

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



CUMBERLAND
COUNTY
NORTH CAROLINA

Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

MINUTES
June 17, 2021
6:00 PM

Members Present

George Turner
Gregory Parks
Marva Lucas-Moore
Stacy Michael Long - Alternate
Linda Amos - Alternate

Alternate Members in Attendance

Robert Davis

Absent Members

Vickie Mullins-Alternate

Staff/Others Present

David Moon
Yolanda Bennett
Nikia Charles
Rob Hasty
(Asst. County Attorney)

Chair Turner called the meeting to order at 6:04 p.m. in Public Hearing Room #3 of the Historic Courthouse.

Chair Turner 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.

1. INVOCATION

Stacy Long

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Mr. Moon called the roll. Mr. Moon stated based on roll call, we have a quorum. Mr. Moon also mentioned present for the meeting was Mr. Hasty, from the attorney's office, Mrs. Yolanda Bennett who was present at the last Board Meeting and Nikia Charles who will serving as our clerk in the Board of Adjustment meetings moving forward.

3. SWEAR IN STAFF

Chairman Turner swore in staff.

4. ADJUSTMENTS TO THE AGENDA

Mr. Moon stated case P21-02-C that was continued from May 20, 2021 be relocated on the agenda to number 7 for Deferrals/Withdrawals based on the applicant submitting in writing his request to withdraw his application for a variance.

5. APPROVAL OF THE MAY 20, 2021 MINUTES

Ms. Marva Lucas-Moore made a motion to approve the minutes from the May 20, 2021 meeting as written, seconded by Mr. Gregory Parks. The motion passed unanimously.

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	IN FAVOR
TURNER	YES
LONG	YES
AMOS	YES
PARKS	YES
LUCAS-MOORE	YES

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

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

The Board accepted the withdrawal of case P21-02-C.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mr. Moon read the policy statement.

9. PUBLIC HEARING(S)

Chairman Turner read the case heading for Case No. P21-01-C.

P21-01-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A CAMPGROUND IN AN A1 AGRICULTURAL DISTRICT ON 40.58+/- ACRES, LOCATED ON THE NORTH SIDE OF SR 2026 (7715 CONCORD CHURCH ROAD), EAST OF CASHWELL ROAD, SUBMITTED BY MICHEAL AND MARIE JOYAL AND JUDITH MURACH (OWNER)

CHAIR TURNER: Stated this was a continuance from the last two meetings. He asked to hear about the case.

Mr. Moon stated, following the history of the case for special use. The applicant, Mr. Joyal, who is sitting behind me, had requested a continuance of the hearing as of April 15th Board of Adjustments hearing so that he could have a plat made to separate the campground area from the majority of his property. He has prepared a plat and had that recorded in the records of the county. On May 20th, staff requested a continuation because we did not have adequate time to review a revised special use site plan, that was based on the change in the lot area to the property in conjunction with that plat. That brings us to an amended site plan as well as an amended application. The reason the application was for special use for a campground, which is not a permitting use within the assigned zoning district of A1. The new site is 19.0 acres. This case when previously reviewed before the Board of Adjustments so our report stands from the previous meeting. I'll go through the revised site plan and explain the changes on that to you. If the Board would prefer me to go back to the beginning of the case and give a description of its location and character, I can do that. If not, then we'll go straight into the revisions of the site plan.

CHAIR TURNER: Is everyone aware of this, we've seen it twice I think now. We may have to go back just to refresh our memory. Just to clarify, is there a new site plan?

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MR. MOON: There is. Mr. Moon went on to show a slide that represented the plat that has been recorded with the county. He said the center lot shaped like a pork chop was the campground site. It is 19 acres of the original site. He showed the revised site plan with changes that included the existing building as the designated campground office and campground manager residential structure. The site also identifies a 20-foot buffer around the campground. The site plan shows the building closest to the campground as a storage facility now and the location of the buffer on the north. Mr. Moon pointed out the building that would be the campground office. He said the octagon shape on the site is the caretaker resident. The building along the roadway can not be used for a caretaker home unless a variance is obtained as the building is closer than 100 feet from the right-of-way. Part of the staff report recommendations addresses the this word "waiver", which has to change to "variance", but the building can be used for storage for the campground. That's the only use that can occur in this structure.

CHAIR TURNER: What is that building, is it a house or a storage building?

MR. MOON: It's a house.

CHAIR TURNER: It is a house.

MR. MOON: It's currently not occupied. Mr. Joyal can explain some of the other details. Mr. Moon showed a slide and said it showed a summary of what had occurred in the site plan. Mr. Moon went on to say that the campground is now limited to this parcel in the center. That parcel also includes these buildings and buffers. Staff reviewed the site plan and found that it meets the requirements for the special use site plan and is consistent with the zoning code as well the County develop regulations. Further review or consistency with the code and the conditions of the special use site plan will occur at that time a site plan is submitted for the development of the site. That concludes my presentation. If you have any questions, I will be glad to address them.

CHAIR TURNER: Based on what's here, does the county have any issue with this?

MR. MOON: We do not. As long as the conditions for special use permit are followed.

CHAIR TURNER: The county has no issues. Anyone have any questions in the staff?

There were none.

Chair Turner opened the public hearing and swore in Mr. Michael Joyal, the only speaker.

CHAIR TURNER: Is there anything you want to add to what the staff has told us?

MR. JOYAL: I just want to thank him (referring to Mr. Moon) for his input from the last meeting. I got what we got and he gave me some pointers and I've incorporated them because I thought they were great ideas. I just had to change one word apparently. The waiver word.

CHAIR TURNER: What is that David?

MR. MOON: On the plan, this call out right here, states that if he wants to use the storage building as a caretaker home, he would have to apply for a variance.

MR. PARKS: Not a waiver.

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MR. JOYAL: Correct. This isn't going to be happening in the next two weeks. This is a project that is going to take some time.

CHAIR TURNER: Is that house livable? You said it was small, I think, but is it livable?

MR. JOYAL: It's really small but yeah you could.

CHAIR TURNER: I mean you own the house right?

MR. JOYAL: Yes.

CHAIR TURNER: You have no purpose in mind for it?

MR. JOYAL: Well, rather than have my kids stay in my house, I might put them over there when they come to visit.

CHAIR TURNER: How big of a house is it?

MR. JOYAL: I don't think its 900 sq. ft. The bedroom is about the size of your desk. It's small. I mean it's a nice little place for what it is.

CHAIR TURNER: Just for general use, you may want to get a variance and go get it approved in case you ever decide to make use of it. You may want to add on it and build a garage in the back or something.

MR. MOON: Variance is based on the setbacks.

CHAIR TURNER: Does it not have that?

MR. MOON: If used as a caretaker residence it has to be a setback 100 feet from the road right of way.

MR. PARK: That's not going to work.

MR. MOON: Right now it's about 80 feet. So you would need a variance.

CHAIR TURNER: What if he uses it as guest quarters for his children?

MR. MOON: As a guest quarters it falls under the campground special use. (Mr. Moon begins pointing at the slide) this language here states that it would be used as a shed or as a caretaker residence. If it's used as a caretaker residence, there only can be one at the campground. It could be this building or it could be this building if the variance is obtained from the setbacks for the right of way. For a campground site any building can't be closer than 100 feet to the right-of-way.

CHAIR TURNER: Well just to clarify that, I think what he's saying is if he uses it for any use it would be as guest quarters for his children possibly. Is that allowed without him doing anything?

MR. MOON: That would not be my interpretation of the zoning code in special use for a campground. He would only be able to use that building as a storage shed, for storage for the campground. Or if he gets the variance for caretaker residence.

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CHAIR TURNER: And he doesn't need it for a caretaker residence, he's already got one. Okay I understand. Anybody have any questions?

There were none.

MR. JOYAL: Just so that all of you know, we've talked to our neighbors, they have that as well. Their concern was we were going to pack campers in there along our property line by their yard. I'm not building a KOA here. 20 sites. it's going to be back in the woods. They don't care. As long as its nobody next to their property line and its as you can see, a long way from their property line.

MR. PARKS: Is there a body of water back in there I remember?

MR. JOYAL: Way back in the northwest corner, where I've never even walked yet. There was one marker that the survey guy, Maps Incorporated or whatever his company's name is, he couldn't get to it because it's under water. Like I said, I haven't been back that far into the property and I don't think anybody else ever will. I don't know why there's that big chunk sticking up like that. We're surrounded by City of Fayetteville property which I don't know why Fayetteville owns all of that stuff out there but they do. Or you do or whoever it is.

CHAIR TURNER: The city owns it? The city itself you mean? The City of Fayetteville itself owns the property?

MR. JOYAL: Yes. The city owns 750ish acres and it surrounds about maybe almost half of my property. The rest is privately owned. And they have a big chunk there. I don't know why.

CHAIR TURNER: They don't do anything with it?

MR. JOYAL: I think somebody uses some of it to farm but there's nothing going on out there. I always wondered why, why did Fayetteville build it, I mean it's on the other side of Stedman.

CHAIR TURNER: We usually get those I thought in tax foreclosures or something like that. But then the county would have some interest in it too. I don't know. Well our records would reflect that there's no one here in opposition of you so that's a good thing. Any questions of the Board Members at all?

There were none.

MR. MOON: Chairman as a reminder, for a special use application, there are four criteria that the application must comply with. So as part of the motion the Board needs to address compliance with those four criteria.

ROB HASTY: The applicant has submitted Exhibit I where he's responded to these four criteria. You can look at it and then if you do you can prepare this in the motion.

CHAIR TURNER: Ok if there's no further discussion is there a motion.

MR. PARKS: I make a motion to approve.

MR. LONG: We have to do a finding of facts.

CHAIR TURNER: We have to do a finding of facts. Basically Mr. Park's motion to approve is based on 1. The use will not materially endanger the public health or safety of located according to the plan submitted and recommended.

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MR. PARKS: What page are you on?

ROB HASTY: It starts in your packet under exhibit I. Address each one of those. You don't have to read them all but you can incorporate, you just say you incorporate exhibit I in the motion.

CHAIR TURNER: Based on the findings of fact, we'll incorporated exhibit I that was filled out by the applicant as part of his requirements for a special use permit. All of those he has agreed to.

MR. PARKS: We will do that. 1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended. 2. The use meets all required conditions and specifications. 3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and 4. 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 the Cumberland County's most recent Comprehensive Land Use Plan.

CHAIR TURNER: Is that good Mr. Hasty?

ROB HASTY: Yeah all it is, is responding to his part of the motion to exhibit I.

CHAIR TURNER: There is a motion on the floor is there a second?

Mr. Parks made a motion to approve based on including exhibit I which states 1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended. 2. The use meets all required conditions and specifications. 3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and 4. 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 the Cumberland County's most recent Comprehensive Land Use Plan. Mr. Long seconded the motion. The motion passed unanimously.

	IN FAVOR
TURNER	YES
LONG	YES
AMOS	YES
PARKS	YES
LUCAS-MOORE	YES

CHAIR TURNER: P21-02-C has been withdrawn so item 10 was our Board of Adjustments Membership Recommendations.

STACY LONG: Is that close of public hearing?

CHAIR TURNER: Yes we close the public hearing. You're approved, you're good.

MR. JOYAL: Could I just ok say maybe two things to everyone here. First, I already thanked him (referring to Mr. Moon) when I first came in but I wanted you to know. Since the last meeting he provided some tips and pointers and help to me, and I thank you for that, it worked out well. Except for that one word, "waiver" needs to be "variance".

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Second, and this one is a biggy, it is very refreshing to come to a government meeting and hear the pledge and an invocation. I can not tell you how strongly I support that action.

CHAIR TURNER: We're going to keep doing it.

MR. JOYAL: Don't succumb to whatever forces are out there. Continue doing this because it's the right thing to do.

CHAIR TURNER: We're going to keep doing it to the best of our ability.

10. BOA MEMBERSHIP RECOMMENDATIONS

MR. MOON: The next thing on the agenda is the Board Membership Recommendations. Based on a request from the Board of County Commissioners and past practices and traditions, vacancies of positions on the Board of Adjustments, either alternate or regular members, the current members of the BOA are asked to make a recommendations for citizens who are interested in participating as a member or an alternate on this board. Within your package you'll find a staff report that list the current members, former members that are no longer on the board and the positions that are vacant, so you can make the connection between the member that created the vacancy or will create the vacancy. In this case Mr. Turner, in terms of Chairman, he is termed out at the end of August.

CHAIR TURNER: This says September.

MR. MOON: The end of September.

MR. PARKS: Where is that information in our packet?

MR. LONG: They mailed it to us.

CHAIR TURNER: Well certainly I think the two vacant position we have now, this board should recommend Mr. Davis for one of those seats. Is that good?

MR. MOON: So Mr. Chair it's up to you as to how you want to conduct the proceedings. There are, based on the staff report, two current vacancies. One upcoming vacancy for regular members and there's one vacancy of an alternate. My suggestion is you handle the two separately. You have options. You could just recommend a list of members for consideration for either regular or alternate. Or you could breakdown the recommendations to a seat as a regular member and then second address the candidate or candidates for the alternate member.

CHAIR TURNER: It would seem to me that we have two vacancies right now Mr. Ferguson and Mr. McHenry's seats. I would make a motion to the board that we make Mr. Davis, ask the County Commissioners to appoint him to one of those vacant seats. Am I understanding that, Linda, I thought you were a regular member now. Are you an alternate?

MS. AMOS: I'm still an alternate.

CHAIR TURNER: I would make a motion that we change that. In that motion that she be appointed to a regular seat. That would fill the two that are vacant. That's a motion on the floor.

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Chair Turner made a motion to appoint Mr. Davis and Ms. Amos as regular Board Members to fill the current vacancies. Mr. Long seconded the motion. The motion passed unanimously.

	IN FAVOR
TURNER	YES
LONG	YES
AMOS	YES
PARKS	YES
LUCAS-MOORE	YES

CHAIR TURNER: Now we would have one seat vacant for an alternate member?

MR. MOON: Correct.

CHAIR TURNER: Ok. We have a list of folks that have applied here. Is there any there that

MR. PARKS: Mr. Chairman I see one here that's been in the business a long time that I would recommend. A fellow by the name of Kenneth Turner, for the alternate position.

CHAIR TURNER: Ok. Does anybody want to know about him? He's my cousin. He has been to a number of our meetings if you've not met him. He was in the banking business for years. He's a developer. He develops mostly in Hoke County. He puts together lots and then sell the lots to builders is the way he's been doing. He has a real interest in this.

MS. LUCAS-MOORE: I second the motion.

Mr. Parks made a motion to appoint Kenneth Turner as the alternate seat on the Board. Ms. Lucas-Moore seconded the motion. The motion passed unanimously.

	IN FAVOR
TURNER	YES
LONG	YES
AMOS	YES
PARKS	YES
LUCAS-MOORE	YES

CHAIR TURNER: Will that work David?

MR. MOON: That will work.

CHAIR TURNER: What about the minimum housing code?

11. DISCUSSION/UPDATES: MINIMUM HOUSING CODE

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MR. MOON: Next on the agenda is discussion and updates. At the last Board of Adjustment meeting I mentioned that the Board of County Commissions adopted an ordinance that assigns responsibility of the Housing Appeal Board to the Board of Adjustments. So any new housing appeals would appear on your agendas. So this previous board which seldom met, they added some of the hearings but we do have an upcoming case that will appear on the August hearing. Short beyond tonight they have to request a delay for two months. You'll be addressing those cases that are on your agenda. I will be sending out to you the description and responsibilities of the Housing Board cause it is now this Board's responsibilities. I'll provide you with a current version of the Linden Housing Code. So you'll have those two documents to review to find out what responsibilities or additional responsibilities you'll have as Board of Adjustment Members. When you receive the package if you have any questions, please give me a call. I'll get back with you.

CHAIR TURNER: Are you going to send out information on that specific case too? So we can at least get a reading on some idea what we're doing?

MR. MOON: When the agenda is prepared, remember this Board serves under quasi-judicial function and has ex parte communication responsibilities. So information about this case can only be discussed here. I don't want to provide that information to the Board until we distribute the entire agenda to the June package and have prepared the public notices for that meeting.

CHAIR TURNER: Its interesting how this Board has changed through the years. I was on this in the 90's and we got all the information well ahead of time and in many cases we took a county owned vehicle with Board Members and went out to the site to see what was going on. That's the way we operated. I hate to say it but it works a lot better. Sometimes you just got to see it. It really helps. Did that change legally?

RON HASTY: We don't recommend that Board Members, unless you go as a group, and kinda want to do it that way. It causes a problem if two people go out there and look and then you got a hearing and those people start telling you well I went out there and this is what I saw, and also you're a witness in the case. You're testifying and the other Board Members who didn't go they don't really know. So our recommendation is just base all your decisions on what you hear in this hearing on evidence, just as like you very would in a courtroom. And there may be a situation, there may be a case where a site visit is perhaps necessary. With all the technology, maps, and photographs that you're shown hopefully that will answer any questions that you may have during a hearing.

CHAIR TURNER: I think most of ours they'd send the packet out a couple of weeks ahead of time and after a few days if you felt like you needed to go see it, seem like we would call and line up some kind of county vehicle and all the Board Members would go in one vehicle. And we didn't get out and mess around but we'd go out and see a situation. Back then we had a lot of cell towers and you kinda want to go see what's around it and you know is this going in somebody's corn field or something. Maybe it's not necessary but it sure did seem to add a lot. Anybody else have anything? Is there a motion to adjourn?

Mr. Parks made a motion to adjourn. Mr. Long seconded the motion. The motion passed unanimously.

	IN FAVOR
TURNER	YES
PARKS	YES
LUCAS-MOORE	YES
LONG	YES
AMOS	YES

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Meeting adjourned at 6:44pm.

A handwritten signature in black ink, appearing to be 'Nikia Charles', written over a horizontal line.

Nikia Charles, Senior Admin. Support Spec.

A handwritten signature in black ink, appearing to be 'George Turner', written over a horizontal line.

George Turner, Chairman