

Members:
George Lott, Chair
George Turner, Vice-Chair
Alfonso Ferguson Sr.
Winton McHenry
Gregory Parks



Alternates:
Robert E Davis
Nathan Galbreath
Stacy Michael Long
Marva Lucas-Moore
Quinsentina James

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville North Carolina 28301
(910) 678-7602

MINUTES
October 18, 2018
7:00 PM

Members Present

George Lott
Alfonso Ferguson Sr.
Winton McHenry
Marva Lucas-Moore

Absent Members

George Turner
Gregory Parks

Staff/Others Present

Hope Ward Page
Dena Smith
Robert Hasty, Jr. (Assistant
County Attorney)

Chairman Lott called the meeting to order at 7:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

1. INVOCATION

Chairman Lott

PLEDGE OF ALLEGIANCE

Recited by all.

Chairman Lott stated the procedural matters are to turn off all cell phones and other electronic devices, other than the camera, are fine and if asked to speak at the podium to please speak clearly into the microphone as the meeting is being recorded. Although there are no set time limits for any speaker addressing the board, the board asks speakers to not repeat what has been previously stated. If there is no new evidence to offer please make the board aware of your agreement with the previous speakers. If any board member wishes to speak or ask any questions please ask to be recognized by the Chairman before speaking.

CHAIR LOTT: You may now begin with the roll call or you want to put that off?

MR. HASTY: I guess we can go ahead and do the swearing in at this point.

CHAIR LOTT: Okay

2. OATH OF OFFICE

Mrs. Page delivered the Oath of Office to new Alternate Board of Adjustment member Ms. Marva Lucas-Moore.

3. ROLL CALL

Mrs. Page called the roll and stated a quorum was present. For the audience Mrs. Page introduced Mr. Robert Hasty, Assistant County Attorney.

4. SWEAR IN STAFF

Chair Lott swore in staff.

5. ADJUSTMENTS TO THE AGENDA

There were none from staff.

6. APPROVAL OF THE SEPTEMBER 20, 2018 MINUTES

CHAIR LOTT: The motion has been made, motion of a second has been made, all those in favor of approval?

Mr. Ferguson made a motion to approve the minutes from the September 20, 2018 meeting with any necessary corrections, seconded by Mr. McHenry. The motion passed unanimously.

IN FAVOR	
LOTT	YES
FERGUSON	YES
MCHENRY	YES
LUCAS-MOORE	YES

7. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

8. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

9. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Page read the policy statement.

10. PUBLIC HEARING(S)

P97-14-C: MODIFICATION OF A SPECIAL USE PERMIT FOR A TELECOMMUNICATIONS TOWER IN A R10 RESIDENTIAL DISTRICT ON 0.10 +/- ACRES TO ALLOW A 50KW AC GENERATOR WITH A 211 GALLON DIESEL TANK ON A 4 FOOT BY 8 FOOT CONCRETE PAD, LOCATED AT 6341 CICADA STREET, SUBMITTED BY SRW BUILDERS INC (OWNER) AND DENISE L VILET ON BEHALF OF TOWER ENGINEERING PROFESSIONALS INC AND JEFFREY BELL ON BEHALF OF CROWN CASTLE (AGENTS). DEFERRED FROM SEPTEMBER 20, 2018

Chair Lott read the case heading for Case No. P97-14-C.

Mrs. Page reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Mrs. Page asked if the section of the zoning ordinance Section 927 Towers which are referencing on pages 106 - 109. The application submitted by the owner is complete and the owner has agreed to all the ordinance related conditions that were included in your packet. Staff asked when making a motion if you could make the motion subject to the findings of facts located behind the special use tab in your binders.

CHAIR LOTT: Do we want to hear the speakers now?

MRS. PAGE: Yes we have speakers.

CHAIR LOTT: Mr. Hill, please come forward and state your name and your address and be sworn in. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth so help you God?

MR. HILL: I do.

CHAIR LOTT: State your name and address please.

MR. HILL: My name is Robert Hill, my address is 1300 Mill Wrench Drive, Mt Pleasant, South Carolina. I'm here before you tonight representing, I work for Tower Engineering Professionals, I'm representing T Mobile. T Mobile has what they are calling a hardening project nationally. They are adding generators over a period of two years to all their sites for backup power. The subject here tonight is adding the 50KW Generator which you spoke of earlier, I won't repeat that but that's why I'm here. I'm more or less here to answer questions it's a pretty straight forward application.

CHAIR LOTT: Ok – thank you. Board members have any questions?

MR.FERGUSON: I do. One of my questions I had, cause we didn't have anybody from your company here last time, was as you were going to set out the generators on site, do we have any containment for the diesel tank or are you just going to sit the tanks on the concrete pad?

MR. HILL: The tank sits under the generator directly bolted to the concrete pad, as far as containment, there is no containment it's just sitting on a pad. The tank is a UL 115-7 double walled tank that helps protect it from some arbitrary problem or whatever, there inside of a fenced area so it's not like it's going to get hit but you know they're double walled tank which limits the exposure to leaking, I'm not aware of one leaking but I'm sure it could happen.

MR.FERGUSON: My concern was when it's filling, when you could have diesel fuel leak into the soil and with that hydro there, so my concern was would you consider or are you going to put any kind of containment to protect the soil around these tank sites?

MR. HILL: Not that I'm aware of. They may do it in other jurisdictions across the country but not, we've done one hundred and eighty-seven, I don't think we've done any containments.

CHAIR LOTT: Hope, has these plans all been reviewed and approved by the various County departments?

MRS. PAGE: Yes Chair, everything that came in was reviewed by staff, it met the application and the conditions that were placed were agreed to by the owner prior to the meeting, and it's an existing site.

CHAIR LOTT: Okay. Right. This is just a modification to an existing site. Any other questions? I believe you said that T Mobile is in the process of doing all their sites so I'm sure that this will be coming up before us in the future, same thing?

MR. HILL: Yes sir. Typically they don't come before zoning, I think this one was because it was a special use originally.

CHAIR LOTT: Anything else Board?

MR. HILL: Okay, I drove a long way, let's go. (laughter)

CHAIR LOTT: Alright, thank you. Discussion.

MRS. PAGE: Do you want to close your public hearing and discuss?

CHAIR LOTT: Oh I'm sorry. Yes. Are you here to speak sir?

MR. BOOTH: I'm the County Fire Marshall. I'm just here if you have questions as far as code violations or how the process for approval was obtained.

CHAIR LOTT: Would you please come up then, please? Place your hand on the Bible and raise your left hand. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

MR. BOOTH: I do.

CHAIR LOTT: Your name?

MR. BOOTH: Gene Booth.

CHAIR LOTT: And you're the Fire Marshall for that area?

MR. BOOTH: Yes

CHAIR LOTT: Ok, I think you heard the concern from one of our Board members, how does that factor in to your position or the county's position

MR. BOOTH: The process kind of extends beyond this initial site plan, when he goes to install his generator, he'll have to submit plans to the inspections department, also obtain a tank installation permit from the Fire Marshall's office as well, We'll go out and insure that it is UL Listed, that it is a double walled tank, that is the secondary containment, and that it also has the adequate emergency vents, ventilation space between the two tanks as well, also containment for the spillage during filling. It will go through an initial inspection process as well.

CHAIR LOTT: Okay, thank you. Thank you very much. I think that answers our question as far as safety's concerned. Okay factors relevant to the issuance of a special use permit. The use will not materially endanger the public health or safety of located according to the plan submitted and recommended. I think that's been stated. Case facts. #2 The use meets all required conditions and specifications. I think that's been clarified by the permit process.

MR. FERGUSON: Yes

CHAIR LOTT: The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity. Well I think as far as the public necessity's concerned, in the event of a hurricane, tornado or whatever that the emergency generator will be very useful because we've all gotten used to our cell phones working. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan. Which I believe by the permit, it has met. So having heard all the evidence and the arguments presented at the hearing the Board finds that the application is complete and the application complies with all the applicable requirements of the Cumberland County zoning ordinance for the development proposed in that therefore the application to make use of the property described within the case for the purpose indicated is hereby approved so to allow applicable provisions and ordinances of the following conditions: the application shall complete the development strictly in accordance with the application and site plans submitted to and approved by the Board, a copy which is filed with the Cumberland County planning and inspections office, the applicant/property owner is responsible party for the information contained within the site plan including but not limited to the property boundaries easement locations and ride-away boundaries. The applicant/property owner is the responsible party to insure compliance with all other related federal, state and local regulations included but not limited to North Carolina building code. The applicant/property owner responsible for ending all ordinance related conditions set forth by the planning staff. Any other conditions you want to bring up?

MR. HASTY: Since it's an existing Special Use Permit, it's just a modification you may just want to incorporate the findings from the original granted special use permit. All you would have to say is that would be included in this application.

CHAIR LOTT: That would be included in this application.

MR. MCHENRY: The only thing I would have to say is that there are occasion people go around and shoot at things, with this be applicable here in this case. People take a high power rifle and shoot at this tank?

MR. FERGUSON: The tanks are built good. They are double walled tanks. I've experienced them when I was in the military, they're very sturdy tanks. They're totally different with double-walled sides with compartments for spills, and that won't apply, we put them in the war zone, that didn't bother them.

MR. MCHENRY: Okay. We don't want the war zone.

MR. FERGUSON: We put them in the war zone and we kept fuel over there.

MR. MCHENRY: I have nothing else.

Mr. Lott made a motion to approve Case P97-14-C modification of a special use permit to allow a 50KW generator with a 211 gallon diesel tank of a 4 foot by 8 foot concrete pad, subject to the finding of facts and ordinance related conditions, Ms. Lucas-Moore seconded. The motion passed unanimously.

IN FAVOR

LOTT	YES
FERGUSON	YES
MCHENRY	YES
LUCAS-MOORE	YES

11. DISCUSSION/UPDATES

CHAIR LOTT: Any other business?

MRS. PAGE: Yes on the agenda for discussion/updates, staff has put together a document on making quasi-judicial decisions for the board. Everyone should have got a copy next to their notebook. This is your copy and it basically just some helpful information on the Board of Adjustments, making decisions, the voting, the hearing, this is for you to keep and read at your leisure.

CHAIR LOTT: Okay.

MRS. PAGE: Also the Board did not receive any applications by the October deadline so we will not have a Board of Adjustment meeting in November. Mr. Hasty do you have anything?

MR. HASTY: I do not really have anything.

12. ADJOURNMENT

Mr. Ferguson made a motion to adjourn, seconded by Mr. McHenry. The motion passed unanimously. Meeting adjourned at 7:22pm.

IN FAVOR

LOTT	YES
FERGUSON	YES
MCHENRY	YES
LUCAS-MOORE	YES



Dena L Smith, Clerk to the Board



George Lott, Chairman