

FRANKLIN COUNTY BOARD OF ADJUSTMENT

December 28, 2009

The Franklin County Board of Adjustment held its regular scheduled monthly meeting on Monday, December 28, 2009 in the Franklin County Administration Building, Commissioners Meeting Room, 113 Market Street, Louisburg, North Carolina.

Present: Robert Carlson, Stuart May, Scott Lerew, Shane Brantley and Chuck Griffin.

Absent: Cynthia Hayes and Tammy Ray

Staff: Scott Hammerbacher, Tammy Davis, Jason Rogers and Darnell Batton.

Chairman Shane Brantley called the meeting to order at 7:00 P.M., and welcomed everyone in attendance. Scott Lerew made a motion, seconded by Chuck Griffin to approve the agenda as presented. The motion passed unanimously. Scott Lerew made a motion, seconded by Chuck Griffin to approve the minutes from the October 26, 2009 meeting. The motion passed unanimously.

- #1. Request for a Conditional Use Permit by TLC Dog Training & Boarding, Inc. to allow Kennel Operations & Care located at 849 Holden Road on 1.145 Acres in the Youngsville Township in the HB-CU (Highway Business-Conditional Use) District.

Jason Rogers stated the applicant has stated that a night watchman would be on site for safety and supervision of the animals. He stated the submitted site plan indicates that the applicant would use the existing building for kennel/dog training operations. He stated the site plan shows existing vegetation as well as the installation of a 6-foot opaque fence for buffering along the western side of the property, and is proposing to install evergreen shrubs along Holden Road. He stated fifteen gravel parking spaces have been proposed including one handicap accessible space to meet the parking requirements.

Mr. Rogers stated that Planning Staff is recommending the following conditions of approval for the requested Conditional Use Permit:

- A maximum number of 34 dogs and puppies and any given time.
- Limited hours of operation of 6:30 A.M. to 9:00 P.M. for outside time for dogs.
- Documentation on valid waste disposal or other approved means for waste disposal by the County.
- Adhere to the Franklin County Animal Control Ordinance.

Leslie Carpenter was sworn in and stated she has been operating TLC Dog Training & Boarding for 3 years. She stated she provides boarding, training and dog babysitting service. She stated she wants to expand her existing business. She stated she plans to hold obedience classes one night per week. She provided the Board of Adjustment with a handout outlining her history and current operations.

Scott Lerew questioned the address of the current business. Mrs. Carpenter stated her business is currently located at 369 North Fallsview Lane, Wake Forest. Mr. Lerew questioned if the dog waste would go into the existing septic system. Mrs. Carpenter stated Waste Industries of Henderson, NC would pick-up waste containers on a weekly basis and pesticides would be used to control odor issues. She stated she spoke with Al People of the Franklin County Environmental Health Department regarding

her proposed waste disposal and he determined it meets state requirements. Mr. Lerew questioned how her current business disposes of waste. Mrs. Carpenter stated she has it taken away from the facility.

Stuart May questioned if existing business held a pesticide license. Mrs. Carpenter stated no and she assumed it would be household pesticides used and if commercial pesticide was used, it would be applied by a professional. She presented the Board of Adjustment with letters of support from current clients. Robert Carlson questioned if method of disinfecting is acceptable. Mrs. Carpenter stated current method of sanitation is acceptable with the State and they are licensed with the State. Mr. Lerew questioned how many times waste is emptied during any given week. Mrs. Carpenter stated waste is removed two times per week and they will use lime and spray disinfectant for possible odors.

Matthew Hale (Architect) was sworn in for any questions the Board had. Scott Lerew questioned the topography of the property and if any slopes were located on the property. Mr. Hale stated the proposed is a flat property with very gently sloped surface near with power lines. He stated the closest occupied properties are along Holden Road. He stated a room will be built with insulated walls, acoustic walls and ceilings. He acknowledged dogs bark and make noises but the owner is making all possible preventions with wood fencing and additional evergreen buffering. He stated the wood fencing is being installed to prevent dogs from seeing any vehicles entering or exiting the property. Mr. Carlson questioned the quarters for the night security person. Mrs. Carpenter stated it would be a furnished room located within the building where the dogs are housed.

Pamela Welborn (996 Holden Road) was sworn in and stated there are 24 homes in the neighborhood. She presented the board with a petition which consisted of 31 signatures opposing the request. She stated 19 out of the 24 homes have responded to her request to sign the opposition petition. She stated she is concerned with noise and waste issues. She stated after hearing the presentation given by Mrs. Carpenter, she is really concerned with pesticides/chemicals flowing to the creek located near the rear of the proposed property. She stated she is also concerned with existing dogs in neighborhood hearing the kennel dogs and creating more noise. She also expressed a concern with possibility of parvo disease amongst the dogs.

Gary Moorefield (912 Holden Road) was sworn in and stated he lives next door to the proposed facility. His concerns included noise problems but his major concern was how the kennel would affect his property value. He stated that a real estate agent told him there could be a 15-20% decrease in his value with a kennel operations being located next door. He presented the board with the following items:

- Provided a CMA to Board
- Presented letter from Ruth Ann Dyer (Sales Broker-Fonville Morrissey)

Scott Lerew reminded everyone that the property is zoned Highway Business and there are a lot of other uses that could go on the property that didn't require a Conditional Use Permit from the Board. Mr. Moorefield stated it is the opinion that his property value would be affected with a kennel next door. He stated he plans to sell next year and move down east. He stated he never had a problem with the four previous businesses except when people would miss the driveway for the business and use his driveway as a turnaround. He stated runoff from the embankment at US Hwy 1 and Holden Road runs behind the proposed site into a creek, which starts in his backyard. He feels runoff from waste and

pesticides would be a major concern. He stated he visited the current TLC site and it was very clean and neat but has a concern since the current site is much larger than the proposed facility.

Scott Hammerbacher presented a letter of opposition to the Board from Susan Schneider, who resides on Holden Road. Robert Carlson questioned if a County office could regulate the waste matter. Mr. Hammerbacher stated staff had consulted with the Solid Waste Department and they abide by state regulations.

Paul Welborn (996 Holden Road) was sworn in and stated he is opposed to the petition due to concerns with noise levels and property values. Chairman Brantley questioned if applicant had evidence that the sound proofing measures would consist of what noise decibels. Mr. Hale stated he hadn't prepared it but would be willing to do if the Board deemed fit necessary for their decision. Mrs. Carpenter addressed the issue of concern regarding pesticides. She stated she operates a commercial business and it has to be clean and meet state requirements. She stated would not have anything dangerous that would hurt the dogs, employees or anyone else.

Chairman Brantley closed the public hearing and the Board proceeded to go through the worksheet and hold discussions on the request.

Chairman Brantley made a motion, seconded by Scott Lerew to approve that the Findings of Fact have been satisfied for the conditional use permit. The motion was denied with Carlson, Griffin, Lerew and May voting against the motion.

Stuart May made a motion, seconded by Chuck Griffin to approve the conditional use permit with the conditions provided by staff. The motion was denied with Carlson, Griffin and Lerew voting against the motion.

#2. Request for a Conditional Use Permit by Jeremy Rogers to allow for a Manufactured Home located at 838 Bethlehem Church Road on 0.989 Acre in the Harris Township in the R-1 (Residential) District.

Scott Hammerbacher stated the adjacent land uses are primarily Agricultural Residential and Low-Density Residential. He stated the lot is served by a Type I 45-foot easement as a means on ingress and egress. He stated if the conditional use is approved, the applicant must purchase all applicable zoning, septic and manufactured home setup permits.

Jeremy Rogers was sworn in and stated the septic system has been approved. He stated his parents live in front of the proposed site. He stated he wants to put 14x70 mobile home on the property. Robert Carlson questioned if the home would consist of a permanent foundation or underpinning. Mr. Rogers stated it would have underpinning. Mr. Carlson questioned who would maintain the 45-foot easement. Mr. Rogers stated himself and his family would maintain the path.

Chairman Brantley closed the public hearing and the Board proceeded to go through the worksheet.

Scott Lerew made a motion, seconded by Stuart May that the Findings of Fact have been satisfied for the conditional use permit. The motion passed unanimously. Scott Lerew made a motion, seconded by Stuart May to approve the Conditional Use Permit with the following condition:

- Applicant must secure all necessary permits including but not limited to; septic, building, and APSO/CAPS.

The motion passed unanimously.

- #3. Request for a Conditional Use Permit by William S. O'Neal to allow for a Manufactured Home Park located at 2200 Seven Paths Road on 9.78 Acres in the Cypress Creek Township in the AR (Agricultural-Residential) District.

Jason Rogers stated the applicant wishes to establish a six lot manufactured home park. He stated the applicant is proposing six lots off of a Type II private road. He stated there is an existing manufactured home currently on the property. He stated the adjacent land uses are primarily Agricultural-Residential.

William O'Neal was sworn in and stated he is currently a landlord and has 12 properties. He stated he rents several properties to the Rental Authority. He stated his properties are all doublewides with cement foundations and doesn't consist of any singlewides. He stated 5 of the lots would use the Type II path and the existing mobile home has access to the state maintained road. He stated the proposed would consist of six individual properties.

Robert Carlson questioned if it would be individual well and septic. Mr. O'Neal stated it would be individual septic and a community well. Mr. Carlson questioned if the applicant would be purchasing the homes to be placed on the lots. Mr. O'Neal stated he was looking at acquiring some repo units that he intends to remodel (including replacing outside façade). Scott Lerew questioned if conditions placed on the request by the Board could exceed the requirements of the County. Darnell Batton (County Attorney) stated the Board can place conditions so the proposed wouldn't have adverse effects on the adjoining properties. Mr. O'Neal stated the property that adjoins the property has multiple units already on it.

Mickey Douglas was sworn in and stated she manages the properties for Mr. O'Neal. She stated a lot of the tenants are long-term and only a few of his properties are Section 8 rentals. She stated he goes above and beyond as a landlord and takes care of his properties. Mr. Carlson questioned who would enforce the maintenance of the road. Scott Hammerbacher stated a Road Maintenance Agreement would accompany the plat and a copy is kept on file with the County.

Patricia Capps was sworn in and stated she lives in the neighborhood but isn't an adjacent property owner. She stated she has lived in areas where there have been covenants and road maintenance agreements and feels it's a farce which isn't always maintained properly. She questioned who would enforce covenants. Scott Lerew stated the County doesn't enforce covenants. Ms. Capps questioned if the proposed would be subsidized housing. Mr. O'Neal stated no but he doesn't discriminate on any possible tenants. He stated if someone qualifies and they fall under subsidized housing, he will rent to them. Ms. Capps expressed concern with the quality of people who would be renting the mobile homes. She stated there are elderly people living on either side of the proposed property. She expressed concern with property values and possible problems that comes with having rental units. Mr. Lerew stated it's a consequence of progress and you can't control growth. Ms. Capps stated the people in the neighborhood purchased in the area for the peace and quiet and to get away from noise. She stated you run the risk of higher vandalism with unknown entities.

William Vaughan was sworn in and stated he lived in Wake County for 25 years and he purchased 10 acres in the proposed area to get away from the noise and hustle/bustle of growth. He stated he feels that mobile home parks bring problems. He stated he has owned rental properties in the past and knows the issues that come along with rental properties and mobile home parks.

Carolyn Davis was sworn in and stated her mother's property is located next door to the proposed property. She stated she feels the neighborhood is quiet and peaceful and doesn't like Section 8, low-income housing development in their community.

Bobby Evans was sworn in and stated he has lived in the area for 10 years and his wife is sick. He expressed a concern that his wife would be effected by problems that a mobile home park would bring.

Kelvin Brodie was sworn in and expressed concerns regarding traffic issues that the proposed would bring and property values. He stated he would like for the community to remain at the current quality.

Wanda Davis was sworn in and stated the problem with Section 8 tenants is that they don't keep the homes up until they know their inspector/caseworker is coming to inspect the home. She expressed a concern regarding tenants signing a 1-2 year lease and there being a turn-over in renters. She stated she's not concerned with the class of people who would be occupying the properties but the number of people coming in and the noise they create.

Chairman Brantley closed the hearing and the Board proceeded with the Conditional Use Permit worksheet.

Chuck Griffin made a motion, seconded by Shane Brantley to affirm that the Findings of Facts had been satisfied. The motion passed unanimously. Shane Brantley made a motion, seconded by Robert Carlson to approve the Conditional Use Permit with the following conditions:

- Applicant must secure all necessary permits including but not limited to; septic, building and APSO/CAPS.
- All other applicable UDO requirements as outlined in Section 12-6 and 12-7.

The motion was denied with Carlson, Griffin, Lerew and May voting against the motion.

#4. Request for a Variance from the Front Setback Requirement by Michael Van Bullock located at 170 Pinto Drive (Lot C238 Lake Royale) on 0.203 Acre in the Cypress Creek Township in the AR (Agricultural-Residential) District.

Jason Rogers stated the existing structure is encroaching the front setback by 13-feet. He stated according to the UDO, the front setback for existing camper lots is 30-feet. He stated Planning Staff has researched its permit database and found that no zoning or building permits have been secured through the county for the proposed property.

Michael Bullock was sworn in and stated he resides in Wilson and purchased the proposed property seven years ago. He stated the property was abandoned. He stated he removed the old camper and installed a new one. He stated he discovered he was in violation when he requested a permit from Lake Royale POA for a storage building.

Chairman Brantley closed the public hearing and the board proceeded to go through the Variance worksheet.

Chuck Griffin made a motion, seconded by Scott Lerew to affirm that the Findings of Fact had been met for the request. The motion passed unanimously. Stuart May made a motion, seconded by Scott Lerew to approve the Variance request. The motion passed unanimously.

- #5. Other Business/Reports/Discussion
 - A). Departmental Report
 - B). Other Business/Reports/Discussion

With there being no further business before the Board of Adjustment, Chairman Brantley adjourned the meeting at 10:00 P.M.

Shane Brantley – Chairman
Franklin County Board of Adjustment

Tammy Davis – Clerk
Franklin County Board of Adjustment