



QUASI-JUDICIAL HEARING MINUTES
PASQUOTANK COUNTY BOARD OF ADJUSTMENT
APRIL 27, 2023

THE PASQUOTANK COUNTY BOARD OF ADJUSTMENT HELD AN IN-PERSON MEETING ON THURSDAY, APRIL 27, 2023, AT 7:00 PM IN COURTROOM C

Planning Board Members Present: William Kruse, Chairman
Kevin Brickhouse, Vice-Chairman
David McGuire
Joseph Gregory, Jr.
Richard Bovie

Staff Present: John Shannon, Assistant County Manager
Shelley Cox, Planning & Inspections Director
Adrienne Cole, Clerk to the Board

Applicants & Witnesses: Creven Powell
Antranetta Powell
Sheri Small

1. Call to Order

Chairman William Kruse called the meeting to order at 7:00 p.m. Mr. Kruse provided the welcome.

2. Approval of Minutes from March 23, 2023

Chairman Kruse asked if there were any amendments to the minutes from the previous meeting. A motion was made by Vice Chairman Kevin Brickhouse to approve the minutes, seconded by David McGuire. Motion approved. Vote 5-0.

3. Old Business

Chairman Bill Kruse called for old business. The board continued the public hearing case initiated on March 23, 2023, SUP23-01.

4. Parties

Creven Powell, Antranetta Powell (applicants) and Sheri Small (adjacent property owner) were present.

5. Swearing In

All parties and witnesses, including County Staff who intended to present evidence, were sworn in and provided the oath by Bill Kruse. Creven J. Powell and Sheri Small present witness testimony before the board.

6. Case Overview & Staff Analysis

A case review was presented by Shelley Cox. The case is a continuation from March 23, 2023, for the owners of the property, Creven and Antranetta Powell. The owners requested a special use permit for the proposed use of a two-family duplex in the A-1, Agricultural Zoning District at 2010 Folley Road. According to the Ordinance, a duplex requires a Special Use Permit in the A-1, Agricultural District. Public notice was provided in accordance with NC State Statutes and Section 14.03 of the Pasquotank County Zoning Ordinance. The applicant, property owner, and adjoining property owners were notified of this request. There are currently no additional restrictions.

During the last meeting, concerns about drainage were addressed by adjacent property owners and potential off-site drainage impact.

7. Evidence

Shelley presented comments from the County Soil & Water Conservation Technician, Dwayne Hinson, as Exhibit 4. Mr. Hinson's analysis addressed a drainage project at the end of Folley Road and Weeksville Road which has been ongoing for the past several months. Additional evidence, including an elevation map, was submitted to show the direction of water flow and draining in that area. Mr. Hinson's comments were that drainage is minimal on Folley Road. The depth of the ditches is barely 2 feet deep. Mr. Powell's property is at a high point for this area. The building site should be filled appropriately and built to improve elevation and drainage, otherwise, the runoff from the building site will affect the surrounding areas. Digging the ditches will not resolve the issues. Ponding will occur and flooding during storms, which will affect the surrounding ditches. The information was entered into the record as evidence.

Shelley Cox requested to record the Special Use Permit Application (Exhibit 1) and the Staff Report/Recommendations (Exhibit 2) as evidence during the initial hearing on March 23, 2023. Witness testimony was recorded as (Exhibit 3). Mr. Hinson's report was recorded as (Exhibit 4).

- (7A) Exhibit 1: Application
- (7B) Exhibit 2: Staff Report
- (7C) Exhibit 3: Testimony on March 23, 2023
- (7D) Exhibit 4: County Soil & Water Conservation Analysis
- (7E) Exhibit 5: Additional Testimony on April 27, 2023
- (7F) Exhibit 6: Witness Documents
- (7G) Cross-Examination

Staff Recommendation: Should this request be approved, the staff recommends the following conditions:

1. The applicant shall complete the development strictly in accordance with the Application.
2. Remain in accordance with any conditions approved by the Board of Adjustment.

The case hearing for SUP 23-01 procedures:

- a. The appellant or his attorney was called to present his case.
- b. The floor was opened for any objections or support.
- c. A call was made for rebuttals by the appellant and then objectors.
- d. The chairman summarized the evidence.
- e. Consideration and determination of the case was heard.
- f. Parties were informed about the decision process and the board's stance.

(7E) Testimony

Mr. Kruse called for the parties who were sworn in this evening to present additional testimony for April 27, 2023.

1. Appellant/Applicant: Mr. Powell had no further information to share at that time.
2. Witness #1: Sherri Small, an owner of the adjoining property, addressed the effects of water on the current property and the surrounding properties.

(7F) Supporting Documents

Sherri Small provided documents as evidence to demonstrate the following:

1. Aerial map photos showing snapshots of all of the surrounding properties.
2. Photos of ponding in the ditch on the west side of the property from April 2, 2023, to April 22, 2023.

(7G) Cross-Examination or Questions from the Board of Adjustment

The Board asked evidence-based questions for fact-finding purposes after the appellants' and the witnesses' testimonies:

- David McGuire addressed the comments from the drainage specialist. "If the residents cannot get rid of the water, building at this site becomes a risk of the property owner and the drainage issues will need to be addressed."
- Chairman Kruse asked questions about the location of the photos in relation to the lot. "The pictures were taken showing the 2.79 acres and the 1.64 acres?"

- Ms. Small questioned if the ruling would set a precedence. “Other land-owners with smaller lots might want to do the same thing, this will set a precedence on this property.”
- Shelley Cox confirmed that a special use permit is required for this type of structure (duplex) at the site. A single-family dwelling and a single-family house with an accessory dwelling would be permitted and not require a special use permit.
- Ms. Small reviewed the Land Use Plan adopted in 2012 in comparison to the current Land Use Plan draft for 2023 regarding support for Voluntary Agricultural Districts and Rural Land Use goals.
- Shelley Cox verified the policies for the 2023 Land Use Plan are not in effect yet.
- Ms. Small stated the Environmental Health Department provides septic permits, but questioned the ability to confirm the land’s absorption of rain. “The water will eventually go into the ditches.” Based on the photos submitted by her (Ms. Small) the water is not absorbing or flowing.
- Mr. Bovie, questioned about aerial spraying of crops. “What type of aerial sprays are currently sprayed for the crop?” Mr. Bovie was concerned about where the house/property is located, and the impact of aerial spraying. His goal was to make sure the owners are aware.
- Ms. Small responded and stated that spraying depends on the type of crops. At times, the farmland is sprayed with a crop duster, as this area is a part of the Voluntary Ag District.
- Mr. Powell addressed the Flood Zone was X, Environmental Health’s approval of their septic system, and approval of the site evaluation was completed, which met the required approval. “We plan to build anything that is permitted on this property by the County.”
- Mr. Bovie asked questions about the perc testing for this property.

Findings

1. That the use will not materially endanger the public health or safety if located where proposed and approved: **No, this use will not immediately endanger the public health or safety if located where proposed and approved as the Environmental Health has provided approval for the septic system. Approval vote 5-0.**
2. That the use meets all required conditions and specifications of the Zoning Ordinance: **Yes, this use meets the required conditions and specifications of the Zoning Ordinance per a residential area and a voluntary Ag District. Approval vote 5-0.**
3. That the use will not substantially injure the value of adjoining or abutting property, or that; the use is a public necessity: **No, the use will not substantially nor immediately injure the value of the adjoining or abutting property if the conditional requirements proposed by the Board of Adjustments are met. Approval vote 4-1.**
4. That the location and character of the use, if developed according to the plan as submitted; and approved, will be in harmony with the area in which

it is to be located and in general conformity with the plan of development for Pasquotank County. **Yes, it is agreed that if developed according to the plan using the conditional requirements proposed by the Board of Adjustments, the site will be in harmony with the residential area and in general conformity with the plan of development for Pasquotank County. Approval vote 4-1.**

8. Motion

The motion was approved with a recommended condition. Mr. Bovie motioned to approve the SUP findings. Mr. McGuire provided a second motion to approve. Vote 4-1.

Board of Adjustment Conditional Requirement: The applicant shall provide a grading and draining plan so drainage can be reviewed for the site prior to the issuance of a building permit.

9. New Business

The board made a recommendation to staff to revisit the Zoning Ordinance during the next meeting to address duplexes being permitted in the Agricultural District. Kevin Brickhouse motioned to approve. The motion was seconded by Mr. Bovie. Vote 5-0.

10. Staff Report

Shelley Cox provided the staff report. Ms. Cox provided information regarding several pieces of legislation that are being discussed or that have been approved by the state. The legislation has had limited local input and could significantly affect communities.

Ms. Cox also informed the Board of recent stormwater grants that have been approved, permitting trends, and upcoming events.

Having no further items to discuss, Chairman Kruse requested a move to adjourn the meeting. Mr. McGuire motioned to adjourn the meeting, which was seconded by Mr. Joseph Gregory, Jr. (Vote 5-0). The motion carried and the meeting adjourned.



Planning Board Chair



Planning Board Staff