

TOWN OF SILER CITY BOARD OF ADJUSTMENTS

The Siler City Board of Adjustments met in Regular Session on Monday, July 9, 2018 at 6:30pm in City Hall Courtroom with Chair Hudson presiding. Alston 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: Albert Alston, Curtis Brown, Guile Contreras, Butch Hudson, Randy Parks, and Ann Radcliffe.

MEMBERS ABSENT: Darrell Andrews, and Linda Kolpack-Martindale.

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 Parks and unanimously approved.

CONSENT

A motion to approve the consent agenda which includes March 15, 2018 Minutes was made by Contreras, seconded by Brown and unanimously approved.

OLD BUSINESS

None

NEW BUSINESS

Opening Statement and Procedure for Holding a Public Hearing

Hudson 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.

Variance – 590 & 608 Stockyard Rd – 2 manufactured home single wide
Hudson requested a motion to declare the public hearing open.

A motion to open the public hearing for Variance – 590 & 608 Stockyard Rd – 2 manufactured homes (single wide) was made by Parks, seconded by Brown 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
Natalia Lopez	Estelle Drive	Siler City, NC 27344
Jose S. Lopez	Estelle Drive	Siler City, NC 27344
Jose Rafael Franco	908 North Avenue	Siler City, NC 27344
Rosa Arroyo	112-A John Henry Drive	Siler City, NC 27344
Clyde Watson	565 Stockyard Road	Staley, NC 27355
Mary Watson	565 Stockyard Road	Staley, NC 27355
Roy Eubanks	618 Stockyard Road	Staley, NC 27355

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 Jose Lopez & Enrique Lopez Franco requests a variance from §113(e) to locate 2 manufactured homes (single wide) on 2 existing nonconforming lots. The subject properties are identified as 590 & 608 Stockyard Rd. & parcel # 82019 & 61247. The subject property is:

1. owned by Willie & Carol G. Eubanks;
2. located within the Agricultural-Residential (A-R) zoning district;
3. located outside the Town's Corporate Limits;
4. located within Central Chatham fire district;
5. not located within a watershed protection area; and
6. not located within a special flood hazard area.

Meadows shared the size of tract

1. Subject tracts are 28,377 & 28,679 square feet and include 1 property owner and 2 tax parcels
2. Size of surrounding tracts: average of 9 acres

Meadows shared the compatibility with Existing Comprehensive Plan (items below that are ***bold and italicized*** may be selected as reasons why the proposed amendment is consistent with the land development plan)

The Land Development Plan recommends:

1. ***Medium density residential development for the subject property. These are areas of residential development, typically single-family structures, with minimum lot sizes of approximately ¼ acre or greater.***
2. Limit impacts of development of the environment and promote sustainability.
3. ***Encourage development to occur in areas with existing or planned infrastructure such as water, sewer, roads, and sidewalks.***
4. Improve the appearance of properties.

5. Permit residential development at a moderate density that is consistent with historical development patterns in the Town.
6. Maintain the integrity of existing neighborhoods.
7. Promote walkable, interconnected neighborhoods.
8. ***Encourage the development of affordable housing.***
9. Encourage provision of recreation and park land for Town residents.
10. Encourage efficient use of transportation networks.
11. The portions of the planning region within and near the existing Town limits and not designated as industrial or mixed use areas should be preserved for future residential growth and the extension of public water and sewer to these areas should be a top priority.
12. Urban development densities should be restricted to areas in which sufficient water and sewer service is available.
13. ***Continue to promote a variety of housing types to meet the demand of citizens from various economic levels.***
14. 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.
15. ***Encourage in-fill development in established residential areas.***
16. Preserve the existing housing stock by vigorously enforcing the minimum housing code and providing financial assistance to rehabilitate and stabilize deteriorating housing.
17. Require that as a condition of receiving public water and/or sewer service, all new developments be incorporated into the Town limits.
18. Revise zoning and subdivision ordinance standards to promote interconnectivity of neighborhoods and use of sidewalks.
19. Promote cluster development with usable open space and amenities.
20. Ensure quality aesthetics in developments through appropriate landscaping, lighting, parking, and signage standards.
21. Encourage planned developments.
22. Develop driveway regulations to require access from service drives, prevent multiple driveways on a single lot, and control the spacing of driveways.
23. 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.
24. Designate areas of the Town's planning jurisdiction as growth areas and give priority to utility extensions in those areas.
25. Provide parks and recreation programs to meet the recreation and fitness of all citizens of Siler City.
26. Expand the greenway system of trails for bicyclists and pedestrians, and the Town's sidewalk network, in accordance with the Town's Pedestrian Plan.
27. Coordinate with county schools to look for ways to share recreation facilities and to encourage pedestrian access to schools.
28. Explore the option of allowing developer fees-in-lieu for park facilities and other public facilities.
29. Develop a planting plan for street trees along public rights-of-way.
30. Encourage schools and other public facilities to be located in walkable, convenient locations proximate to high-density areas.
31. Modify the development ordinances to be more user friendly where possible.

32. Develop policies to encourage maintenance of structures.
33. Implement recommendations from the Town's 2016 Natural Resource and Conservation Study.
34. 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 stated the property is served by public water and sewer. Street/road frontage:

Street/Road	Road Frontage (feet)	Travel Lanes	Pavement Width (feet)	Maintenance	Speed Limit (mph)	Average Daily Trips
Stockyard Rd.	190	2	18	State	55	NA

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

1. §113 Nonconforming Lots
 - a. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in § 114 through § 119, then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular zone is permissible on a conforming lot.
 - b. When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (§ 169) cannot reasonably be complied with, then the entity authorized by this ordinance to issue a permit for the proposed use (the administrator, board of adjustment, or town board) may allow deviations from the applicable setback requirements if it finds that:
 - i. The property cannot reasonably be developed for the use proposed without such deviations,
 - ii. These deviations are necessitated by the size or shape of the nonconforming lot, and
 - iii. The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.
 - c. For purposes of Subsection (b), compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
 - d. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with § 116.
 - e. **Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this section. *This subsection shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified***

herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

2. Analysis
 - a. Minimum lot size within the A-R zoning district is 40,000 square feet.
 - b. There are 13 developed lots within 500 feet of the subject properties. 9 of the developed lots are conforming (larger than 40,000 sqft) and 4 developed lots are nonconforming (less than 40,000 sqft). The majority (69%) of developed lots within 500 feet of the subject properties are conforming (larger than 40,000 square feet).
3. Proposed:
 1. 590 Stockyard Rd. (Parcel # 82019)
 - a. Manufactured home, single wide (1981, 13'x52')
 - b. 4'x4' uncovered front and rear decks
 - c. 12'x12' detached accessory storage building
 - d. Use existing driveway
 2. 608 Stockyard Rd. (Parcel # 61247)
 - a. Manufactured home, single wide (1988, 14'x53')
 - b. 4'x4' uncovered front and rear decks
 - c. 16'x40' detached accessory storage building
 - d. 18'x24' detached accessory carport
 - e. Use existing driveway

Meadows shared the relationship of uses

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

Meadows shared the staff recommendation

If the variance is approved, 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; and
4. Obtain stream determination report from the NCDEQ; and
5. Obtain approval from Chatham County Environmental Health if well/septic on site or to permanently abandon well/septic.

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

Franco stated he needed the boards assistance and all the help he can get from the community. He stated he is trying to help his disabled uncle. He is doing the best he can to bring them together to take care of him. Translated by Rosa Arroyo.

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

1. Watson had concerns about keeping the ditch open.
2. Eubanks: How far from the property lines will the proposed buildings be? Meadows Answer: Twenty Feet.

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. Hudson: Mr. Watson has there every been houses on these lots before? Watsons Answer: There was a house next to Eubanks house.
2. Hudson: Do you remember if there is a well on this property? Answer: I do not know if that land had a well or not.

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 Variance – 590 & 608 Stockyard Rd – 2 manufactured homes (single wide) was made by Brown, second by Alston and unanimously approved.

Hudson directed the Board of Adjustment Members to the worksheets.

A motion that unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property was made by Brown, seconded by Radcliffe and unanimously approved.

A motion that the hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance was made by Brown, seconded by Parks and unanimously approved.

A motion that the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship was made by Brown, seconded by Contreras and unanimously approved.

A motion that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved was made by Parks, seconded by Brown and unanimously approved.

A motion that appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance 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; and 4. Obtain stream determination report from the NCDEQ; and 5. Obtain approval from Chatham County Environmental Health if well/septic on site or to permanently abandon well/sceptic was made by Brown, seconded by Parks and unanimously approved.

BOARD MEMBER COMMENTS

None

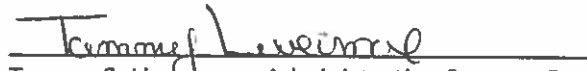
ADJOURNMENT

A motion to adjourn at 7:13pm was made by Radcliffe, seconded by Alston and unanimously approved.



Butch Hudson, Chair

ATTEST:



Tammy S. Livermore, Administrative Support Specialist