petitioners request special use approval to construct a substation. The site is located at 133 Rand Road in the Panther Creek Township and is zoned Residential 40-Watershed and consists of 0.92 acres.

The following staff member presented factual background in this case: Mrs. Melinda Clark.

Mr. Ronnie Thompson appeared in support of the petition.

No one appeared in opposition of the petition.

The above-named persons who presented testimony and evidence were properly sworn.

SYNOPSIS OF TESTIMONY AND EVIDENCE PRESENTED

Documentary Evidence: Application, site plan, video, and maps.

Testimony:

Mrs. Melinda Clark, Land Development Administrator, stated that the petitioner proposes to operate a child day care center within an existing 3,223 square foot building. The existing building was constructed in 1975. Building permits were issued in April 1985 for a porch addition in November, 1985 for a 510 square foot room addition to the existing church. The petitioner proposes to provide day care for a maximum of 35 children with five (5) employees. The proposed hours of operation for the day care will be 6:00AM to 6:00 PM, Monday through Friday. Section 1-1-28(A)(2)(h) requires one (1) parking space for each full-time employee, plus an off-street drop-off/pick-up area sized to accommodate the demands of the projected enrollment and located so that children do not have to cross traffic areas and to avoid conflicts with traffic
flow in adjacent streets. There are eight (8) parking spaces shown on the site plan. Proposed access to the site will be from two existing 14’ wide driveways off Rand Road. The 1998 traffic count on Rand Road was 750 vehicles per day. The site plan shows the required 10’ bufferyard along Rand Road. The required 50’ bufferyard along the north, south, and eastern property lines have been reduced by 50% as allowed under Section 1-1-29 (F) with landscaping increased by 50% in order to allow for the fenced play area and the existing septic and repair area. Water and sewer will be provided by an existing well and septic system located on the property. The proposed impervious surface coverage is 23.9% of the site, which is just less than the maximum allowable of 24%. A stormwater infiltration system is shown for impervious area exceeding 12%. The surrounding property is zoned Residential 40-Watershed with low-density residential uses.

The proposed child day care center is consistent with the Land Use Plan. Notification letters to adjoining property owners were mailed on January 18, 2001. A public hearing placard was posted on the site January 23, 2001.

Mr. Ronnie Thompson, representing Thompson Preschool and Day Care, 2705 New Bethel Church Road, Garner, NC, testified that he and his wife are proposing to relocate the existing day care. Mr. Thompson stated that the proposed site has twice the space and have a definite potential for growth. Mr. Thompson stated they are proposing to extend their hours from 6:30 AM to 6:00 PM. Mr. Thompson stated that he has met with all the neighbors and they don’t have a problem with the day care being there. Mr. Thompson stated it was thought at one time that NCDOT would require a turning lane but they have done another traffic count last week and decided that it is not needed now.

Mr. John Grace asked Mr. Ronnie Thompson if the proposed building is being used as a residence. Mr. Thompson stated no, it has been vacant for about three years. Before then it was New School, a Montessori School with approximately 34 students and before that it was a church.

Chairman Jack Alphin asked Mr. Mike Coughlin about the stormwater infiltration system. Mr. Mike
Coughlin stated that in the Water Supply/Watershed and R-40-W you are limited to 12% for non-residential uses without any stormwater management devices and could go up to a maximum 24% by providing infiltration devices. Mr. Coughlin stated the other option would be to provide a detention basin which would reduce the peak flow out of the site. Mr. Coughlin stated that in this case they have chosen the infiltration device which has two advantages. Mr. Coughlin stated it is not an attractive nuance for children and it takes up access area.

**FINDING OF FACTS, CONCLUSIONS OF LAW AND ORDER OF THE BOARD**

Based on the testimony and evidence presented at the hearing, the Board of Adjustment found the following facts:

1. The proposed use is allowed in the zoning district where it is proposed to be located. The zoning district is Residential 40-Watershed and the use is permitted by Section 1-1-37 (D)(10) of the Wake County Zoning Ordinance.

2. The use will not materially endanger the public health or safety if located where proposed and developed, based on evidence presented concerning traffic, services and utilities, soil erosion and sedimentation, and protection of water supplies.

3. The proposed special use will comply with all of the regulations that apply to all general and special uses within the district in which the property is located.

4. The proposed special use will comply with all standards expressly applied by the code to this type of special use.

5. The use will not substantially injure the value of adjoining or abutting property, and that if the use is developed according to the plan as submitted, and approved, will be in harmony with the area in which it is to be located, based on the considerations such as the relationship of the proposed use and the character of surrounding area and the use is not inconsistent with the Wake County Land Use Plan.

The Board therefore concluded that the requirements of Section 1-1-11(C) of the Wake County Zoning
Ordinance would be met and that the Special Use Permit should be issued, subject to these conditions:

(1) The petitioner must obtain the necessary approvals from the Department of Health and Human Services, Division of Child Development.

(2) The petitioner must obtain a permit from Environmental Services to use the existing well and septic tank.

(3) The petitioner must obtain a change-of-use permit from Inspections/Development Plans/Permits and meet all building code requirements.

(4) The petitioner must obtain a driveway permit from the Department of Transportation.

(5) Any off-site roadway improvements required by NCDOT shall be shown on a revised site plan subject to staff approval prior to obtaining a building permit.

(6) 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 Inspections/Development Plans/Permits/Division. The public hearing placard must be returned to Inspections/Development Plans/Permits prior to receiving the recording form.

(7) A final zoning site inspection to verify site plan compliance must be performed before a Certificate of Compliance is issued by Wake County Inspections/Development Plans/Permits Division.

(8) Upon approval of the proposed site-specific development plan and special use by the Wake County Board of Adjustment, the applicant has two years in which to make application for and obtain the building permit. Failure to make application for and obtain the building permit within the two-year period shall render the Special Use Approval void. Within eighteen months after the issuance of the building permit, construction shall be complete and the use in operation.

Mr. John Szeker made a motion to grant the special use request with the stated staff conditions and Ms. Genevieve Sims seconded the motion. All members present voted aye. So Ordered.
All petitions complete, Chairman Jack Alphin declared the regular meeting of the Wake County Board of Adjustment for Tuesday, February 13, 2001, adjourned.

Respectfully Submitted,

Jack Alphin, Chairman
Wake County Board of Adjustment