

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

MINUTES
February 17, 2022
6:00 PM

Members Present

Gregory Parks
Marva Lucas-Moore
Robert Davis
Vicki Mullins

Absent Members

Linda Amos
Stacy Michael Long - Alternate

Staff/Others Present

David Moon
Alyssa Garcia
Yolanda Bennett
Robert Hasty
(Asst County Attorney)

Alternate Members in Attendance

Kenneth Turner- Alternate

Chair Parks called the meeting to order at 6:05 p.m. in Public Hearing Room #3 of the Historic Courthouse.

Chair Parks 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

Robert Davis read the invocation.

PLEDGE OF ALLEGIANCE

Recited by all.

Chair Parks requested all cell phones be turned off. If asked to speak at the podium please speak into the microphone, take your mask off if you prefer. Chair Parks requested to limit time per speaker to 5 minutes and not to repeat what has been previously stated. If any Board member wishes to speak, please ask to be recognized.

2. ROLL CALL

Mr. Moon called the roll. Mr. Moon started with the roll call; we have a quorum.

3. SWEAR IN OF STAFF

Chair Parks swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE OCTOBER 21, 2021, MINUTES

Mr. Davis made a motion to approve the minutes from the October 21, 2021, meeting as written, seconded by Ms. Mullins. The motion passed unanimously.

IN FAVOR

PARKS	YES
TURNER	YES
LUCAS-MOORE	YES
DAVIS	YES
MULLINS	YES



Board of Adjustment

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

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

Mr. Moon announced the withdrawal of Case BOA-22-013. Mr. Moon stated: which is for a variance with the watershed ordinance the applicant has requested to withdraw the app. I would like the applicant to come to the podium to confirm the withdrawal. Just to explain what is occurring, this proposed church project is located within the watershed protection area. There's 2 types of categories of protection in the watershed protection area. Called high density development and low. Based on review of application, originally applied for the variance under the low, but it was determined that they qualified for the watershed high density development which is basically administrative review by the board of adjust. Doesn't call on the ordinance for an advertised public hearing as it does for the variance. So, there was a site plan that was included with the variance that would have been approved with the variance if the board had approved the variance but its withdrawn. That site plan is now pulled off as an administrative review under WSD-001-21. So, case BOA-22-013 is withdrawn by the applicant.

Scot Brown confirmed the withdrawal of the variance application.

Mr. Moon stated that there needs to be a motion for withdrawal.

CHAIR PARKS: Do I have a motion to accept the withdrawal?

Kenneth Turner made a motion to accept the withdrawal, seconded by Robert Davis.

CHAIR PARKS called for a vote.

	IN FAVOR
PARKS	YES
TURNER	YES
LUCAS-MOORE	YES
DAVIS	YES
MULLINS	YES

The motion to withdraw case BOA-22-013 passed unanimously.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mr. Moon read the policy statement.

9. PUBLIC HEARING(S)

Chairman Parks read the case heading for Case No. BOA-21-007.

Case No. BOA-21-007: Variance from Section 203, Accessory Building, Paragraph. C, County Zoning Ordinance, to allow a garage/storage building to be larger than a residential house for 1.19 acres located at 3361 Stedman Cedar Creek Road, Cumberland County; submitted by Terry Faircloth (agent) on behalf of Brian Jordon (property owner)

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DAVID MOON: David Moon, Deputy Director of Planning and Inspections. The first case this evening is case ... it's a request for a variance. The site is generally located to the east of the Cape fear river and south of Highway 24. The property owner request the boa to grant a variance from section 203 accessory building paragraph c of county zoning ordinance to allow a 1124 sq ft garage storage building in a lot with a 980 sq ft residential house for a 1.19 acres. Located also within an r40 zoning district specifically located at 3361 Stedman Cedar Creek Road. Specific location is shown on the map on the screen. The owner desires to build that 1124 sq ft garage or storage building to accommodate cars and storage. The existing trailer home is 14 x 70 approximately and 980 sq ft. section 203 para b definition of spec terms and words in the county zoning code states that the accessory structure cannot be larger than the primary structure which in this case is 980 sq ft and the building the proposed building is 1124 for the garage. Spec the code states under the def for ace building must be clearly incidental to subordinate in area and purpose to and serving the principal use. The above picture on the screen shows you the general character of the area. Its single-family homes to the south and to the east. Agricultural and wooded land to the northwest and southwest. this picture shows you the again the gen character of the area and the zoning. The zoning assigned to this property and the properties to the east is R40A and the properties to the south and northeast are a1 and props across street are zoned r40. Soil conditions are primarily good with the exception of the very southern or southwest corner of prop which does have possible presence of hydric soils. Located with southwest Cumberland land use plan and designated for primarily 1 acre resident lots. This site survey shows you the location of the existing trailer home which you see to the north and the proposed location for the garage set to the south. This doesn't show the most recent air photos which has two other storage or garage facilities located on the property. This is a view of the front of the prop looking to the SE. second pic of subject site with the home and two current garages. South view along Stedman Cedar Creek Rd. the north view along the same road. And hers the second picture to the north. Now the boa has the authority to make the final decision in the case of a variance. You have the authority to approve, deny or approve with conditions. Under sect. 1605of zoning code there are four variance criteria. The Board is familiar with these criteria. The first is the burden of proof is on the applicant to demonstrate unnecessary hardship result from the strict app of the regulation. Second the hardship results from conditions that are pec to prop such as location size or topography. Third the hardship did not result from action taken by the applicant or property owner. And then finally the requested variance is content with the spirit and purpose and intent of the regulation. Such that the public safety is secured and substantial justice is achieved. That completes my presentation. I'll address any questions you may have or you can proceed into the public hearing

CHAIR PARKS: Any specific questions?

CHAIR PARKS: Go head and proceed to public hearing.

MR. MOON: For case 21-007 there are two speakers that have signed up in favor. There is Brian Jordan. He's the first speak.

CHAIR PARKS: Mr. Jordan?

Chair Parks swears in Brian Jordan.

BRIAN JORDAN: My name Brian Jordan and I live at 3361 Stedman Cedar Creek Road, Fayetteville, NC . Um I put in for the variance because I'm trying to put me a new storage build up behind my property. There is other structures on the property but I really want to tear that structure down. That structure was there when I bought the property 25 years ago, I believe it was, and that the purpose of trying to get the new one. I actually bought the back lot, I wanna say it's a little over a half an acre from the neighbors ,with the intention of someday being able to build somewhere to keep my tractor my new trucks and stuff like that. Like I said the intentions are the one structure there to be taken

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down if I did get the new building up. I got Mr. Terry Faircloth sitting behind me, he's my surveyor that was handling everything for me like I said didn't have any clue how to go about doing this and that's why he's here speaking for me. But other than that thank y'all for your time.

DAVID MOON: I just gotta mention the next speaker. Next speaker is Terry Faircloth.

Chair parks sworn in Terry Faircloth

TERRY FAIRCLOTH: Terry Faircloth 6042 Lexington drive hope mills, NC. The building is, it is bigger than his home but the purpose is he has classic cars and as you can see there's a tree line to the se and he has a garage here. Well, a windstorm had come through and lifted that garage up and destroyed a couple of his cars. Its for protection of his, the cars he's collecting and of course there's crime everywhere especially way out in the rural area. He wants a place to put his cars where they won't be damaged and his new tractor and the new truck that he has, I mean you know to keep them out of the view of the public and that's pretty much, you know. But he lived in a single wide and he's lived there for 25 years. And to me it seems like it's kind of ridiculous that he cant build a building just because he lives in a single wide.

CHAIR PARKS: Let me say that that's not the case, it's the square footage of the single wide. As opposed to the building.

TERRY FAIRCLOTH: Right.

CHAIR PARKS: Do you wanna say something?

DAVID MOON: No further speakers. Staff has completed its presentation unless there are any questions from the Board.

KENNETH TURNER: I have a question. Is the sole issue here the fact that it's larger, like 261 ft larger than it should be to meet the requirements?

DAVID MOON: Correct. The code specifically says that an accessory use, accessory structure shall be smaller in subordinate to the primary residential structure.

KENNETH TURNER: So if he modifies the structure to be within that minus 261 then we would not be here.

CHAIR PARKS: That's correct.

DAVID MOON: Correct. He could also-

CHAIR PARKS: He could also build two buildings side by side and do that also. I've been on this board several years and this is probably the fifth time this situation has come up. Just to give you a little background we have a fella that built a building that was twice the size of his house and he was 100 some feet away and we tried everything we could to help him. Just rules wouldn't let us do it. He had to build a walkway to connect it. So, we're not here, we're just here to follow the rules, we understand what you're trying to do we're trying to help you in that you would build it smaller, or... Come on up.

BRIAN JORDAN: If I back off on the square footage of the building, you said it'd have to be 210 is that what you said?

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DAVID MOON: 980 sq ft no larger than 980.

CHAIR PARKS: 979 square feet.

BRIAN JORDAN: Ok so long as I'm under that window it wouldn't be a problem getting a permit for the building?

CHAIR PARKS: Absolutely not.

DAVID MOON: You could also have two buildings that were so long as they're smaller than the primary structure.

BRIAN JORDAN: What I was asking him if I step back to like a 30x50, I think we filed as 30x60, I mean if I could drop down to a 30x50 and it'll put me in the window, I mean you know.

CHAIR PARKS: 30x60 would make it 1600 square feet.

BRIAN JORDAN: Well I'm not good at. And its gotta be what 900 and something so that's still-

CHAIR PARKS: All I'm saying is you make it. 30x30 would be 900 ok 30 x 30 would be 900 and make it well within it., just what you're trying to figure out just make it work and if you need another building just make it right beside it and have a little walkway to it where you'll keep that type stuff keep the cars here the tools there, you know what I mean. We're trying to help you.

BRIAN JORDAN: Right, and I understand and like I said I'm just. this is all new to me and I'm trying to learn how to.

CHAIR PARKS: So anything less than 980 square feet I'd make it 975 square feet so they don't nitpick you.

BRIAN JORDAN: Gotcha.

CHAIR PARKS: 975. 30x30 only 900 well within that if you could make that work. Am I correct in this Mr. Moon?

DAVID MOON: Yes, sir.

BRIAN JORDAN: Ok, one more question for you.

CHAIR PARKS: Yes, sir.

BRIAN JORDAN: If I go with the 30x30 building you're saying put them side by side and connect them with a breezeway or whatever, do I do two separate permits for the buildings or is it one permit.

CHAIR PARKS: I don't, don't ask me that question.

BRIAN JORDAN: Oh, ok.

DAVID MOON: That would be a question for the code enforcement office so I couldn't answer that. Depending on the time of it could fall under one, I believe, one building permit application or if he builds the two at separate times it might be two separate applications. He has a choice.

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CHAIR PARKS: Sure.

DAVID MOON: He has a choice.

BRIAN JORDAN: So I could do 2 a 30x30 and still end up with the same square footage but just in 2 separate buildings?

CHAIR PARKS: Yes, sir.

DAVID MOON: So long as it meets the setback standards.

CHAIR PARKS: And make sure you're making your setbacks your however many feet you need to be away from your lines. Get your surveyor right here to do that for you but that would be fine. I'm sorry you're talking about something?

ROBERT DAVIS: The other alternative we were saying is that you could add on to a room to the mobile home. Make it larger-

CHAIR PARKS: that's another option if you wanted to absolutely. Make an addition to your mobile home.

BRIAN JORDAN: I don't want to make an addition to that. We're down to just the two of us, my daughter's gonna go off to college, we don't have to worry about that stuff.

CHAIR PARKS: Well, we've done the best that we can do

BRIAN JORDAN: Ok, alright thank you very much for your time

ROBERT HASTY: for the record I think he either needs to withdraw or you need to vote on it

CHAIR PARKS: do you want to withdraw?

BRIAN JORDAN: Yessir.

CHAIR PARKS: Can I get a motion to accept the withdrawal from Mr. Jordan.

KENNETH TURNER: I make a motion to accept the withdraw from Brian Jordan.

ROBERT DAVIS: Seconded

Chair Parks called for a vote.

	IN FAVOR
PARKS	YES
TURNER	YES
LUCAS-MOORE	YES
DAVIS	YES
MULLINS	YES

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The motion to withdraw case BOA-22-007 passed unanimously.

Chairman Parks read the case heading for Case No. BOA-21-0011

Case No. BOA-21-0011 Variance from Section 1104, District Dimensional Provisions, rear yard setback for property located in a R7.5 zoning district, to allow reduction of the rear yard setback from 35 feet to 24 feet for an accessory structure (guest house) located at 7694 Heriot Drive, Fayetteville, NC.; submitted by Fred A. Caruso and Wanda A Caruso (Owners)

DAVID MOON: The site is generally located to the east of the city of Spring Lake, the town of Spring Lake specifically located at 7694 heriot dr. It's located within an existing platted residential subdivision. Just south of the Elliot Farm Road. The property owner requests the Board of Adjustment grant a variance from 1104 district Dimensional Provisions, Cumberland County Zoning Ordinance to allow for a reduction of rear yard setback from 35 feet to 24 feet for an accessory structure that will serve as a guest house. A site plan has been provided by the applicant that proposes what he desires to do with his property. I'll explain later as you see the diagrams what the applicant is proposing, and he is here this evening. This arial photo shows character of surrounding area primarily single family residential platted neighborhoods. The zoning assigned to property and nearby properties is PND that is a defunct zoning category based on zoning code PND code follow R7.5 zoning district. There are no issues with the soil, there are water lines available to the site, there is no public sewer avail to property. The site is located north central Cumberland Land Use Plan under low density residential. There are no issues or conflicts with the Land Use Plan. Here we begin to see the proposed layout of the existing property; this shows the single family to the front with a pool to the rear and there is a current garage there at the northwest corner. As shown on the proposed sketch plan, the property owner intends to remodel the garage and expand to accommodate a guest house for relatives. This shows you the picture of the existing home, this shows you the garage that is being proposed for renovation and expansion, this is the south view of Heriot Dr., west view, north view, and then we're under the same section 1605 variance criteria that was presented with our last case. I'll go through those quickly, but I will point out that the second variance criteria in most reports we somewhat paraphrase the criteria, here you see the full hardship criteria written out per the code and per the general statutes of the state of North Carolina. You'll see that yellow highlighted area that states a variance may be granted when necessary and appropriate to make appropriate accommodations under the Federal Fair Housing Act for a person with a disability. I believe that the applicant is going to address that matter with his relatives. So, four criteria again are the unnecessary hardship that would result from strict application of the regulation, the hardship results from conditions are peculiar to the property and including to that reference to the Fair Housing Act; third is hardship did not result from the actions of the applicant and finally the requested variance is consistent with the spirit, purpose, and intent of the regulation such that the public safety is secured, and substantial justice is achieved. The burden of proof is on the applicant to demonstrate the need for the variance based on those criteria. That completes staff presentation. I'll address any questions you may have.

DAVID MOON: The first speaker is Fred Caruso. He is the property owner.

Chair Parks swears in Fred Caruso,

FRED CARUSO: My name is Fred Caruso and I live at 7694 Heriot dr. in Fayetteville. Sirs and ma'ams of the Board, I want to provide some background for purpose of project and request for variance. It is that my mother-in-law, Flora Martin, she's in her 93rd year, has limited mobility due to age and a chronic heart condition that has been verified by her physician, who has previously authorized handicap parking authorization for those who transport her because of her mobility and her ability to live independently has deteriorated to the point that she requires assisted living care in our home or in homes of relatives. In our home, we're the family that, as her condition deteriorates, that will be her primary residence. We're not there yet, but we will unfortunately be there in the next year or two. Our 2-story home

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with all bedrooms upstairs and lack of handicap bathrooms is a serious hardship for her. Adding to that is my brother-in-law, age 73, is currently undergoing treatment for a malignant brain tumor diagnosed in October of last year. The treatments have caused balance issues and significant fatigue. The prognosis for his condition is also one of progressive deterioration over the next few years. The second-floor stairs and lack of handicapped bathroom in the home will pose serious hardship for him. For this reason, we want to convert that existing 24x24, one story detached garage into a 2 bedroom, 1 story handicap apartment and have employed a professional architect, Mr. Charles Smith of Fayetteville, and he has designed the apartment and handicap bathrooms to be a 5x19 foot extension out the rear of the existing structure. The structure was planned to be redesign 2-bedroom handicap apartment. We cannot extend out the front of the design structure due to the location of a reserved septic field. The rear expansion is really the best place, but that will encroach about five feet in to the current 35-foot setback rule. Currently the setback is 30 feet because the rules changed since the garage was put in. Anyway, this rear setback will be encroached on by 5 feet this was discussed with and approved by our rear boundary neighbors, Scott and Leslie Rolstan, we discussed it with them and they sent me the documentation I have here that says: "Fred- all is well. Please move forward with taking care of grandma. No problem from our standpoint, sir". So, they're ok with it, there's also a 30 foot screen or actually 30 ft tall screen of Leland Cyprus on the back of the property so without the encroachment if you're looking at the rear of the property or anywhere around, you wouldn't really see the difference. And so that's part of the reason we're applying for the variance that we think and I can expand further if I don't go over time, if you'd like to address those criteria that we're asking for the variance based on the reasonable accommodations with those with disability.

CHAIR PARKS: I don't think you need to go any further. I think we're gonna get the variance for you, Mr. Moon, we can do that, and I think you're fine, good job, hope your mother-in-law, mother is well and-

DAVID MOON: Chairman will need action by the board granting the variance using his information as your reasoning, but also say he did present conditions peculiar to the property such as the location of the septic preventing his ability to expand the building to the south towards the house.

ROBERT HASTY: In the motion, incorporate Exhibit H because it addressed all four criteria.

KENNETH TURNER: I make a motion to approve the request made by Mr. Caruso on the conditions to his property as a result of both the site limitations that require it be added to the rear garage as well as it certainly meets the req we have for the findings of fact primarily with the disability issue-

ROEBRT HASTY: Exhibit H.

KENNETH TURNER: Incorporating Exhibit H into the motion.

CHAIR PARKS: Do I have a second?

VICKIE MULLINS: Seconded.

	IN FAVOR
PARKS	YES
TURNER	YES
LUCAS-MOORE	YES
DAVIS	YES
MULLINS	YES

The motion to approve case BOA-21-0011 passed unanimously.

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Chairman Parks read the case heading for Case No. MOD-0015-22

Case MOD-0015-22: Modification to Special Use Permit No. P19-03-C to increase the site area, building floor area and parking space for an assembly use from one acre to approximately 6.77 acres in an RR Residential Zoning District; located at 509 Old Vander Road; Cumberland County, submitted by Craig Johnson (owner)

DAVID MOON: Our next case this evening is a request to modify an existing Special Use Permit. This is case MOD 0005-22. The location of the property is 509 Old Vander Rd. This shows you the location of the property on the east side of Old Vander Road. The existing special use permit covers one acre on the south side of the designated property, it's two parcels. The northern parcel is just over five acres so the combined area of this modification of special use permit is 6.77 acres, the zoning of the area and assigned to the property is RR residential which typically calls for a minimum lot size of about a half an acre and then there is the R15 to the south, A1 to the southwest, R15 minimum lot size of 15,000 square feet and A1 minimum lot size of two acres. The property owner requests to modify the special use permit number 19-03c to increase the site building site area, the building area, and the parking area for an assembly use on that 6.6 acres. On sept 19 2019 the boa approved a special use permit to allow an assembly use permit on a parcel with one acre. In addition to the special use zoning and the development conditions, the BOA also approved a special use site plan that shows a 500 square foot existing building with a proposed building that'll be shown in the new plan. The proposed modification to the special use permit proposes the following general changes: to increase the land use coverage for the special use from one acre to a total of 6.77 acres to increase the building floor area from one building with 1800 square feet to two buildings with a total of approximately 8,000 square feet to increase the number of proposed parking spaces from 44 to 110 spaces; to increase the number of outdoor pavilions from one to three. Here's the aerial photo showing the subdivision layout in the vicinity of the area. As I mentioned before, the property is zoned RR with a special use, an assembly use a community use is allowed if granted by the BOA. The soils on the property do indicate hydric inclusion soils, potentially exist on the east side of the property. What that means is the vegetation and the soil types might indicate there could be hydric conditions, but it needs further soil evaluation that would occur at the time of site construction. The site is currently served by water and sewer. There is water and sewer avail to the north at t the time of the site plan application and/or going per application. There could be consideration requirements for extending water and sewer lines to the property. That call would be made by others. In terms of the future land use plan, it is located in the Vander Land Use Plan with an area that is proposed for suburban density residential. What you see before you now on the screen is the comparison on the proposed special use site plan and the existing special use site plan. The existing special use site plan basically takes up that southeast corner of the property and you'll see the under the proposed the expansion, proposed expansion by the property owner and applicant. Here is a picture of the existing site, there is another picture of the subject site, here's the south view along Old Vander Road, the west view, the north view. For a special use permit there are four criteria that are a little bit different than the variance criteria but there are four criteria that the applicant must demonstrate to qualify for the special use or the modification of the special use permit. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended. The use meets all required conditions and specifications, the use will maintain or enhance the value of adjoining or abutting properties or that the use is a public necessity and then finally the location or character of the use if developed according to plan, as submitted and recommended will be in harmony with the area in which it is to be located and general conformity with Cumberland County's most recent comprehensive plan. Further, if the BOA approves the request for the modification for the special permit, there is a lengthy list of conditions that will be part of the recommendation. So, those conditions are incorporated in your staff packets, I'm not going to go into the detail of those conditions, but they address the next steps the applicant must meet if he expands the use of that community assembly activity. They also involve comments from state agencies like the DOT and other departments of the county such as the Health Department so the applicant will have to comply with those conditions. He is somewhat familiar with them because they are basically the similar conditions that were imposed on him with the first application. That concludes my presentation other than that then if your motion is to

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approve you also make it subject to the site plan that's been presented to you this evening. I'll address any question that you may have.

CHAIR PARKS: Can you call who's speaking for him tonight?

DAVID MOON: The first speaker who's speaking is Craig Johnson. He is the property owner and the operator of the community organization that is functioning at this site.

Chair Parks swears in Craig Johnson.

CRAIG JOHNSON: My name is Craig Johnson, I live at 1454 Old Vander Road, Fayetteville, North Carolina 28312. Good evening, ladies and gentlemen of the Board, like I said, my name is Craig Johnson. I own and operate a 501c tax exempt nonprofit org. this org is a thriving part of the community since the year 2015. Our nonprofit is comprised of all retired military personal.

CHAIR PARKS: Turn off the microphone please. It's a 501c, what's that 501c called?

CRAIG JOHNSON: Called Fall In MC Inc. find and live a life in need and make change. Our nonprofit is comprised of all military personnel whom all have a common desire to give back help others give back to the community. Our mission is to help aid, assist, educate and support the less fortunate in the community. We sponsor and support the following programs: Betty Mae Johnson scholarship program, the Smile for the Cure for breast cancer, the JW Seabrook elementary school supplies teacher backpack program, the Prostate Cancer Awareness Golf Tournament, Feed the Homeless & winter coat program, Thanksgiving basket & food drive, Toys for Tots, Polar Bear Food Drive, all in support of Second Harvest Food Bank. Since 2017, we've donated to the community a little over \$87,000. The reason we are coming before you today for modification is because we are growing. The land to the left of us was presented to us and we purchased it and actually need it for parking and immediate use.; however, the building, since we are growing, we want to establish a community center to give back to the community. Thank you for allowing me the opportunity to present this evidence to be considered for the modification special use application. Hopefully, granting an approval, you will find that in finding 1: that the modification will not endanger the public health and safety, the of additional parking requirement will not interfere with any erosion or adjacent property damage. The modification, if approved, will continue to meet the existing special use permit. Finding 2: this is a rural land expansion of the previously approved special use permit. The special use modification will continue to meet the required conditions if we used the modifications for immediate parking use, and if the future proposal for the community center and pavilion for future growth of our nonprofit. Finding 3: the requested modification use of the existing special use permit will be used for the same purpose, and will not cause damage to the adjoining or abutting properties if approved. The use is not a public, the use is not a public necessity, and will be used in the same purpose as previously approved on the special permit. Finding 4: we will continue to be in harmony with the area in which it is to be located and to be in compliance with land use plans as the site plan reflects. If the modification permit is approved, it will provide additional parking spaces and greatly enhance the nonprofit's ability to continue to help our community. Currently there are no buildings on the 5.77 land. Thank you in advance for your time and your attention and consideration for this approval.

CHAIR PARKS: Uh your organization, this is a community center you're going to build is that right?

CRAIG JOHNSON: Yes, sir.

CHAIR PARKS: And right now, that one house, if you would flip that back Mr. Moon, that one house is your community center.

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CRAIG JOHNSON: Yes, sir, that's an old, old picture it doesn't look nothing like that now.

CHAIR PARKS: Oh, it doesn't? It's an old picture?

CRAIG JOHNSON: Yes, sir, it's an old picture. Probably 83.

CHAIR PARKS: Mr. Moon, when we go out and take these pictures of the sites?

DAVID MOON: Yes, it would be a recent picture.

CHAIR PARKS: It would be, wouldn't they?

DAVID MOON: Yes.

CHAIR PARKS: Why not? He's saying this picture is from 83.

CRAIG JOHNSON: No, that picture that's the yellow building, ok that's current, I was sitting back there it looked like the old yellow building. So that's current.

CHAIR PARKS: That was the last case.

CRAIG JOHNSON: Ok.

CHAIR PARKS: That was the yellow vinyl building.

CRAIG JOHNSON: Ok, that's current.

CHAIR PARKS: This is current.

CRAIG JOHNSON: Yes.

DAVID MOON: Yes.

CHAIR PARKS: So, this is kind of like the community center?

CRAIG JOHNSON: Yes, sir.

CHAIR PARKS: Do you all hold religious things on Sundays like church Sunday school?

CRAIG JOHNSON: No, we do have fish fries, cancer breast cancer awareness month. For example, this last October, the first Saturday in October, we have a fundraiser. The first Saturday in October we host a breast cancer awareness event. We'll find somebody from the church or from Cape Fear Cancer somewhere that's on hard times and we do a big outside festivity for them and this year I think we donated 2000 to the recipient this year.

CHAIR PARKS: Wonderful. Sounds good, yea I was just asking about that. So you'll have a bigger center, have more parking so you can do a better job.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

CRAIG JOHNSON: Yes, sir.

CRAIG JOHNSON: I will tell you that the parking, the land, we really need it for parking because we have drive through fish fries, stop one way in, we just wanna keep moving keep going. The goal is to have those pavilions and community center up and running for the community.

CHAIR PARKS: Okay, questions?

ROBERT DAVIS: All the tax write ups on those forms, in other words, when they do the modification all the other types like how many parking spaces they can have and how many handicap they can have, all that's in the attachment you were talking about. The requirements for the –

DAVID MOON: Correct, this is what's called a special use site plan, there'll be a more detailed site plan that will be required when he proceeds toward development of the property. That detailed site plan has to be consistent with the special use site plan as well as the zoning code and development standards of the county.

CHAIR PARKS: Alright, do I have a motion?

DAVID MOON: If I could interject, include in your motion that if it is to approve that you're also approving the site plan and conditions of approval.

CHAIR PARKS: Mr. Turner.

KENNETH TURNER: I make a motion that we approve the variance as requested to include the site plan presented to us tonight.

CHAIR PARKS: And also meet the conditions-

DAVID MOON: Of approval-

KENNETH TURNER: Meet the conditions of approval. I'm not sure what else to say to make sure we get everything?

ROBERT HASTY: Could say that, uh, criteria are met based on the evidence presented by the speaker.

KENNETH TURNER: Yes.

MARVA LUCAS-MOORE: I second.

	IN FAVOR
PARKS	YES
TURNER	YES
LUCAS-MOORE	YES
DAVIS	YES
MULLINS	YES

The motion to approve case MOD-0015-22 passed unanimously.

Chairman Parks read the case heading for Case No. WSD-0001-21:

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

Case WSD-0001-21: Watershed High Density Development Site Plan, for a 10,000 sq. ft. Gymnasium, located at 7455 Ramsey Street, Cumberland County; submitted by 4D Solutions (agent) on behalf of Northview Baptist Church (owner)

DAVID MOON: This property is located on the north central side of the county along Ramsey Street. Particularly, more particularly 7455 Ramsey Street. You'll see on this map of the county there are several large blue shaded areas. Those are referred to as watershed protection areas. This property lies within the one at the north central area of the county. These watershed protection areas are shaded in blue. The county adopted an ordinance called the watershed protection ordinance that was required by, and is consistent with, some state mandates on watershed protection. The intent of the Watershed Protection Ordinance is to assure improved ground water percolation, improve water quality, water quality that is percolating and flowing in to the water system. So the development within the Watershed Protection Ordinance has to meet a specific set of standards that isn't applied to areas that are not within the Watershed Protection Ordinance. The application this evening WSD-0001-21 is a watershed site plan that is subject to the special watershed criteria. The property owner and applicant is the Northview Baptist Church. And they're requesting approval by the BOA for the site plan. They hired an engineer to prepare a special storm water plans for the site, which you'll see shortly. Regarding the area surrounding the Northview Baptist Church there on the west side of Ramsey Street, the zoning is PND, which is a defunct zoning category that falls back to the R7.5 zoning requirements. A religious worship center is a permitted use within residential zoning. This shows the surrounding uses, which are single family residential, vacant cleared lots, some farmland and then the church as an institutional use. Somewhat between areas that are within the city of Fayetteville, it's a pocket with city lines further to the north and to the south. The soil conditions show that it does not have hydric soils or hydric inclusion soils on the property. There is a water line in front of the property but there is presently no central sewer that's available. The property is located within a low-density residential land use designation of the Cumberland County Land Use Plan. The use is consistent with the future land use plan. Now on the screen before you is the site plan that was prepared by the civil engineer hired by the church. Together with several documents that are included in your package, I'm not gonna go through the detail of those, I'm not a qualified civil engineer. I'll let the civil engineer, Scott Brown, testify, but in your packages is a hydric soil and utility study of the supporting documents you'll find the storm water engineering plan, storm water calculations, and other information that is required by the Watershed Ordinance. The purpose of the BOA review is the code requires that it goes above the staff in the case of what's called a high-density development review. There are two categories of watersheds, there's what's called low-density review and high-density review. The standard for low-density is that no more than 24% of the parcel can have impervious surface, what's called the built upon area, be like the building, the parking, sidewalks, water can't flow into the ground on the impervious surface, so that's called the built-up area. No more than 24% can be covered; however, a property owner can choose to go into the high-density which means instead of using the ground as a means for percolation for water for stormwater, they can build stormwater facilities that typically meet higher standards than are required for others in the county. So, their engineer in response to the high-density development standards, prepared that stormwater plan. Under high-density development, that built upon area can go up to 70%, they've proposed 27.6% of the land area will be impervious, built upon. So, they're below that 70%, but they exceed the 24% requirement for low-density which forces them to go into the high-density design. In summary, the high-density requires on site stormwater facilities, retention ponds, detention ponds, whereas the requirements aren't as stringent under low-density. That concludes staff's presentation. I'll let the applicant come forward, their engineer Scott Brown, testify whether his plan and the information he's submitted complies with the Watershed Protection Ordinance as a high-density development.

CHAIR PARKS: May I ask one question?

DAVID MOON: Mhm.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

CHAIR PARKS: Since none of us are, or I don't think any of us are stormwater experts, hydraulic engineers, or whatnot, all the math and all the stuff has been approved by city for this?

DAVID MOON: Not by the city.

CHAIR PARKS: The county.

DAVID MOON: Ultimately, it would be reviewed by the Department of Environmental Quality, DEQ, but I'll let the engineer explain what additional review the property has to go through with the state.

CHAIR PARKS: Alright, ok I'll let him tell me some more and then I'll ask another question.

Chair Parks swore in Scott Brown.

SCOTT BROWN: Scott Brown, 409 Chicago Drive, Suite 112, Fayetteville, NC. As Mr. Moon mentioned, we are here tonight requesting approval of the watershed ordinance to go above the low-density requirements. He did a good job explaining the difference between low-density and high-density. Because the church is currently sitting about 21% with the parking, and the sidewalks, and the footprint of church itself, and the church is desiring to build a gymnasium educational type building on the back according to the site plans that you have in front of you. It'd be off to the back right corner of the church as you're standing on Ramsey Street looking back at Ramsey Street. We have been working with staff several months trying to get this thing worked out as to what we have to do, what we don't have to do, and with several staff changes in Planning so it seems like it's been one delay after another. So hopefully with Mr. Moon's help, and the Board's, we can get this thing wrapped up and the church underway on being able to build that additional building, that educational building and gymnasium. If you've got your site plan, you'd look there on sheet 2.0, you can see that the predevelopment conditions are 21.1% and we are proposing to bring that to 27.6% with the addition of that building. And with the addition of that building, we have triggered gone over 24% so we have to design stormwater retention on site in accordance with NCDEQ MDC Stormwater Manual. And what you have, if you look along the northern property line between the proposed building on the northern property line, is a 100x30 foot infiltration basin. I know these are probably big sounding words for some of ya'll, but basically what it is is a 2 foot hole in the ground. Its 2 foot deep, it'll be grassed over so there's no danger and nobody falling in or having to have rails over it to get hurt so that you can step in and step back out of it, and it is designed to hold the stormwater for a one year storm event, which is what the MDC design standards are, and in accordance with the County's Watershed Ordinance and that system is designed to infiltrate into the ground over a 2-5 day period is what the MDC Manual requires us to size these basins for. And if you'll flip over to sheet 3.0, all the water from this proposed gymnasium will be collected by a pipe system, from downspouts to gutters, and dumped into that infiltration basin allowing to infiltrate back into the ground, and in the event that a big storm occurs, there is a 1/2 foot emergency spillway on it that'll let it flow over the remainder of the grass field. But its designed in such a way that its not so expensive for the church, it's grass so the church'll still be able to use it to operate and still be able to have activities and outside activities in that area so they'll be able to utilize it for that purpose, like I said it's only 2 foot deep it's gonna be grassed over, there's nothing they can't work with and still work around. The calculations have been submitted to the County for review and approval, because this site is listed disturbed area is listed 1 acre, we do not exceed 1 acre of disturbance, it does not go to NC DEQ for stormwater or erosion control, and that was one of my arguments with Planning staff is the way the Ordinance is written, you have to trigger that 1 acre disturbed area to get a water supply watershed permit is even required. It was my opinion and argument that since we were less than 1 acre disturbed area, we don't even need a watershed permit, but I didn't win that, it was back and forth because it was some agreement when the church was originally built that any future expansion future addition would have to go back before the watershed permit, so that's why we're here tonight asking the Board to grant approval of the exceedance of the 24% that the plans, I will certify and have certify, I've signed the plans, signed the calculations, and I've told Mr. Moon that when the project



Board of Adjustment

was completed we'll do as built drawing on the area and certify it was built in accordance to how the plan was designed.

DAVID MOON: Mr. Brown, what is your professional certification?

SCOTT BROWN: I am a professional engineer in the states of NC, SC, and VA.

DAVID MOON: Thank you.

SCOTT BROWN: Licensed professional engineer, I've been practicing for the last 25 years, so this is not my first one. I've done many of these, like I said that's what's needed in order to satisfy the ordinance requirements has got to the point the church, it's not gonna be an eyesore its not gonna be one of the ones where it's a cesspool and mosquito bed. It'll infiltrate in the ground and it'll be grassed over and I'm asking tonight that based on staff's review, based on this the board grant approval of this water supply watershed protection permit so the church can request its building permit and get this thing off to the races.

DAVID MOON: Mr. Brown, based on your professional certification, would you determine that your plan and the stormwater management plan comply with the high-density protection requirements of the Watershed Ordinance?

SCOTT BROWN: Yes sir, I would attest and certify to that.

CHAIR PARKS: Any other questions for Mr. Brown?

CHAIR PARKS: Do I have a motion?

KENNETH TURNER: I make a motion to approve the watershed density-

DAVID MOON: You would want to include in your motion, if its approved, that you're approving the site plan, what's called the watershed high density site plan, subject to the conditions of approval and that you find the site plan is consistent with the Watershed Protection Ordinance based on the supporting documents provided by the owner's professional engineer.

KENNETH TURNER: What Mr. Moon said.

CHAIR PARKS: Mr. Turner agrees with Mr. Moon and puts in that information. Now, do I have a second to that motion?

VICKIE MULLINS: Seconded.

	IN FAVOR
PARKS	YES
TURNER	YES
LUCAS-MOORE	YES
DAVIS	YES
MULLINS	YES

The motion to approve case WSD-0001-21 passed unanimously.

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



Rawls Howard
Director

David Moon
Deputy Director

Board of Adjustment

10. DISCUSSION/UPDATE(S)

DAVID MOON: We still, in the near future, need to vote to select a Vice Chairman. So, the next time the BOA meets we'll include that in part of the discussion and hopefully action.

ROBERT DAVIS: Did we get a vote to adjourn the meeting?

DAVID MOON: We closed the meeting, and I didn't include that in the agenda.

CHAIR PARKS: We didn't get a vote for adjournment.

Robert Davis was nominated for Vice Chairman. It will be voted upon at the next meeting.

Meeting adjourned at 7:10 pm.

Greg Parks, Chairman

Alyssa Garcia, Senior Admin. Support Spec.