

**QUASI-JUDICIAL HEARING MINUTES
PASQUOTANK COUNTY BOARD OF ADJUSTMENT
MARCH 23, 2023**

THE PASQUOTANK COUNTY BOARD OF ADJUSTMENT HELD AN IN-PERSON
MEETING ON THURSDAY, MARCH 23, 2023, AT 7:00 PM IN COURTROOM C

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

Staff Present: Shelley Cox, Planning & Inspections Director
Adrienne Cole, Clerk to the Board

Applicants & Witnesses: Creven Powell
Antranetta Powell
Sheri Small
William J. Mercer

1. 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.

2. Approval of Minutes from December 15, 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 Richard Bovie. Motion approved. Vote 6-0.

3. New Business

Chairman Bill Kruse called for new business.

4. Parties

Shelley Cox introduced SUP 23-01, a Special Use Permit request for new construction of a duplex on 2010 Folley Road in the A-1 Agriculture. 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.

5. Swearing In

All parties and witnesses, including County Staff who intended to present evidence, were provided the oath and sworn in by the Clerk to the Board. Creven J. Powell, Sheri Small, and William J. Mercer, were allowed to present before the Board of Adjustment.

6. Staff Analysis

The staff analysis was presented by Shelley Cox. The owners are requesting a special use permit for the proposed use of a two-family duplex in the A-1, Agricultural Zoning District at 2010 Folley Road. The Rural Agricultural classification is intended to delineate lands where the predominant land use is scattered, very low density residences dispersed among farm land and open spaces. 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.

7. Evidence

Shelley Cox requested to record the Special Use Permit Application (Exhibit 1) and the Staff Report/Recommendations (Exhibit 2) as evidence.

(7A) Exhibit 1: Application

An application was submitted by Creven & Antranetta Powell, the current owners of the property on 2010 Folley Road in the Nixonton Township, parcel # 8931 684437. The surrounding land uses are all A-1 Agricultural.

(7B) Exhibit 2: Staff Report

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.

(7C) Testimony

Mr. Kruse called for the applicant or his attorney to present their case.

1. Appellant/Applicant: Mr. Powell explained the history of the property in regards to the current owners. He stated that he is a native of Elizabeth City, North Carolina. He stated that he recently purchased 8 acres of land on Folley Road. He desired to build an income producing asset. His request, per the Pasquotank County requirements, was to submit a Special Use Permit (for a two unit-six room duplex in the A-1 Agricultural zoned area). Remaining in compliance, Mr. Powell stated the land was surveyed and that he believed that he received approval for the septic tank system (from the Environmental Health Department).

Chairman Kruse called for any comments and for the witnesses or parties to identify themselves.

2. Witness #1: Sheri Small, owner of the adjoining property, stated that at the beginning of Folley Road are single family homes. There are no duplexes to the witness's knowledge. Ms. Small stated that the requested area for the duplex is reportedly in the middle of a 40 acre block. The County paid about \$3,800 to clear the ditches on Folley Road to address drainage problems. Ms. Small's additional concern was the septic system. Reportedly, 1 single-family home requires 1-acre for 1 septic tank, this structure is 1.6 will have 2 septic tanks. Ms. Small addressed the Land Use Plan preserving farmland and the farming industry.
3. Witness #2: William J. Mercer, owner of the property across the road, stated this area is in the Agricultural District currently used for farming, and a voluntary Ag District. Mr. Mercer described a narrow road that is about a 70-degree angle. He stated, "It was very dangerous and does not drain. Where this structure is located would effect the industry regarding spraying crops".

Chairman Kruse made a request for a response from the applicants. The applicants' statement, "No response."

(7D) 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:

- o Chairman Kruse stated facts: The septic system information according to the report and the Ordinance does allow duplexes.

- Vice Chairman, Kevin Brickhouse asked if there were any other duplexes in the area. Shelley Cox stated no. The County rarely has duplexes in this area.
- Mr. Phippen asked about ditches, were they on each side of the property, and inquired about the impact of drainage. The applicant, Mr. Powell, answered, "Yes, there were ditches on either side of the property."
- Ms. Small explained that a company cleaned out the ditches on the Bateman Jones property. This process was a paid venture through the County.
- Mr. Mercer addressed the flow of the drainage system. Reportedly, the farmers are responsible for keeping the ditches clear. Mr. Mercer addressed the hardships regarding the pressure of keeping up the ditches and addressing farming demands.
- Mr. McGuire asked to confirm the property owner's names. Shelley Cox stated that according to the current tax card is Mr. and Mrs. Powell.
- Mr. McGuire also asked if Mr. Mercer was currently farming on the property. Mr. Mercer responded, yes.
- Mr. Powell asked about additional options regarding building on the site (i.e. a house on this property). Ms. Cox stated that a single family dwelling was allowed and permitted by right. A SUP would not be required. If a specific drainage issue or an active drainage problem was created during construction, that specific concern might be addressed based on need.
- Mr. Bovie asked if this structure would be an owner occupied duplex. Mr. Powell answered, yes.

Shelley Cox reviewed policy regarding the process and presented that she was willing to consult with the County Stormwater Engineer about the drainage problems.

Mr. Kruse asked if there were any other discussions.

8. Motion

Mr. Bovie made a motion to table the decision on this approval based upon the information received until additional investigative information is received from the County Stormwater specialist. Ms. Cox will return to provide further findings. The motion will be tabled until the next meeting, Thursday, April 27, 2023 at 7:00 in Courtroom C. The motion was seconded by David McGuire and approved unanimously (6-0).

Chairman Kruse stated the hearing motion was approved to be tabled until further discussion.

9. Staff Report

Shelley provided the staff report. The Land Use Plan was approved and will now be forwarded to CAMA for approval. Updates regarding Newland, drainage, funding, grant-writing, resilience, and stormwater management were addressed. Through several grant opportunities, Shelley Cox has received funding for the County to continue initiatives.

Continuing to new business, Shelley Cox, presented a draft ordinance regarding short-term rentals. Discussion was held regarding frequent issues with short term rentals that are being addressed by the draft. Staff will present the text amendment to the Board at a later date.

Having no further items to discuss, Chairman Kruse requested a move to adjourn the meeting. Kevin Brickhouse adjourned the meeting, which was seconded by David McGuire. (Vote 6-0). The motion carried and the meeting adjourned.



Planning Board Chair



Planning Board Staff