

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, June 12, 2017. This meeting was held in the Dare County Board of Commissioners meeting room located at the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

CALL TO ORDER 6:00 pm

MEMBERS PRESENT John Finelli, Chairman
 Terry Gore II Beth Midgett
 Jeff Landreth Charles Read, Jr.

MEMBERS ABSENT Michael Barr David Overton

APPROVAL OF MINUTES

Terry Gore made a motion to approve the minutes after correcting his name on pages 6 and 7. Beth Midgett seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

Jack, a 5-year-old boy, said he likes ice cream trucks. He does not want the county to take away ice cream trucks.

Mary Tutzauer (Jack's mother) of Avon said ice cream trucks are an integral part of the village. She would like to see ice cream and food truck businesses operated only by Dare County residents.

Steve Bonney of Avon tried to start a donut business as a food trailer. The business was permitted by the Dare County Environmental Health Department but there was a zoning issue. He would like the zoning changed to allow his business.

Claudia Laskow of Avon participated in developing zoning in the village. Mr. Bonney is located in the C-2 zoning area. She would like him to be able to operate his business in the C-2 zoning district.

Nancy Updike is a resident of Manteo and property owner in Salvo. She agrees that ice cream trucks are a great service for locals and visitors.

Danielle Fink of Avon is the owner/operator of Dizzy's Ice Cream Trucks. They have been in business for 12 years and sell pre-packaged ice cream. She is very involved

with the community and has a Facebook page for the business with 48 five-star reviews. The kids love the ice cream trucks but there are two violent, mean people complaining about them. She wants the county to hear the voices of people that support her business and wants the ice cream trucks to continue to be allowed.

Steve Davis of Avon supports the operation of food service trucks and ice cream trucks in his community. He would prefer the county regulate the businesses rather than prohibiting them.

Joan Tyson operates Ketch 55 Seafood Grill in Avon. Ketch 55 will hopefully be the commissary for Stu's Donuts, Steve Bonney's food truck service. Each food truck has to have a commissary. A restaurant is not going to be a commissary for a food truck that is selling the same food as the restaurant. She would like food trucks allowed.

David Dixon lives in Buxton and has a law office in Avon. The concerns of restaurants in regards to food trucks are misplaced. During the summer, restaurants are at capacity and they will not be losing income. He is also in favor of the operation of ice cream trucks.

Buddy O'Neal operates a fishing charter on the soundside in Avon. The majority of his customers are families and they love the ice cream truck. It is important to tourists.

Hunter of Avon does not know why food trucks are prohibited. He believes food trucks and ice cream trucks should be allowed in Dare County.

Jack Tutzauer (father of Mary and grandfather of Jack) believes food and ice cream trucks should be allowed. He said the issue is how to regulate them and limit their numbers.

The public comment portion of the meeting closed at 6:30 p.m.

OLD BUSINESS

Conditional Use Permit Request, Commercial Group Development, 1145 Colington Road, Jon Midgett Construction LLC

Jon Midgett, property owner, and Victor White of Landmark Engineering were present.

Noah Gillam said this request was tabled at the May 8 meeting. A revised site plan has been submitted. The new site plan shows a 20' wide driveway and 24 parking spaces.

Today staff also received a site plan that includes lighting. The wetland verification process is underway and the applicant expects to receive this information next week.

Victor White said he has an email from George Wood who met with the Army Corps of Engineers representative. The alignment was approved and he is expecting written confirmation next week. Mr. White also spoke with NCDOT about the Colington Road improvements and the grade will tie-in. There are no pole-mounted lights. Lights will be full cut-off and mounted on the building. Beth Midgett asked what the hours of operation are and Jon Midgett replied 7 a.m – 7 p.m., Monday through Saturday.

Charles Read made a motion to recommend approval of the conditional use permit to include hours of operation from 7 a.m. through 7 p.m., Monday through Saturday, and lighting as indicated by the engineer.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

This item will be considered by the Board of Commissioners on July 17, 2017.

Conditional Use Permit Request for Belle Acres, a 10 Unit Residential Group Development located at Colingwood Lane & Colington Road, Colingwood Investments LLC

Mike Robinson, project engineer, was present at the meeting.

Donna Creef said this was reviewed as a sketch plan on May 8. Since that meeting, the Public Works Director was on site and the plan now has two dumpsters. The covenants have been provided and they have addressed staff concerns. A draft CUP and landscaping plan have been provided to the Planning Board. The covenants and site plan need to include a statement that there will not be door-to-door trash pickup.

Chairman Finelli asked about no parking signs as recommended by the Fire Marshal. Mike Robinson said that some have been added to the plan and more can be added if necessary. Chairman Finelli said the plat lists base flood elevations of both 8.2' and 8.3'. Mr. Robinson said he will correct that. Beth Midgett asked if 12 months will be enough time for the installation of improvements. Mr. Robinson said yes.

Terry Gore made a motion to recommend approval of the conditional use permit to include additional language to address signage, a statement that there will be no door-to-door trash pickup, and correcting the base flood elevation.

Beth Midgett seconded the motion.

Vote: Ayes – Unanimous

This item will be considered by the Board of Commissioners on July 17, 2017.

NEW BUSINESS

Subdivision Review, Mildred Poole Estate, Sunset Strip, Frisco

Barbara Gray, property owner, and her son-in-law, Tom Watkins, were present.

Donna Creef said this property is being divided into two lots. The size of the property requires review by the Planning Board. The property is zoned S-1. The new lot has considerable wetlands on it but will be required to have at least 15,000 square feet of soils classified as suitable for septic tank systems. There is a cemetery and I recommend an easement to ensure perpetual access. Note 6 on the plat should be deleted.

Tom Watkins said this is a family cemetery and Barbara Gray's relatives are buried there. Chairman Finelli said there should be an easement even if the cemetery is on Ms. Gray's property in case the property would be sold in the future. Ms. Creef said she believes NC state law requires this so it is a good idea to take care of this while the plat is going to record.

Mr. Landreth mentioned the *Bonnie Jones Lifetime Rights* and asked if there is a structure there. Mr. Watkins said there is an area bounded by four markers with no structure. It's based on language in a will. Bonnie Jones is Barbara Gray's sister and she has basically been given a lifetime right to live in the house.

Charles Read made a motion to approve the plat with the conditions that note 6 be deleted and an easement to the graveyard be added.

Jeff Landreth seconded the motion.

Vote: Ayes – Unanimous

The final plat will be submitted to the Planning Director for review and recordation.

Subdivision Review, John & Kacy Creef, Burnside Road, Roanoke Island

Ray Meekins of Seaboard Surveying was present on behalf of the property owners.

Noah Gillam said the size of the parcel requires review by the Planning Board. There are three proposed lots and all meet the minimum lot size requirements for the R-1 zoning district. A 20' wide perpetual easement will be recorded with the plat and will be improved with gravel. Solid waste pick-up and school bus pick-up may not be available and this will be noted on the plat.

Ray Meekins said he has the signed wetlands plat.

Terry Gore made a motion to approve the proposed subdivision.

Beth Midgett seconded the motion.

Vote: Ayes – Unanimous

The final plat will be submitted to the Planning Director for review and recordation.

Subdivision Review, Kerry Lennon Dowd, Mother Vineyard Road, Roanoke Island

Prior to the meeting, the applicant asked to remove this item from the agenda.

Sketch Plan Review, John & Robert Booth Subdivision, Morrison Grove Road, Roanoke Island

Ray Meekins of Seaboard Surveying was present on behalf of the property owners.

Noah Gillam said this is a 4 acre piece of property and the applicant wants to divide it into 5 lots. The zoning is R-1. There are improvements on all five proposed sites. The site plan does not have any labels on the improvements. The overlay of lot lines will need to be done in such a way as to not create setback issues.

Ray Meekins said he asked for the sketch plan review to ask if there are any concerns. The preliminary plat will have all improvements labeled and notes indicating setbacks. Donna Creef said it would benefit the county to have this subdivision. The property lines would be conforming. Ray Meekins said the structures on lots 1 through 5 have dwelling units. There are also sheds on lot 2 and a couple buildings on the sound on lot 4. Chairman Finelli asked if any accessory structures would need to be moved and Donna Creef said based on the proposed configuration, no. Donna Creef asked about the septic regulations and Mr. Meekins said that will be in compliance as well.

This was a sketch plan review so no action was taken.

Text Amendment Request, Lot Coverage Definition, John Dodaro and Maria Clemente

John Dodaro, M.D. and Maria Clemente, M.D. were present.

Dr. Dodaro said he has two solar systems in New Jersey, one at his residence and one at a commercial property. He would like to install a system at his property in Rodanthe. Since water will run off the panels, Dr. Dodaro does not understand why they are considered lot coverage in Dare County. He has already purchased a 42 kilowatt array that will cover about 2,000 square feet. It will generate surplus power during the season that will feed back to the grid. Dr. Clemente said their New Jersey home runs completely on solar power. She said the array is her height so it is not an obstruction.

Donna Creef said there is an existing system there now. Dr. Dodaro said that is a solar thermal system. Ms. Creef asked if the new system can be installed in compliance with a 5' setback from the property lines which is the current designation for accessory use structures in the district. Dr. Dodaro said yes.

Chairman Finelli said the lot is at 30% coverage now. Beth Midgett reminded the applicant to check for subdivision covenants in case they have restrictions. Chairman Finelli said the definition could connect the setback for the system to accessory structure zoning or 5', whichever is the most restrictive. Donna Creef recommended a height limit of 10'.

After discussion, Chairman Finelli made a motion to recommend approval of the text amendment request to include the following:

- The definition of Solar Energy System will be an energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy for use in the heating or cooling of a structure or for heating domestic water or water used in swimming pools and hot tubs, or for the generation of electricity.
- Only solar photovoltaic systems or solar water heating panels will be allowed. Systems that include mirrors or other reflective surfaces will be prohibited.
- Solar energy systems shall meet accessory structure setback requirements for the zoning district in which they are installed or they must be at least 5' from any side or rear property line, whichever is more restrictive.
- Ground mounted solar energy systems shall be located in the rear or side yards only.
- Ground mounted solar panels and their associated mounts shall be excluded from the calculation of lot coverage. Other ground-based improvements, such as equipment boxes, shall be included in lot coverage.

- Not more than 10% of the total area may be covered with a solar energy system in a residential use.
- Not more than 5% of the total area may be covered with a solar energy system in a commercial use.
- Roof mounted solar energy systems shall not exceed the height limit of the zoning district in which they are located.
- The height of any ground mounted solar energy system shall not exceed 10' above finished grade at its highest operational angle.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

This will be considered by the Board of Commissioners at their meeting on July 17, 2017.

OTHER BUSINESS

Text Amendment Review, Food Services

Chairman Finelli said this is not an easy subject and is difficult to define. Donna Creef said staff receives many phone calls from people interested in operating mobile food businesses. It becomes difficult when an individual has received approval from the Environmental Health Department, sets up his business, but is not in compliance with zoning regulations. An adjustment to regulations that list *restaurant* or *food stand* may be needed. The discussion of ice cream trucks coincidentally came about at the same time this food services topic was added to the agenda.

Planning Board and Staff discussion included the following topics:

- Zoning regulations cannot prohibit non-residents from operating a business.
- Regulations could require operation as a commissary attached to an existing business to prevent the business locating at a vacant lot, public right-of-way, beach access, or from operating as an itinerant merchant.
- Having a stationary location that operates seasonally from May through September.
- Current ice cream truck issues originated from the noise and the business owner has addresses this. The operators are required to obey traffic laws and comply with the noise ordinance.
- Would specific zoning districts allow this use?
- There are differences in pre-packaged food sales and prepared food sales.
- A license, certificate, or possibly an annual review could be required.
- Parking requirements.

- Compliance with Environmental Health Department regulations, including providing a restroom for employees.
- On or off premise consumption of food.

Terry Gore made a motion to conduct a public hearing at the Planning Board meeting on July 10, 2017 to solicit community input regarding mobile food vendors. Beth Midgett seconded the motion.

Vote: Ayes – Unanimous

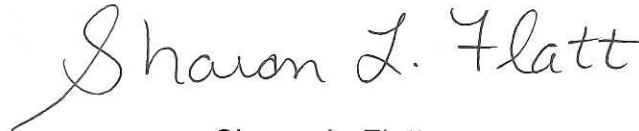
ADJOURNMENT

There being no further business before the Dare County Planning Board, a motion to adjourn was made by Terry Gore and seconded by John Finelli.

Vote: Ayes – Unanimous

The meeting adjourned at 8:25 p.m.

Respectfully Submitted,



Sharon L. Flatt
Planning Board Clerk

APPROVED: July 10, 2017



John Finelli
Chairman, Dare County Planning Board