



Town of Sunset Beach
Board of Adjustment

Meeting Minutes of June 10, 2015
9:00 am

DRAFT

Members Present: Robert Forrester, Chairman; Peter Scott, Leon August, Lawrence Sweeny

Members Absent: Gene Allen, Pete Larkin, Jim Strandquist

Staff Present: Rawls Howard, Director of Planning and Inspections; Grady Richardson-Town Attorney; Cindy Nelson, Secretary

Chairperson Robert Forrester called the meeting to order, established that a quorum was present, and read a prepared welcome statement. The Pledge of Allegiance was recited by all in attendance.

Consideration of Approval of Minutes:

Consideration of approval of minutes from the February 24, 2015 meeting: CHAIRPERSON ROBERT FORRESTER ASKED FOR A MOTION TO APPROVE THE MINUTES AS WRITTEN; MOTION WAS MADE BY PETER SCOTT. SECOND WAS MADE BY LEON AUGUST. MOTION WAS CARRIED UNANIMOUSLY.

Consideration of approval of minutes from the May 5, 2015 meeting; CHAIRPERSON ROBERT FORRESTER ASKED FOR A MOTION TO APPROVE. MOTION WAS MADE BY LEON AUGUST. SECOND WAS MADE BY LAWRENCE SWEENEY. MOTION WAS CARRIED UNANIMOUSLY. Peter Scott made mention that he was not in attendance for that meeting.

Swearing in of Staff: Rawls Howard, Director of Planning and Inspections was sworn in.

Continuances or Withdrawals: None

Old Business:

a. Rules of Procedure; Review and Discussion-Peter Scott recommended postponing this topic until after New Business has been addressed, so the applicant for Vested Rights does not have to sit through the conversation.

New Business:

Establishment of Vested Rights. BOA-15-04; Gregory and Dinah Gore via Agent Sammy Varnam; seeks to establish zoning vested rights for Lots 19-25, Block 28 for a proposed multi-family development located on the West side of Sunset Blvd., South of North Shore Drive W, and North of West Main Street in Sunset Beach.

Rawls Howard gave a power point presentation of the site specific vested rights case. He went on to explain what a request for vested rights meant and he described the difference between an approval for a Major Site Plan versus a Site Specific Development Plan. He also referenced the Town UDO and the State Statutes for vested rights.

Rawls pointed out to the Board that this is not a site plan approval even though the information submitted is what would be required for a site plan approval.

Rawls highlighted points about the development in that the proposal is on 1.34 of an acre with two buildings housing 36 - 2 bedroom units at 26.8 units per acre, and meets the current UDO regulations. A limitation has been placed on the proposal, in which light poles must extend 25' in height and not the allowed 40' height. The proposal does exceed the landscaping requirements under the current UDO regulations.

Vested Rights are good for two years and the applicant/agent could come back at the end of two years to request an extension if needed.

Applicant/agent Sammy Varnam was present to answer any questions.

Discussion as Follows:

Peter Scott-Are these condominiums or apartments?

Rawls Howard-This is considered multifamily development and so by ordinance condos or apartments would both be considered multifamily and are permitted in the BB-1 zoning district. Rawls addressed the applicant Sammy Varnam who confirmed this was a condominium development.

Peter Scott-What is the height limit of the buildings?

Rawls Howard-Height limit requirements would be an item to work through during the plan review process.

Peter Scott-Do the buildings need to be elevated to meet flood zone requirements?

Rawls Howard-The property is located in an X Zone, that concern would be addressed when they apply for permits.

Peter Scott-Will this meet the storm water requirements? The project has 72 parking spaces.

Rawls Howard-Anything past 30% coverage would require an engineered solution.

Elizabeth Nelson of Cape Fear Engineering was sworn in.

She addressed the Board and the concerns of storm water. She said that once vested rights were approved they would need a State Storm Water Permit which would require them to catch and treat on-site, 100% of the run off. The project has underground catch basins in which to comply with that requirement. Ms. Nelson described in detail how the storm water system would operate.

Robert Forrester-This would not have any increase to the current storm water system on the island?

Elizabeth Nelson-That is correct.

Peter Scott-There plans show two large swimming pools. What specifications would be required for safety?

Elizabeth Nelson-That question would be worked through during the Planning & Zoning process. This meeting is for the approval of vested rights. Rawls Howard was in agreement.

Robert Forrester-Are swimming pools permitted in BB-1?

Rawls Howard-Yes, they are.

Robert Forrester-I understand we are being asked to establish vested rights for a 36 unit condo project with 72 parking spaces. I am not sure this presentation meets current requirements. My concern is that the Planning Board's hands may be tied in their approvals if this is approved for vested rights and it does not meet the standards.

Grady Richardson answered that vested rights is an approval for a proposal to meet the current ordinance when they go to build, as ordinances change. Conditions can be added for the applicant to meet standards for storm water, DOT, CAMA, FEMA, aesthetic design, and height requirements.

Rawls Howard informed the Board that the proposal has already met TRC and DOT approvals under the current UDO standards. The proposal has been designed to meet the current regulations. This application is to secure vested rights only.

Peter Scott-When did the planning process for this proposal begin?

Sammy Varnam-This has been in the works for years.

Peter Scott-This is unfortunate with the text amendment affecting zoning requirements through the Planning Board, which would prevent you from building this project.

Elizabeth Nelson-That is correct, we would not be here asking for vested rights.

Grady Richardson asked what text amendment was being referred to.

Rawls Howard-There is an ordinance amendment pending for Town Council which if approved will change the density requirements to 21.7 units per acre/per the Land Use Plan. This proposal would be affected by about an overall difference of 5 to 7 units per acre.

Peter Scott-This sounds like a race to get an approval before the ordinance changes.

Elizabeth Nelson-Yes, the design already created would be affected.

Peter Scott-It's hard to believe you could actually build this as presented.

Lawrence Sweeny-This is an approval at the builder's risk. I do not think they can build this as presented; however, they would have to work through all that when they apply for permits.

Grady Richardson-That is correct. They are trying to lock into the current density and uses such as parking and landscaping. It does not matter if they go to build later, and they cannot meet storm water or flood requirements.

Robert Forrester asked Grady Richardson if it was proper or improper to consider this request when there is a proposed ordinance change that would affect this development. Grady recommended a recess of the meeting in order to review the UDO. Grady also said the application may have to be tabled until the next meeting.

Peter Scott-What happens if we do not make a decision to grant vested rights today and Town Council approves the text amendment before our next meeting?

Rawls Howard-If vested rights would not be granted today than according to the state statues they have not secured vested rights and would have to fully adhere to the standard in place when they go to develop.

Peter Scott read from the UDO in regard to the project review process how the project would need to meet criteria for design, layout of building, parking, etc. He further added that it is within the Boards scope to have issues with this design. This is an appalling development on the island that mimics the barracks on 27th Street.

Elizabeth Nelson-This property was purchased to develop under the current ordinances, and now those are changing. This proposal is not similar to the 27th Street condominiums, as the applicant is not looking to build that type of development. The applicant is not here to race the clock; they are here to secure their rights for building on their property.

Peter Scott-This does not mean this same design that is being presented will be built on the property.

There was more discussion about whether or not vested rights should be granted today. Grady Richardson said it might be beneficial to recess for about fifteen minutes.

CHAIRPERSON ROBERT FORRESTER ASKED FOR A MOTION TO RECESS. MOTION WAS MOVED BY PETER SCOTT. SECOND WAS MADE BY LARRY SWEENY. MOTION CARRIED UNANIMOUSLY. BOARD RECESSED AT 10:01 AM.

RECESS ENDED AND THE BOARD RECONVENED AT 10:35 AM.
MEETING WAS CALLED TO ORDER AND THE QUORUM WAS PRESENT.

Grady Richardson informed the Board of their options: vested rights could be granted at this time with conditions, the application could be denied with grounds for denial set forth, or, continue the matter till the next meeting pending further research.

He continued to review the situation at hand: a text amendment was approved on May 7 and it is now on the agenda for the Town Council meeting on July 29th. The text amendment will affect the density for this zoning district and the proposal at hand.

Peter Scott-I am not prepared to approve this. I do not like it; it degrades the look and feel of the island. It's too dense. Although it does look ok, it will adversely affect the character of the island and therefore I make a motion...

The motion was stopped as a public hearing was not opened; the Chairperson opened the public hearing and invited the public to come forward.

Jan Harris 206 North Shore Drive-read from a quote from a zoning book about vested rights.

WITH NO OTHER PUBLIC COMING FORWARD TO SPEAK THE CHAIRPERSON ENTERTAINED A MOTION TO CLOSE THE PUBLIC HEARING. MOTION WAS MOVED BY PETER SCOTT. SECOND WAS MOVED BY LARRY SWEENY. MOTION CARRIED UNANIMOUSLY.

PETER SCOTT MOVED TO CARRY THE MEETING UNTIL IT'S KNOWN IF THE TOWN APPROVES THE TEXT AMENDMENT. A SECOND WAS MADE BY LEON AUGUST.

LARRY SWEENY SAID CONTINUING THE MEETING IS MUTE AND THE APPLICANT CAME IN GOOD FAITH WITH THEIR PLAN AND ITS PART OF THE PROCESS, THE LAW.

LEON AUGUST SAID HE IS NOT CONVINCED. HIS CONCERNS ARE FOR FIRE SAFETY, DENSITY AND THE GENERAL LAYOUT. HE WOULD NOT LIKE TO PROCEED AT THIS TIME.

CHAIRPERSON ROBERT FORRESTER HAS STORM WATER CONCERNS. STATING HE WAS IN FAVOR OF CARRYING THIS TO THE NEXT SCHEDULED MEETING WITHOUT ADDITIONAL PUBLIC NOTIFICATION.

A MOTION WAS ON THE TABLE TO CARRY THE TOPIC TO THE NEXT SCHEDULED MEETING; MOVED BY PETER SCOTT. A ROLL CALL WAS GIVEN:

ROBERT FORRESTER-YES
PETER SCOTT-YES
LARRY SWEENEY-NO
LEON AUGUST-YES.

BY UNANIMOUS VOTE THE HEARING WAS TABLED TO THE NEXT MEETING ON JULY 8, 2015.

Old Business- Rules of Procedure; Review and Discussion

Discussion went forth in regard to having a four member board for a quorum for various Board of Adjustment functions; such as variance applications, super majority votes and simple majority votes. An applicant is entitled to a full quorum and if one is not available the applicant can petition the Board for a continuance until there is a full quorum. Rawls Howard offered to draft language with the aid of the Town Attorney and a final approval by the Board. With a seven member board there should not be any difficulty in having a quorum present to give an applicant a chance for a fair vote.

Administrative Items

A. Director and Staff Comments: Rawls informed the Board that he was working on providing training from a 3rd party professional for the Planning Board and could do the same for the Board of Adjustment. Peter Scott said he would like clarification on the standards for a variance. Rawls mentioned that he was doing a rewrite for Articles 3 and 4 of the UDO for Board of Adjustment and Planning Board.

B. Board Member Comments and Request for Future Agenda Items: Variance training at the next meeting on July 8, 2015.

Adjournment- 11:10 am. CHAIRPERSON ROBERT FORRESTER MOTIONED TO ADJOURN. MOTION CARRIED BY PETER SCOTT. SECOND WAS MADE BY LARRY SWEENEY. MOTION CARRIED UNANIMOUSLY.

Chairperson Robert Forrester

Submitted by:

Cindy Nelson Board of Adjustment Secretary