



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

M a r c h 1 9 , 2 0 0 8

| MEMBERS PRESENT | | TOWN ATTORNEY | STAFF |
|-------------------|------------------|---------------|--------------|
| David Collins | Catherine DeVine | Bob Hornik | Marty Roupe |
| Thomas Arnel | | | Jane Tuohey |
| John Gant | | | James Thomas |
| Mark Brantley | | | |
| Richard Ellington | | | |
| Robert Kirschner | | | |

Absent/Excused: 1 Sriv Navaratnam

RECOGNITION OF REAPPOINTMENT TO BOARD

Chair wanted to note that Mr. Sriv Navaratnam and Mr. Bob Kirschner have both been reappointed to the Board of Adjustment; their terms will expire February, 2011.

MINUTES APPROVAL

MOTION MADE BY BOB KIRSCHNER TO DEFER APPROVAL OF MINUTES FROM JANUARY 30 AND FEBRUARY 13, 2008 TO NEXT MEETING, SECONDED BY THOMAS ARNEL. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

PUBLIC HEARING of Zoning Decision Regarding Land Use at 8812 Old NC 86 Cont'd

Chair asked if there were any members of the public who wished to speak on this issue, hearing none:

MOTION MADE BY THOMAS ARNEL AND SECONDED BY BOB KIRSCHNER TO POSTPONE THE PUBLIC HEARING UNTIL APRIL 16, 2008. VOTE: AYES 7 (David

Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION MADE BY THOMAS ARNEL AND SECONDED BY JOHN GANT TO OFFICIALLY CONGRATULATE CATHERINE DEVINE AS A RECIPIENT OF THE CARRBORO VOLUNTEER OF THE YEAR. PASSED BY ACCLAMATION.

PUBLIC HEARING: Special Exception for 1020 West Main Street

The applicants, Luke and Claire Mongoven are requesting a Special Exception Permit for the construction of a 9 foot by 40 foot addition that will encroach into the side yard setback. The proposed detached addition will encroach six (6) feet into the required twelve (12) foot side yard setback. Section 15-92.1 of the Land Use Ordinance gives the Board of Adjustment the authority to grant Special Exception Permits to allow reductions of up to fifty percent (50%) in the required distances that buildings must be setback from lot boundary lines.

Jane Tuohey, Notary Public swore in all who wished to speak.

James Thomas, staff gave his presentation showing an aerial photo of this unique lot. Notifications were sent out; Mr. Thomas received one phone call asking what is going on, but no other calls. Mr. Mongoven told the Board that the addition of 9 by 40 foot is necessary to accommodate a third child coming into the family, so presently the house is 1200 sq ft and will be 1500 sq ft, it will be an eating area and laundry room.

MOTION MADE BY RICHARD ELLINGTON AND SECONDED BY JOHN GANT TO CLOSE THE PUBLIC HEARING. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY CATHERINE DEVINE AND SECONDED BY THOMAS ARNEL THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY CATHERINE DEVINE AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION COMPLIES WITH ALL (A-F) APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY CATHERINE DEVINE AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

1. the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance
2. if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect
3. that the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house is permitted by this special exception permit
4. fire retardant materials be used as much as possible, hardiplank being specified.

MOTION WAS MADE BY CATHERINE DEVINE AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION BE GRANTED SUBJECT TO THE ABOVE CONDITIONS. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

PUBLIC HEARING: Special Exception for 109 Painted Turtle Lane

The applicant, Mateer General Construction, LLC is requesting a Special Exception Permit for the construction of a detached 16 foot by 25 foot garage that will encroach into the side yard setback. The proposed detached garage will encroach nine (9) feet into the required twenty (20) foot side yard setback. Section 15-92.1 of the Land Use Ordinance gives the Board of Adjustment the authority to grant Special Exception Permits to allow reductions of up to fifty percent (50%) in the required distances that buildings must be setback from lot boundary lines.

James Thomas gave staff presentation, and pointed out to staff where the garage will be installed, they are well outside the stream buffer. Notifications were sent out, Mr. Thomas has not heard back from any of the adjacent property owners.

Mr. Brantley asked if the Board has the authority to consider the type of construction materials to be used, Mr. Thomas said from a land use perspective no, even the building code does not specify, it is their choice. Mr. Collins pointed out that the Board looks at E & F on the worksheet saying that there could be an argument made saying that if it was built with hazardous materials it could affect the neighbors, also it could adversely affect the value of adjoining or neighboring properties. But the key is there must be testimony or documentation introduced to the Board that more probable than not would prove one of these to be no, without it there would be no basis to make that consideration. There must be credible evidence given.

MOTION MADE BY BOB KIRSCHNER AND SECONDED BY THOMAS ARNEL TO CLOSE THE PUBLIC HEARING. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark

Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY JOHN GANT AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY JOHN GANT AND SECONDED BY CATHERINE DEVINE THAT THE APPLICATION COMPLIES WITH ALL (A-C) APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY JOHN GANT AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION COMPLIES WITH ALL (D-F) APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

MOTION WAS MADE BY JOHN GANT AND SECONDED BY MARK BRANTLEY THAT THE APPLICATION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

1. the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance
2. if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect
3. that the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house is permitted by this special exception permit

MOTION WAS MADE BY JOHN GANT AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION BE GRANTED SUBJECT TO THE ABOVE CONDITIONS. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)

ELECTION OF OFFICERS

Nominations were made for Chair and Vice Chair. Thomas Arnel nominated David Collins to remain Chair. Robert Kirschner seconded this nomination. David Collins accepted.

MOTION MADE BY THOMAS ARNEL AND SECONDED BY BOB KIRSCHNER FOR DAVID COLLINS TO REMAIN CHAIR. AYES 6 (Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/ABSTAINED 2 (Sriv Navaratnam, David Collins)

Bob Kirschner nominated Thomas Arnel to remain Vice Chair, this was seconded by Catherine DeVine, Thomas Arnel accepted.

MOTION MADE BY BOB KIRSCHNER AND SECONDED BY CATHERINE DEVINE FOR THOMAS ARNEL TO REMAIN VICE CHAIR. AYES 6 (David Collins, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/ABSTAINED 2 (Sriv Navaratnam, Thomas Arnel)

OLD/NEW BUSINESS

Mr. Roupe said that there is a special exception in the works and may be ready for April, there is also a minor variance application in the works, it probably will be ready for the April meeting.

Mr. Collins asked about the situation with the taco trucks, Mr. Roupe said that the Board of Aldermen officially directed staff to prepare a revision to the ordinance, this is in the works and staff is not doing anything to the trucks at present.

Mr. Ellington wanted the Board to know that if they have concerns about granting special exceptions because of added considerations, the proper way is for the Board to put something in writing and give to the Board of Aldermen as a possible amendment to the building code or the LUO.

There being no other business, MOTION MADE BY CATHERINE DEVINE AND SECONDED BY BOB KIRSCHNER THAT THE MEETING BE ADJOURNED. VOTE: AYES 7 (David Collins, Thomas Arnel, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Sriv Navaratnam)