

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, August 12, 2013. This meeting was held in the Dare County Board of Commissioners meeting room located at the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

CALL TO ORDER 7:00 pm

MEMBERS PRESENT	Elmer R. Midgett, Jr. – Chairman	John Finelli
	Michael Barr	Beth Midgett
	Richard “Ricky” Scarborough, Jr.	Dan Oden

MEMBERS ABSENT David Overton

APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the June 10, 2013 meeting of the Dare County Planning Board, Michael Barr made a motion to approve them as submitted. Beth Midgett seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

There were no speakers to render public comments.

OLD BUSINESS

None

NEW BUSINESS

Daniel E. Bradley Subdivision – Mashoes – Preliminary Plat Review

Ray Meekins of Seaboard Surveying was present on behalf of the property owners.

Donna Creef began the discussion. The proposed Daniel E. Bradley Subdivision is a 4.87 acre tract in Mashoes and is zoned MH-A. Lot 2 is 20,001 square feet which is the minimum lot size for the MH-A zoning district while Lot 1 is much larger. They have been in contact with the Environmental Health Department. The coastal wetland line has been confirmed. No road improvements or stormwater management are required.

Dan Oden made a motion to recommend approval of the Daniel E. Bradley Subdivision Preliminary Plat as submitted.

Ricky Scarborough seconded the motion.

Vote: Ayes - Unanimous

The final plat for this division will be submitted to Donna Creef for final review and recordation.

Elaina S. Davis Subdivision – Wanchese – Preliminary Plat Review

Ray Meekins of Seaboard Surveying was present on behalf of the property owners.

Donna Creef addressed the Planning Board. The Elaina S. Davis subdivision is a proposed two lot subdivision with Parcel A at 8.98 acres and Parcel B at 7.72. No additional land improvements are proposed. The coastal wetland line has been verified. There are two residential structures on Parcel B. The property has frontage along Thicket Lump Road which is state maintained. No additional road improvements are necessary and no land disturbance is proposed. Mr. Meekins has been asked to add to the plat the date that the coastal wetlands line was verified. There are portions of Parcel A located on both sides of Thicket Lump Road and Mr. Meekins has been asked to indicate on the plat that Parcel A, in its current configuration, cannot be used because of the amount of wetlands that are on the property.

Mr. Meekins said a 20' easement abutting Richard V. Scarborough Sr.'s properties as shown should have extended down along his entire frontage and not only along a portion of the property as currently shown on the plat. This will be corrected.

Chairman Midgett asked about the septic tank on Parcel B. This has an easement for it to be used by Parcel A but there is no easement indicated on the plat that would provide access to the repair area. After discussion, Donna Creef said the final plat can be recorded after adding an easement that extends to Thicket Lump Road for access to this area on Parcel B.

Beth Midgett made a motion to recuse Ricky Scarborough from this portion of the meeting because his family owns property adjoining the proposed Elaina S. Davis Subdivision.

Michael Barr seconded the motion.

Vote: Ayes - Unanimous

Michael Barr made a motion to approve the Elaina S. Davis Subdivision subject to the addition of an easement allowing access to the septic repair area indicated on parcel B of the preliminary plat.

John Finelli seconded the motion.

Vote: Ayes – Unanimous

The final plat for this division will be submitted to Donna Creef for final review and recordation.

Beth Midgett made a motion that Ricky Scarborough rejoin the meeting at this point.

Michael Barr seconded the motion.

Vote: Ayes - Unanimous

Christian Lending LLC, Avon, NC – Conditional Use Permit

Mr. Sam Hagedon was present on behalf of Christian Lending, LLC.

Donna Creef began by stating the plat shows a 15,000 square foot lot that has recently been subdivided and includes a building that formerly served as a shopping center. There were gas pumps and a gas canopy in front of the shopping center that were damaged by Hurricane Irene. The plan is to have a separate parcel that will provide a self-service fuel station at the site. There is a restaurant in the back and the easements that are on the plat have been recorded for the restaurant prior to the subdivision being recorded. Some of the improvements that are proposed for Lot 1B will require relocation of the existing parking to make sure the shopping center has an adequate number of parking spaces separate from the restaurant and this has been taken care of.

It is zoned C-2 and it is proposed to have a self-service fuel canopy on the site. Mr. Hagedon told Donna Creef that a revised site plan was emailed to her this afternoon. Ms. Creef has not reviewed this update but Mr. Hagedon said it depicts four gas pumps and that some of the concerns from staff comments have been addressed.

The Fire Marshall previously spoke with Ms. Creef about two underground diesel tanks that still exist on the adjoining property. The tanks are managed and owned by Christian Lending, LLC and it is Ms. Creef's recommendation, after consulting the Fire Marshall and the State of North Carolina, that the county not grant any approvals or recommendations to move forward with

the installation of new pumps until the outstanding issues with the old diesel tanks have been taken care of. Mr. Hagedon indicated he would prefer to have some type of conditional approval. Steve Kovacs, Dare County Fire Marshall, has been in contact with the NC State agency regulating underground tanks and said the state cannot issue a permit for a new facility if there are outstanding issues with underground tanks.

Ms. Creef continued by stating she wants to be sure there is proper traffic flow around the fuel facility and that the required 25' setback from any of the equipment (canopies, pumps, equipment, buildings, etc.) from the right of way is indicated on the plat. Regarding the lighting, there are not standards set forth in the C-2 zoning other than there cannot be glare on the road or adjoining properties. When conditional use permits have been issued in the past for similar facilities, one of the conditions imposed is that the lighting must not exceed a foot-candle rating of ten. Mr. Hagedon acknowledged this foot-candle rating and agreed that the canopy will comply with this standard.

Mr. Hagedon explained that the gas pumps and canopy could not be rebuilt in their previous location because they had been located in the state right-of-way. He said they do need to remove the two diesel tanks and, when that is done, they can move forward with this.

Chairman Midgett said he is not willing to vote on this issue when Christian Lending LLC is in violation with the State of North Carolina because of the existing underground fuel tanks. He asked if the Planning Board had any questions regarding the conditional use application other than the removal of the underground fuel tanks.

Mr. Barr agreed that the site plan is very busy and that much detail is not included or not clear on the site plan, such as the location of the pumps and the traffic flow. The Planning Board members discussed signage, lighting, parking, traffic flow, medians, waste container requirements, adjoining businesses, and the proposed location of the underground tanks.

Ms. Creef said the Fire Marshall informed her the permitting process to install new underground tanks involves a very extensive review. Ms. Creef recommended to Mr. Hagedon that he proceed with the process of getting permits from the State of North Carolina for the new underground tanks before returning to the Planning Board for approval. The Board asked Mr. Hagedon to have his revised site plan prepared on a larger scale. Ms. Creef also suggested two plans could be reviewed, one showing the utilities and underground tanks and another showing traffic flow, etc.

The Christian Lending LLC Conditional Use Permit was deemed a sketch plan review at this time and no formal action was taken.

Grace LeSage Ciaravella, Kill Devil Hills, NC – Conditional Use Permit

Grace LeSage Ciaravella was present at the meeting.

Donna Creef addressed the Board. Ms. Ciaravella submitted a conditional use permit application to operate a family child care home at 118 Baum Bay Drive in the Baum Bay Harbor Subdivision. One of the requirements is that no other family child care home can be in operation within a 500-foot radius of the applicant's location and Ms. Ciaravella meets this requirement. Ms. Ciaravella has provided a copy of her application to the state and the licensing consultant from the state indicated they prefer that the applicant have the county's approval before issuing the state permit. The standards in the zoning ordinance, section 22-29.1, outline the procedures for child care homes in Dare County and Ms. Ciaravella will have 180 days after approval of the conditional use permit to provide copies of the state's authorization to operate the child care home. All abutting property owners have been notified, the property has been posted, and advertisement has been made in the newspaper. Some property owners have contacted the Planning Department and an adjoining property owner expressed his concern about fencing requirements. Ms. Creef informed him fencing would be addressed as part of the permitting process.

Chairman Midgett asked if there is a fence at the location now. Ms. Ciaravella responded there is a vertical slat fence in place that has two gates, is two years old, and is set with concrete. She said there is an empty lot and a county easement behind her property. She said she is willing to install a privacy fence to accommodate the adjoining neighbor. Donna Creef said the state does not have an automatic fencing requirement but the county may require fencing. There is also a safety requirement of a minimum allowed distance between slats. Ms. Creef has not looked at the fence in Ms. Ciaravella's backyard. The vacant area behind Ms. Ciaravella's property does belong to another property owner. Ms. Ciaravella told the Planning Department that her fence is 4 ½' in height.

Donna Creef said Ms. Ciaravella has requested the hours of operation include Monday through Friday, 8 a.m. through 6 p.m., and Saturdays 6 a.m. through 5 p.m. Ms. Ciaravella was asked if 8 a.m. is early enough to accommodate parents dropping off their children. After discussion, it was decided 7:30 a.m. would be more appropriate.

The Board asked about the number of children who would be cared for. Ms. Creef responded that the number of children allowed by the county is the same as allowed by the state. No more than six pre-school age plus no more than three school age children may be cared for.

Ms. Creef told the board that, in the past, concerns surrounding child care homes have centered around pick-up and drop-off times. The parking area seems to be adequate, the driveway is paved, and the roads are state maintained. There is nothing to prohibit cars from backing out onto a state maintained road in a residential area.

There was concern from some of the neighbors that Ms. Ciaravella dogs in the home. The state licensing agency said there is no prohibition regarding dogs as long as the child care provider reports what breeds of dogs are in the home and that the vaccines are current. Ms. Ciaravella said the dogs will be away from the children.

The Planning Board discussed fence requirements with Ms. Creef and Ms. Ciaravella. Ms. Creef explained to the board that the primary purpose of the fence would be to mitigate the noise associated with caring for children and to provide privacy. Two adjoining property owners have expressed concern regarding this. Ms. Creef explained that there are certain circumstances that would cause the state to impose fencing requirements, such as the only play area being in the front yard, but it is not automatic. Ms. Creef informed the board that 6' is the maximum fence height allowed in a residential district.

Ms. Ciaravella said she would not want to cut her backyard in half for a play area. She would like to continue to use the backyard for gardening, swings, and a pet area without dividing it. She indicated that removing and replacing the entire existing fence might be so costly it could prevent her from operating a home child care.

Ms. Creef said she will do a site visit with photos and have Ms. Ciaravella draw on the site plan where the designated play area will be. Ms. Creef said when she visits the site, she might find the fencing currently there to be acceptable but she would still make a staff recommendation to either install a 6' privacy fence along the side with the adjoining property owner or have Ms. Ciaravella enclose the outside play areas.

Beth Midgett asked Ms. Creef if, after a site visit, Ms. Creef believes the existing fence could be adapted in some way to satisfy the home child care requirements, could she modify her staff recommendation? Ms. Creef said if that is the case, she would modify her recommendation but would still ask that the 6' fence be installed along the property line where the adjacent owner

has concerns. The Planning Board conveyed their understanding that the fencing recommendation may be modified by Ms. Creef after a site visit.

Beth Midgett made a motion to recommend approval of the draft conditional use permit for a family child care home for Grace LeSage Ciaravella with the hours of operation to be 7:30 a.m. until 6:00 p.m. on Monday through Friday and 6:00 a.m. until 5:00 p.m. on Saturday. There shall be no child care provided on Sunday. In the draft conditions, number 7 will read as follows: Any outside play areas shall be enclosed by solid fencing of wood or composite material. The fence shall be 6' in height and shall be maintained by the family child care operator as long as the family child care home exists at this site.

Michael Barr seconded the motion.

Vote: Ayes - Unanimous

OTHER BUSINESS

None

ADJOURNMENT

There being no further business before the Dare County Planning Board, a motion to adjourn was made by Ricky Scarborough and seconded by Michael Barr.

Vote: Ayes – Unanimous

The meeting adjourned at 8:15 p.m.

Respectfully Submitted,



Sharon L. Flatt

Planning Board Clerk

APPROVED September 9, 2013:



Elmer R. Midgett, Jr. – Chairman

Dare County Planning Board