

TOWN OF SILER CITY BOARD OF ADJUSTMENTS

The Siler City Board of Adjustments met in Regular Session on **Monday, August 8, 2016** at 6:30pm in City Hall Courtroom with Chair Hudson presiding. Harris gave the invocation with the recitation of the Pledge of Allegiance following. Meadows recited the Town of Siler City Mission Statement and the Town of Siler City Vision Statement.

MEMBERS PRESENT: Curtis Brown, Mary Harris, Butch Hudson, Randy Parks, Linda Kolpack-Martindale and Ann C Radcliffe

MEMBERS ABSENT: Darrell Andrews, Steve Crotts, and Albert T. Alston

TOWN STAFF PRESENT: Town Attorney William Morgan, Planning Director Jack Meadows, Administrative Support Specialist Ashley Moore, and Town Clerk Jenifer Everage.

MEETING CALLED TO ORDER: Meeting was called to order by Hudson at 6:30pm. Harris gave the invocation and Hudson led the Pledge of Allegiance. Meadows read the Town of Siler City Mission Statement and the Vision Statement.

AGENDA ADJUSTMENTS/APPROVAL OF AGENDA

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

CONSENT

A motion to approve the consent agenda which includes the December 14, 2015 Minutes was made by Brown, seconded by Harris and unanimously approved.

NEW BUSINESS

Opening Statement

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.

Parks request a motion to declare the public hearing open, Kolpack-Martindale seconded and unanimously approved. The Chair confirmed that we have at least six Board of Adjustment members present, therefore we have a quorum. Meadows read the legal notice of the subject case. The Chair stated 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. There are no exparte communication disclosures from Board members nor are there any possible conflicts. All Board members think they can rule fairly and impartially. 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.

The Chair requested that all persons who have standing in the subject case and wish to testify please come to the front of the room. The Chair then stated, "Starting from my left, please state your name, address, and how you have standing in the subject case."

- a. Victor Soto Hernandez: Applicant (4535 Old 421)
- b. Edwin Iglara: Realtor and translator for Hernandez (131 S. Birch)
- c. Dorothy Roach: Neighbor (4709 Alston Bridge)
- d. Jack Meadows: Director of Planning and Community Development (311 N. 2nd Ave.)
- e. Robert Roach: Neighbor (4709 Alston Bridge) *sworn in after hearing started at 7:16pm*

The Chair then asked all witnesses that if they agree to be sworn in to please raise their right hand and answer the following question. 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 persons swear.

Town of Siler City Director of Planning and Community Development, Meadows, presented the summary of the case:

Meadows stated that Victor Soto Hernandez request a special use permit to operate a privately owned outdoor recreation facility (soccer fields). The subject property is located at 180 Cross School Rd. and identified as parcel # 14293. The subject property:

1. owned by M3 Properties LLC;
2. located outside the Town's Corporate Limits;
3. located within Siler City fire district;

4. located within the Duke Energy Progress electric service district; and
5. not located within a special flood hazard area.

Meadows shared the size of tract:

1. Subject tract is 14.85 acres and includes 1 property owner and 1 tax parcel
2. Size of surrounding tracts is an average of 9.6 acre

Meadows shared the compatibility with existing Comprehensive Land Development Plan:

1. General residential development for the subject property
2. Residential goals, objectives, and strategies:
 - a. Rural residential: These areas are either environmentally sensitive requiring low density development, or are located physically beyond utility service areas projected over the time line of the plan.
 - b. These areas are suitable for general residential development at densities supported by public utilities
 - c. Promote the development of high quality housing in varying types and costs to meet the demands of all income levels and age groups.
 - d. Maintain the integrity of existing neighborhoods.
 - e. Promote walkable interconnected neighborhoods.
 - f. Permit multi-family residential development at a moderate density with good access to larger thoroughfares.
 - g. Encourage the continual development of affordable housing on individual lots.
 - h. The major residential growth is expected in the southwestern and western portions of the planning region. These areas should be preserved for residential use and the extension of public water and sewer to these areas should be a top priority.
 - i. It is recommended that higher residential densities be restricted to areas in which sufficient public water and sewer service is available.
 - j. Continue to promote a variety of housing types to meet the demand of citizens from various economic levels.
 - k. Single-family residential density is recommended to be at a density of between 2 and 4 units per acre in the general residential category.
 - l. Multi-family residential density is recommended to be no more than 6 units per acre.
 - m. 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.
 - n. Encourage in-fill development in established residential areas. New development should meet yard and dimensional standards of the existing zone as closely as possible.
 - o. Preserve the existing housing stock by vigorously enforcing the minimum housing code and providing financial assistance to rehabilitate and stabilize deteriorating housing. Prevent the conversion of residences to other land uses unless such conversion will assist in stabilizing the larger residential neighborhood or unless such conversion will preserve the unique quality or architectural significance of residences.
 - p. Require that as a condition of receiving public water and/or sewer service, all new residential developments be incorporated into the Town limits.
 - q. Develop a manufactured housing zoning district for manufactured housing parks with appropriate design standards.
 - r. Develop a local street plan to ensure adequate street planning and internal circulation in all developing residential areas.
 - s. Revise zoning and subdivision ordinance standards to promote interconnectivity of neighborhoods and use of sidewalks.
 - t. Promote cluster development with usable open space and amenities.

Meadows stated that the property is served by public sewer (8"). Street/road frontage:

Street/Road	Road Frontage (feet)	Travel Lanes	Maintenance	Speed Limit (mph)	Average Daily Trips
Cross School Rd.	262	2	Chatham County School	35	NA

The pedestrian master plan recommends a multi-use side path along Cross School Rd.

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

2 soccer fields (225' x 360') with approximately 200 people in attendance at one time.

1. Phase 1 – operate only 4 days per week during the day only
2. Phase 2 – operate more than 4 days a week during day and night (install field lights)
3. Parking
 - a. Proposed 100 parking spaces (67 required)
 - b. Proposed 6 handicap parking spaces (4 required)
 - c. Parking space size minimum 9' x 19'
 - d. Drive aisle width minimum 24'
 - e. 10' x 70' sight distance triangles at driveway onto Cross School Rd.
 - f. 25' turn radius
 - g. 100 feet driveway stem is proposed from Cross School Rd.
 - h. Phase 1
 - i. Gravel parking surface
 - ii. Paved apron minimum 15' back from edge of Cross School Rd.
 - iii. Gravel pedestrian path from street to first field
 - i. Phase 2
 - i. Paved parking surface
 - ii. Paved pedestrian path from street to first field
4. Landscaping
 - a. Type A opaque screen along the northern property boundary within 10' wide bufferyard
 - b. 11 shade trees in and around the parking lot
 - c. 5' tree buffer along the southern property boundary
5. Water source – proposed well
6. Restroom facilities are located a minimum of 21' from property line
 - a. Phase 1 – portable restroom
 - b. Phase 2 – permanent restroom facilities
7. Garbage
 - a. Phase 1 – 5 plastic containers no enclosure
 - b. Phase 2 - dumpster with opaque enclosure
8. 30' x 60' gravel area for concession stand/shelter and food trucks
9. Install stormwater grass swale along the southern and northern property boundaries
10. Dedicate 20' pedestrian access easement connecting the school property with Town property
11. Obtain access easement form Chatham County and/or Chatham County Schools to access Cross School Rd.
12. Total cost of construction = \$156,000

Meadows shared the relationship of uses:

1. Current use of subject property is vacant.
2. Surrounding land uses include; single family residential, elementary school, vacant, and Town property.
3. Surrounded by A-R zoning.

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;
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;
3. Record the written decision with the Chatham County Register of Deeds;
4. Obtain NCDEQ approval for stream determination, erosion control and storm water prior to site plan approval;
5. Dedicate 20' pedestrian access easement to the Town connecting the school property with Town property prior to site plan approval;
6. Obtain access easement from Chatham County and/or Chatham County Schools to access Cross School Rd. prior to site plan approval;
7. Obtain Town site plan and zoning permit approval prior to any site work; and
8. Pave parking lot prior to operating more than 4 days per week.

The Board members had the following questions:

1. Parks: What will the hours be?
2. Kolpack-Martindale: What ages would be accommodated?
3. Parks: Who will be using the facility?
4. Parks: Will this be rented out privately? Will there be rules and regulations to follow?
5. Kolpack-Martindale: Will there be concessions? Will alcohol be sold and permitted?

Applicant, Victor Soto Hernandez, shared extra input as to why he wanted to proceed with the new soccer field as well as answered everyone's questions:

1. Wants more sports opportunities for all ages.
2. Applicant is well known in the Spanish community and has been approached multiple times about adding additional fields in Siler City.
3. They are currently running out of space for people to play at the current soccer fields off Coleridge.
4. Will be leagues for kids starting out and then will hopefully expand to older players. Applicant also stated that the fields will be used for leagues and tournaments.
5. Will provide rules and regulations to those who want to use/rent the fields.
6. Hours of operation are not to conflict with school.
7. "Normal" concessions will be sold.
8. NO alcohol will be provided or sold at concession stands.

Mrs. Roach (4079 Alston Bridge Rd) shared the following concerns:

1. Sound barrier/light barrier from cars, field lights, and consumers.
2. People trespassing on their property and especially keeping people away from their animals.
 - a. They don't want a lawsuit if someone gets hurt on their land.
3. Where is the overflow of vehicles going to park after the 100 spaces are full?
4. Will there be a "NO PARKING ON STREET OR GRASS" sign placed anywhere?
5. Will there be trash pickup after games?
6. Will there be a Gate to close off property when NOT IN USE?
7. Who to contact/call when people go on the property when not in use and at what point do they need to call.
8. What time will the fields be closed? What time will the games and the noise stop?
9. Will there be cooking on the premises?
10. Will there be a tree barrier around the side and back of property?
11. Will there be speed limit signs?

Brown made the motion to declare public hearing closed at 7:29pm seconded by Kolpack-Martindale, and unanimously approved

The Chair advised the Board of Adjustment Members to review their worksheets. Below is the results:
A motion that the application for Victor Soto Hernandez special use permit to operate a privately owned outdoor recreation facility (soccer fields), located at 180 Cross School Road and identified as parcel # 14293 is complete was made by Brown, seconded by Harris and unanimously approved.

A motion that the application complies with all applicable requirements of the Unified Development Ordinance was made by Kolpack-Martindale, seconded by Parks and unanimously approved.

A motion that the application for Victor Soto Hernandez special use permit to operate a privately owned outdoor recreation facility (soccer fields), located at 180 Cross School Road and identified as parcel # 14293 is granted, subject to the following conditions: a) 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 City Hall; b) if any of the conditions affixed hereto any part thereof shall be held invalid or void, this this permit shall be void and of no effect; c) Record the written decision with the Chatham County Register of Deeds; d) Obtain NCDEQ approval for stream determination, erosion control and stormwater prior to site plan approval; e) Dedicate twenty (20) feet wide pedestrian access easement to the Town connecting the school property with Town property prior to site plan approval; f) Obtain access easement from Chatham County and/or Chatham County Schools to access Cross School Rd. prior to site plan approval; g) Obtain Town site plan and zoning permit approval prior to any site work; h) Pave parking lot prior to operating more than four (4) days per week; i) Install a sign at the entrance that provides the hours of operation and contact information (name and phone number); j) Install a six feet tall chain link fence with opaque fabric screen along the property boundary adjoining the Roach property; k) Install a gate that can be locked at the entrance that is twenty feet from the edge of Cross School Road; and l) Hours of operation: Shall open one hour after school ends and close by 10:00 pm. was made by Kolpack-Martindale, seconded by Parks and unanimously approved.

ADJOURNMENT

Harris made a motion to adjourn at 7:37pm, seconded by Parks, and unanimously approved.



Butch Hudson, Chair

ATTEST:


Ashley Moore, Administrative Support Specialist