

Investigate-Research-Develop-Recommend  
North Carolina General Statute 160A-387

Sunset Beach Board of Adjustment  
Approval of Minutes from April 19, 2012  
BOA Case #1-2012

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Members Present

Leon August-Vice Chairman  
Sybil Kesterson-ETJ Member  
Carol Santavicca  
Al Seibert  
Tom Vincenz-Alternate

Members Absent

Bill McDonald-Chairman

Staff

Sandy Wood  
Cindy Nelson

Others Present

Landin Holland-Land Planner  
Carol Scott-Council Woman  
Shane and Robin Hollar-Applicants  
Bob Tone-ETJ Alternate Member

1. Call to order-9:00 am
2. Roll Call-Quorum Present
3. Agenda Comments-None
4. Approval of Minutes-None
5. Old Business-None
6. New business
  - a. Application for a Special Use Permit at 102 Sunset Blvd. The Request is for the Construction of a Dock for the Purpose of Water Sport Rentals.

Leon August the Boards Vice Chairman presided over the hearing as Chairman Bill McDonald was not present.

Leon August opened the hearing by describing the case at hand, which is an application for a Special Use Permit for watercraft rentals and building a pier at the Twin Lakes Restaurant. The application has been made by Shane and Robin Hollar of Sea Thriller Water Sports.

Landin explained the nature of the application and gave an overview of how a Board of Adjustment hearing is to be conducted.

Landin further detailed that the applicant applied for Special Use Permit to operate a business for water craft rentals and build a pier at the Twin Lakes Restaurant at 102 Sunset Blvd,

Sunset Beach, NC. This is a Special Use Permitted on Appeal to Board of Adjustment and is found in the Sunset Beach Zoning Ordinance Section 151.212 (A) (C).

Landin asked the Board if any members had engaged in any communication regarding this case outside of this hearing. The Board of Adjustment acknowledged that there had been no outside communication.

At that time, anyone who wished to speak was sworn in. This included the applicants, staff, and others present to speak for or against the application.

After all persons were sworn in, Landin proceeded to state that certain items requested by the town have not been provided by the applicant:

1. How many water craft will be available for use.
2. Adequate parking to support the restaurant and the water sport rentals.
3. A CAMA Major Permit has been applied for, but, has not been issued. Staff recommended that an approved permit be set as a condition for the Special Use.

Landin continued to inform the Board that The Findings of Fact must meet the standards of the Land Use Plan (LUP) and the Zoning Ordinance. This Use is permitted in the LUP and the zoning code, and it is the Boards decision to see how this fits into the town's vision. Staff is neutral on this subject. A 4/5's vote is required by the Board of Adjustment to approve the application, which is standard by state statute.

The applicants were invited to present their case:

Applicants Shane and Robin Hollar spoke on their own behalf:

They have owned and operated a Jet Ski rental business in Holden Beach for the last four years. Safety is a top concern. The applicants anticipate having six (6) jet skis available for rental use.

Landin asked anyone who may have an opposing argument to the application to come forward and be heard:

Carol Scott, 1214 E. Main St: on a personal level she would utilize the jet skis for her and her family. Her concerns are from a town perspective in that the town recently approved an expenditure of \$5,000,000.00 for a park, in which people are expecting the park to be a peaceful and reflective environment without the disturbance of noise from jet skis. Another concern is for the neighboring homes and how noise would affect them. Although this is a good idea, this is not an ideal location.

Robin Hollar: there is always traffic from jet skis and boats on the Intracoastal Waterway. Our jet skis are not loud. We have another rental business centered under the bridge in Holden Beach and so far we have not heard of any complaints from the homes in that area.

Sybil Kesterson: there will be six jet skis, where will you store them at night and where will your office be located?

Shane Hollar: the skis will be loaded on a trailer and taken to another location. Under the CAMA permit, we would not be permitted to have the craft in the water for more than a 24 hour period. The office will be operated out of the restaurant.

Sybil: Twin Lakes is a seasonal restaurant that fills up as early as 4:30 pm, where will people park?

Landin: Twin Lakes does not have any zoning information in their file, as the restaurant was in existence since 1972 which predates Sunset Beach Zoning Regulations. We can recommend what number of parking spaces should be available based on the current code, however, that could not be enforced. The restaurant is responsible for providing adequate parking for both businesses.

Sybil: the boat ramp is next to the restaurant. Would this infringe on the public parking for the boat ramp?

Robin: we can indicate to our customers where they should park when they make a reservation.

Landin: again, it is the responsibility of the business owner to provide adequate parking; however, you cannot restrict public parking.

Carol Santavicca: how will the jet skis be put into the water?

Shane: the new boat ramp will be utilized.

Carol: how many vehicles will your business have and how many parking spaces will be needed. My concern is how many spaces will be taken all day every day.

Landin: the staff does not have enough information to provide these facts as more research will be needed.

Carol: is there a copy of the lease? Who are you leasing from and who is constructing the pier? Also, how do we know the leasee is going to maintain the pier? Al was in agreement.

Robin: Twin Lakes is responsible for constructing the pier.

Landin suggested that the hearing be continued to the next scheduled meeting in two weeks, so that more facts can be obtained and presented.

Leon: yes, the Board needs the whole picture and answers from everyone involved so that we are better informed.

Carol: this is a great addition to that location even though there are some residential properties close by, and people will be drawn to that area from the park and the boat ramp. It is our responsibility to find out the facts of whom, what, where, and when and these issues are not addressed in this application.

Carol: what about providing fuel for the craft?

Shane: the skis will be fueled at Ocean Isle Marina.

Carol: have fees been remitted for this application?

Cindy: yes.

Carol: should a copy of a lease be submitted?

Landin: the property owner should be present, or at least provide something in writing stating that they approve of this request. Also, parking concerns do need to be addressed. Again, as it stands today, the burden of proof is on the applicant and we do not have enough facts. As far as parking, Sandy and I can perform an analysis of how much parking should be available and work with the applicants.

Robin: the Jet Ski business will operate from 8:00 am to 4:00 pm. The restaurant opens at 4:30 pm; although it is open for lunch from 11:30 am to 2:30 pm. Lunch is not very busy at this time.

Landin: the Board cannot assume what the volume of restaurant will be at any given time and nor can it be assumed what the parking situation might be.

Carol: this question is for staff; is there a permit for a dock?

Sandy: not at this time. To have one built is included in this request.

Carol: how can they make a proposal to lease something that is being built by someone else?

Landin: this would be no different than a contractor building a strip mall and leasing out to business owners.

Sandy: once this use is approved, then the property owner will apply to CAMA and the town for the required building permits to construct the dock.

Al: what if we approve this application and the property owner comes in and says he is not going to build a pier and never approved any of this? This is a legal board and decisions are too made based on fact and we need some assurance that the property owner is in agreement with this proposal.

Robin: CAMA has already said a commercial permit can be permitted and a four (4) year lease has been signed with the property owner, Ron Holden. Ron will be the dock owner; and there will be an option to renew the lease at the end of the four (4) years.

Tom: will Ron Holden be using this dock for use by the restaurant so that boats can dock in the evening and go to the restaurant?

Robin: yes, he is, that is why a commercial dock is required by CAMA. Ron Holden has given his approval for our business, or we would never go through the process and expense of having a commercial dock designed and constructed.

Tom: does the town have any liability if there were an accident?

Landin: we would have to defer to the town attorney to answer any liability questions.

Al: will there be additional outside sales such as bottled water and snacks? How will credit card cards be accommodated?

Robin: the restaurant will accommodate food and beverages; our phones will have the capability to run credit cards so very little to no office space will be needed.

Al: do you have a rental agreement?

Robin presented a copy of the rental agreement that will be utilized, which includes a checklist for safety instructions. She added all we will have is a box there at the dock and clipboard.

Carol: how much liability insurance do you have?

Robin: we are required by state law to carry a \$300,000.00 policy. We choose to carry a \$1,000,000.00 policy.

Leon: how long can a jet ski run on a tank of gas? So, if a ski is rented for a whole day where would it be refueled at?

Robin: a ski can operate for about 3 hours; we generally refuel at slow times like during lunch.

Leon: how long is the proposed pier? What is the minimum?

Robin: we are waiting to find out; I think it will be like 40 feet long.

The Vice Chairman asked if there were any other questions at this time.

Carol: does DENR charge to use the ramp and are there restrictions for commercial use?

Landin answered that staff can look into this further.

Carol Scott: the noise issue has not been addressed here. Parking is a still a major concern. Even though there is ample parking space near the stores, people are going to park as close as they can to the restaurant and this will impact the parking for the park.

Leon asked the applicant if there was a minimum and maximum decibel level.

Landin: interjected that an answer could not be based on noise and fact.

Robin: the bridge area is a no wake zone so the skis cannot go full throttle. This is enforced by the Wildlife Commission.

With no other comments the public hearing was closed and the Board of Adjustment deliberated.

Al: I would like to continue this to the next meeting and address the issues of parking, insurance caps, DENR approval for commercial use of the ramp, and the lease information.

Landin: the lease information can be a condition that is set; we would not need to see the formal lease agreement.

Al: a letter should be provided by the property owner giving permission for this to move forward.

**Leon entertained a motion to table this hearing until May 3, 2012. Second by Al. Motion carried unanimously. Board of Adjustment Hearing Adjourned at 10:10 am.**

*Leon August*

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Leon August-Vice Chairman

*Cindy Nelson*

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Cindy Nelson-Secretary