

**QUASI-JUDICIAL HEARING MINUTES
PASQUOTANK COUNTY PLANNING BOARD
OCTOBER 27, 2022**

THE PASQUOTANK COUNTY PLANNING BOARD HELD AN IN-PERSON MEETING ON
THURSDAY, OCTOBER 27, 2022 AT 7:00PM IN COURTROOM C

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

Staff Present: Michael Cox, County Attorney
Shelley Cox, Planning & Inspections Director
Adrienne Cole, Planning Board Clerk

1. Oath of Office

Chairman Bill Kruse announced the oath of office would proceed the board meeting agenda. The Board welcomed the newest member to the Planning Board, Richard Bovie, who will be replacing Vick Roach. Adrienne Cole administered the oath of office to Mr. Bovie.

2. Call to Order

Chairman William Kruse called the meeting to order at 7:00 p.m. Mr. Kruse provided the welcome then proceeded with the introduction of the approval of minutes.

3. Approval of Minutes from September 22, 2022

Chairman Kruse asked if there were any amendments to the minutes. A motion was made by Vice Chairman Kevin Brickhouse to approve the minutes, seconded by David McGuire. Motion approved. Vote 6-0. There were no corrections or additions.

4. New Business

Chairman Bill Kruse called for new business.

5. Parties

Chairman Kruse announced today's meeting would include a formal hearing for case

SUP 22-01. Proceeding the hearing, Chairman Bill Kruse announced: "The State Supreme Court requires that the Board base its decisions only on testimony given under oath." Chairman Kruse called for the appellant or his attorney to present his case and for all witnesses to be sworn in.

6. Swearing In

All persons, including County Staff and consultants, who intended to present evidence were sworn in by the Clerk to the Planning Board.

Shelley Cox and Mr. Harvey Roberts were both sworn in before the hearing proceeded.

7. Evidence:

Shelley Cox explained that under the North Carolina State's Bar Association's Rules of Ethics, because Mr. Roberts is not a lawyer and not a licensed attorney Mr. Roberts can only provide expert testimony and not represent the case or stand on behalf of the owners. Shelley Cox requested to present the Special Use Permit Application (Exhibit 1) and the Staff Analysis (Exhibit 2) as evidence. Mr. Roberts would present his testimony after the analysis.

(7A) Application

An application was submitted by Edward & Susan Sanderlin, the current owners of the property on 1271 US 17 South in the Mt. Hermon Township, parcel # 7922 889344.

(7B) Staff Analysis

The Staff Analysis was presented by Shelley Cox. The owners are requesting a special use permit for the proposed use of a single family dwelling at 1271 US Highway 17 South which is a nonconforming lot due to its' small size. There are no additional restrictions other than the setbacks the owner must meet. The property is a prior lot of record, which allows a reduced setback and should permit the owners to build a smaller sized home on the property. A previous home was located on the property, but was destroyed in a fire in April 2019. Public notification of the hearing has met the notice requirements within the State Statutes. Shelley Cox stated the office has not received negative or positive feedback from any adjoining neighbors that were notified of the hearing. The recommended conditions are:

1. The Applicant shall complete the development strictly in accordance with the Application.
2. The proposed single family dwelling shall meet the setbacks for a prior lot of record in accordance with Section 8.02 of the Pasquotank County Zoning Ordinance.
3. The existing septic system shall be approved by Albemarle Regional Health Services prior to a building permit being issued for the dwelling.

Expert Testimony

Mr. Roberts approached the podium to provide his testimony. Mr. Roberts explained the history of the property in regards to the current owners. He stated that the property is currently for sale and had been on the market for some period of time. The only interest had been in constructing a single-family home on the property due to the small size of the parcel.

Cross Examination or Questions from the Board or County Attorney

The Board asked evidenced based questions for fact finding purposes after Mr. Robert's testimony:

Mr. Bovie asked if a similar home was going to be replacing the initial home that was burned down.

- Mr. Roberts stated yes.

Mr. Pippen asked if the existing septic tank on the property is operational.

- Mr. Roberts stated the septic tank had been pumped by Hoffman Septic Tank Pumping and provided a receipt as evidence. There is also an existing water meter on the property. If the septic tank fails, it will be replaced by the new owner.

Mr. Pippen asked if the intention is to put a house on it for rental or sale.

- Mr. Roberts stated the property is for sale and either a stick built or a modular home would be constructed in compliance with the County's Zoning Ordinance.

Mr. Robert Pippen asked how did the grandfathering clause relate to this property (referenced Section 8.8 in the Zoning Ordinance).

- Shelley Cox explained that the property did not fall under the grandfather clause that would allow them to replace a nonconforming dwelling with another dwelling, since the original home had been destroyed in 2019. They had 12 months to replace the previous dwelling under its' grandfathered status. However, since the property is nonconforming in size smaller setbacks are permitted. The home and property will be in compliance with the Zoning Ordinance with the issuance of a Special Use Permit.

Mr. Roberts stated there is another property in the area that is behind the current lot. Ray Meads Jr. is the owner of a 5.6 acre adjoining lot with a residence on it. He was approached about purchasing this property but was not interested. The proposed use is a single-family house. A driveway is already existing on the property as well as an existing telephone box and cable box. There is currently a person prequalified for a single-family home who is interested in buying the property.

Board Findings

The Planning Board discussed the testimony provided by Ms. Cox and Mr. Roberts and made the following four findings regarding the request for Special Use Permit 22-01:

- (a) Finding 1: The property will not materially endanger public health or safety if located where proposed and approved. There was an existing residential house on the property with a functioning septic system and public water.
- (b) Finding 2: The use meets all required conditions and specifications of the Zoning Ordinance. It will be a permitted use with a special use permit under the Zoning Ordinance and will meet the required setbacks for a nonconforming lot.
- (c) Finding 3: The use will not substantially injure the value of the adjoining, or a budding property, or that they use is a public necessity. There are existing homes in the area and there previously was a home located on the property. No commercial uses currently exist adjacent to this property.
- (d) The location and character of the use, if developed according to the plans 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. This proposal would be in harmony with the area since there are other existing residences in the area.

Motion

David McGuire made a motion to approve the Board Findings and the conditions recommended by staff. The motion was seconded by Robert Pippen and approved unanimously (6-0).

Chairman Kruse stated the hearing was concluded.

Staff Report

Shelley Cox provided the staff report. The rezoning for Newbegun Land Section K had been approved by the Commissioners at their last meeting. Dr. Brown has moved out of the area and resigned from the Planning Board. An Open House for the LUP is scheduled for Wednesday, November 2nd. The Planning Board's next meeting will be on Nov. 17th and the Board will also meeting on December 15th.

Having no further items to discuss, Chairman Kruse moved to adjourn the meeting, which was seconded by Mr. McGuire. The motion carried and the meeting adjourned.

Planning Board Chair

Planning Board Staff