

**TOWN OF SILER CITY BOARD OF ADJUSTMENTS**

The Siler City Board of Adjustments met in Regular Session on **Monday, February 12, 2018** at 6:35pm in City Hall Courtroom with Chair Hudson presiding. Andrews gave the invocation with the recitation of the Pledge of Allegiance following. Meadows recited the Town of Siler City Mission Statement and Vision Statement.

**MEMBERS PRESENT:** Darrell Andrews, Curtis Brown, Butch Hudson, Linda Kolpack-Martindale, Randy Parks, and Ann Radcliffe.

**MEMBERS ABSENT:** Albert Alston, Guile Contreras, and Steve Crotts.

**TOWN STAFF PRESENT:** Town Attorney William Morgan, Planning Director Jack Meadows, and Administrative Support Specialist Tammy Livermore.

**AGENDA ADJUSTMENTS/APPROVAL OF AGENDA**

*A motion to approve the agenda as presented was made by Brown, seconded by Andrews and unanimously approved.*

**CONSENT**

*A motion to approve the consent agenda which includes July 10, 2017 Minutes was made by Parks, seconded by Brown and unanimously approved.*

**OLD BUSINESS**

None

**NEW BUSINESS**

**Opening Statement and Procedure for Holding a Public Hearing**

Meadows read the following open statement:

The Zoning Board of Adjustment handles four types of matters. It hears applications for variances, requests for special use permits, review for special exception permits, and appeals from decisions by Town staff.

A hearing before the Zoning Board of Adjustment is quasi-judicial in that the Board functions much like a court of law. Witnesses appearing before the Board will be sworn in and, being under oath, will be held accountable.

The purpose of an evidentiary hearing is to gather facts, not to solicit citizen opinions. The Board of Adjustment must do two things. First, it must determine the facts of the case. Second, it must apply the standards in the Unified Development Ordinance, sometimes referred to as the UDO, to those facts.

In quasi-judicial decisions, this Board must act much like a court to apply the UDO to the facts of a specific case. The purpose of the hearing is to gather legally acceptable evidence in order to establish sufficient facts to apply the appropriate ordinances. The questions before the Board will be whether the proposal or zoning administrator's decision meets the standards in the ordinance, not whether it is popular among the citizenry.

Although a hearing before this Board is somewhat less formal than a courtroom trial, it is expected that all participants will observe the basic decorum one would expect in a court of law, showing respect for the Board and all other participants. The Board chair can terminate the testimony of anyone who

violates this principle, or who is offering immaterial, irrelevant, redundant or legally impermissible testimony.

All witnesses desiring to offer testimony before the Board must have standing. Standing refers to who has the right to participate in the hearing and support or contest the issuance of a permit. Not all persons in the community automatically have standing just because they happen to be residents, know the applicant or have an opinion on the case. The North Carolina General Statutes specify three categories of persons or entities with standing: (1) Those who applied for approval or who have a property interest in the project or property, including, but not necessarily limited to: the applicant; owners, lease holders, and option holders; (2) the local government's staff; and (3) other persons who will suffer special damages as a result of the decision, such as an adjacent property owner who contends the decision will adversely affect the value of his or her property.

Finally, persons with standing may be allowed to call expert witnesses in appropriate cases. For example, the General Statutes now require expert testimony on the issues of the effect of a development on neighborhood property values and on the effects of traffic. As to these two issues, the Board cannot rely on the opinion testimony of lay witnesses.

Following the public hearing, the Board will deliberate and announce its decision. Later, that decision will be reduced to writing and distributed to the applicant and others who have requested a copy in writing with the Department of Planning and Community Development.

Special Use Permit – 131 Carter Brooks Rd – Solar Farm

Hudson requested a motion to declare the public hearing open.

***A motion to open the public hearing for Special Use Permit – 131 Carter Brooks Rd – Solar Farm was made by Brown, second by Kolpack-Martindale and unanimously approved.***

Hudson stated since we have at least six Board of Adjustment members present, therefore we have a quorum.

Meadows read the legal notice of the subject case.

Hudson stated that the public was notified by ads in the Chatham News two weeks prior to the hearing, adjoining property owners received letters, and a sign was posted if applicable.

Hudson asked if there any exparte communication disclosures from Board members? All present answered no.

Hudson asked if there are any possible conflicts and do all Board members think they can rule fairly and impartially? All present answered no.

Hudson stated if the Board of Adjustment is interrupted, disturbed, or disrupted, then the Board of Adjustment by majority vote can order the person to leave the room.

Hudson asked all persons who have standing in the subject case and wish to testify please come to the front of the room.

The following came forward:

Jack Meadows	907 Woodland Drive	Siler City, NC 27344
Keith Herbs	5912 Hollow Wood Ct	Winston Salem, NC 27104
Richard Morin	104 Isabella Avenue	Washington, NC 27889
Emily Gross	6428 Roselawn Road	Richmond, VA 23226

Hudson then administered the following oath:

“Do you solemnly swear or affirm that the testimony and information you are about to give is true and accurate to the best of your knowledge?” All present answered yes.

Hudson asked the Town of Siler City Director of Planning and Community Development to present a summary of the case.

Meadows stated that Keith W. Herbs (United Renewable Energy) requests a special use permit for a solar farm. The subject property is identified as 131 Carter Brooks Rd. & parcel # 14635. The subject property is:

1. owned by William H. Purvis;
2. located within the Agricultural-Residential (A-R) zoning district;
3. located outside the Town’s Corporate Limits;
4. located within Central Chatham and South Chatham fire districts;
5. located within the Central Electric Membership Corp. service district;
6. not located within a watershed protection area; and
7. not located within a special flood hazard area.

Meadows shared the size of tract:

1. Subject tract is 104.9 acres and includes 1 property owner and 1 tax parcel
2. Size of surrounding tracts is an average of 38.6 acres

Meadows shared the compatibility with existing Comprehensive Land Development Plan:

1. Rural residential development for the subject property. These are areas of very-low density development that are either environmentally-sensitive or are located beyond the anticipated utility service area of the Town. Minimum lot sizes in these areas are typically 1 acre or greater. Agriculture and forestry uses are common in these areas.
2. Rural residential objectives:
  - a. Limit impacts of development of the environment and promote sustainability.
  - b. Improve the appearance of properties.
  - c. Permit residential development at a density in keeping with the rural character of areas surrounding the Town.
  - d. Limit Town provision of public infrastructure such as water, sewer, and road improvements in areas designated as rural.
  - e. Encourage agricultural use of the land

- f. Encourage efficient use of transportation networks.
- 3. Rural residential strategies:
  - a. Urban development densities should be restricted to areas in which sufficient water and sewer service is available.
  - b. Preserve the existing density and scale of development in established residential neighborhoods by excluding the introduction of intensive, non-residential land uses into such neighborhoods and by avoiding the rezoning of established residential areas to a higher density.
  - c. Encourage in-fill development in established residential areas.
  - d. Preserve the existing housing stock by vigorously enforcing the minimum housing code and providing financial assistance to rehabilitate and stabilize deteriorating housing.
  - e. Promote cluster development with usable open space and amenities.
  - f. Ensure quality aesthetics in developments through appropriate landscaping, lighting, parking, and signage standards.
  - g. Develop driveway regulations to require access from service drives, prevent multiple driveways on a single lot, and control the spacing of driveways.
  - h. Develop specific standards for those properties abutting major highway corridors, to place more stringent controls on building setbacks and height, vehicular access, sign size and location, and buffering of parking and service areas.
  - i. Designate areas of the Town's planning jurisdiction as growth areas and give priority to utility extensions in those areas.
  - j. Expand the greenway system of trails for bicyclists and pedestrians, and the Town's sidewalk network, in accordance with the Town's Pedestrian Plan.
  - k. Develop a planting plan for street trees along public rights-of-way.
  - l. Promote land uses that are compatible with the future growth and development of Siler City Municipal Airport.
  - m. Modify the development ordinances to be more user friendly where possible.
  - n. Implement recommendations from the Town's 2016 Natural Resource and Conservation Study.
  - o. Prevent the conversion of residences to other land uses unless such conversion will assist in stabilizing the large residential neighborhood or unless such conversion will preserve the unique quality or architectural significance of residences.

Meadows shared the property is served by private water and private septic system. Street/road frontage:

Street/Road	Road Frontage (feet)	Travel Lanes	Pavement Width (feet)	Maintenance	Speed Limit (mph)	Average Daily Trips
Carter Brooks Rd	1,380	2	17	State	55	NA
US 421	13,000	4	26	State	60-65	13,000 (2016)

Meadows shared the impact on landowners, immediate neighbors, and surrounding community Proposed:

1. Common photovoltaic solar panels which contain crystalline silicone solar cells protected by tempered glass
2. Panels are 78.5" long x 39.4" wide and 8' tall measured from the ground.

3. Point of interconnection is located along US 421
4. Energy generated will be delivered to Central EMC
5. Project has received "Determination of No Hazard to Air Navigation" letter from Federal Aviation Administration
6. ~200 homes will be served by the facility
7. Secured by 6'-7' tall chain link fence with slats and an additional 3 strands of barb wire on top
8. Gated entrance with one or more motion activated lights
9. Stream crossing approval will be obtained from NCDEQ and/or Army Corps
10. Total area of disturbance is 12.8 acres
11. Proposed imperviousness is 28,116 square feet (5%)
12. Erosion control and stormwater approval will be obtained from NCDEQ. 100' feet vegetative buffers are shown for perennial waters and existing ponds
13. 15' paved driveway turnout from the edge of Carter Brooks Rd with turn radius
14. Driveway permit approval will be obtained from NCDOT
15. Construction employee parking and unloading area will be provided on site
16. The parking area or access drive will not be lighted
17. Type A opaque screen within a 10 feet wide buffer is required along the entire perimeter of the property. Required bufferyard will be located between the property lines and the chain link fence. Trees (existing/proposed) will be located 50' on center. Bufferyard screen will consist of a 2 layer vegetative planted buffer that will achieve a height of 6' within 3 years.
18. Decommission plan has been provided
19. 12' wide graveled access road from Carter Brooks Rd
20. minimum setback from all adjoining property boundaries
  - a. Required front/street setback is 40'
  - b. Required side and rear setback is 20'
21. In addition, the applicant is proposing a 50' feet setback from entire perimeter of the property.
22. There is no need for sewage disposal facilities, solid waste, or water on site. Chatham County Environmental Health Department approval will be required because of existing private septic systems.
23. The estimated number of construction jobs for this project is 100.
24. The total cost of the project is estimated at \$3,360,000.
25. Construction period is ~ 5 months.
26. 2 employees are expected to visit the site one day per month to complete regular electrical maintenance/inspection and vegetative maintenance.

Meadows shared the relationship of uses:

1. Current use of subject property is single family residential and agriculture.
2. Surrounding land uses include; vacant, forest, church, agriculture, single family residential
3. Surrounded by A-R (Agricultural-Residential) zoning district.

Meadows shared the staff recommendations:

The application is complete. The proposal meets the development criteria of the Unified Development Ordinance. If the Board grants the application, then Staff recommends the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the City Hall; and
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect; and
3. Prior to any work applicant must record the written decision with the Chatham County Register of Deeds, obtain site plan review approval, and obtain zoning permit approval; and
4. Construction employee parking and unloading area will be provided on site; and
5. 50' development (bufferyard, landscaping, fence, panels, etc.) setback from the existing property lines; and
6. Secured by 7' tall chain link fence with slats and 3 strands of barb wire on top; and
7. Required bufferyard will be located between the property lines and the chain link fence. Bufferyard screen will consist of a 2 layer vegetative planted buffer that will achieve a height of 6' within 3 years; and
8. Gated entrance with one or more motion activated lights; and
9. Complete decommissioning of solar energy system per letter received on December 11, 2017.

Hudson stated that the applicant and applicant's witnesses may present testimony and evidence.

Herbs shared information with the Board and stated that he was there to answer any questions.

Hudson stated that any opposing parties may cross examine the applicant and witnesses after the witness's testimony.

1. Gross: Is the solar farm on Snow Camp Road yours? Herbs Answer: No
2. Gross: Who is responsible for the sediment grading? Herbs Answer: The way the land is existing there should be no grading required. Beyond that we will install erosions control measures.
3. Morin: Who is responsible for monitoring the site? Herbs Answer: North Carolina Government.
4. Morin: How long is the lease? Herbs Answer: Thirty years with multiple extensions.

Hudson stated that the Board of Adjustment Members may ask questions of opponent and each witness after the witness's testimony. The Board asked the following questions:

1. Martindale: How many projects to do you foresee being available in the area? Herbs Answer: It is hard to say. We do not have good visibility to that in terms of what is viable.

Hudson asked if there were any opposing parties present. No one came forward.

Hudson asked if there were any more questions from the Board of Adjustment Members.

Hudson requested a motion to declare the public hearing closed.

***A motion to close the public hearing for Special Use Permit – 131 Carter Brooks Rd – Solar Farm was made by Brown, second by Kolpack-Martindale and unanimously approved.***

Hudson directed the Board of Adjustment Members to the worksheets.

Prepared by: Tammy S. Livermore, Administrative Support Specialist

***A motion that the application for a Special Use Permit – 131 Carter Brooks Rd – Solar Farm is complete was made by Parks, seconded by Kolpack-Martindale and unanimously approved.***

***A motion that the application for a Special Use Permit – 131 Carter Brooks Rd – Solar Farm complies with all applicable requirements of the Unified Development Ordinance was made by Brown, seconded by Andrews and unanimously approved.***

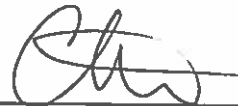
***A motion that the application for a Special Use Permit – 131 Carter Brooks Rd – Solar Farm is granted, subjected to the following conditions: the applicant shall complete the development strictly in accordance with the plans approved by the Board, a copy of which is filed in City Hall, if any conditions affixed hereto or any part thereof shall be held invalid or void and of no effect, and the conditions recommended by Staff was made by Andrews, seconded by Brown and unanimously approved.***

**BOARD MEMBER COMMENTS**

None

**ADJOURNMENT**

With no further business the Planning Board adjourned at 7:20pm.



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Butch Hudson, Chair

**ATTEST:**



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Tammy S. Livermore, Administrative Support Specialist