

The Morehead City Board of Adjustment conducted a special meeting on Wednesday, August 10, 2022, at City Hall, 1100 Bridges Street, Morehead City, NC, at 5:30 p.m. The following people were present:

BOARD MEMBERS PRESENT: Chuck Sewell, Bill Stompf, J. Hunt Brasfield, Gina Sanderson, Bobby Schultz, and Sarah West.

BOARD MEMBERS ABSENT: Brandon Sutton, Judson Walton, and Taylor Ricketts.

STAFF PRESENT: Planning Director Sandi Watkins (via Zoom), Code Enforcement Officer Barb Lynch, Secretary Annie Bunnell, and City Attorney Derek Taylor.

OTHERS PRESENT: John Wade, Kyle McCarty, Donald Phillips, Brock Goss, and Jessie Dunn.

Chairman Chuck Sewell called the meeting to order.

The roll was called, and Brandon Sutton, Judson Walton, and Taylor Ricketts were absent. Bill Stompf made **MOTION**, seconded by Sarah West, to excuse the called-in absences. The motion carried unanimously.

BUSINESS:

A) Request submitted by Kyle McCarty for a special use permit under Articles 4-8 and 11 of the Unified Development Ordinance (UDO) to allow for “Boat Storage” at 5621 Highway 70, zoned CH (Highway Commercial District).

There were no objections from either side to the five members seated. Voting members were: Chuck Sewell, Bill Stompf, Bobby Schultz, Gina Sanderson, and Sarah West.

Those wishing to give testimony were sworn in (Barb Lynch, John Wade, Kyle McCarty, Donald Phillips, Brock Goss, and Jessie Dunn).

Code Enforcement Officer Barb Lynch introduced the case. Kyle McCarty has submitted a request for a special use permit to allow for “Boat Storage” at 5621 Highway 70. A zoning map of the area was shown. The property is zoned CH (Highway Commercial); surrounding properties are zoned CH to the north, CH and R20 (Single-Family Residential) to the east, and R20 to the southeast, south, and west. The property located at 5633 Highway 70, just to the west along Highway 70, is within Newport’s jurisdiction and zoned for commercial use.

An aerial map of the property was shown. This is an aerial view of the property, followed by photos of the property and Pictometry images of the surrounding areas. A restaurant, Heritage Country Grill, is located to the north; Lookout Ford is located to the northeast; a manufactured home and single-family dwellings are to the east; and vacant/undeveloped property is located to the south and west.

A conceptual site plan was shown. The proposal consists of four (4) carport-type structures for storage. No walls or enclosed spaces are proposed. Parking will be added to the site plan at the time of the building permit application submittal. Parking will have to be met per Article 20 requirements.

Regarding the special-use criteria of Article 4-8.3: The application was submitted indicating the correct section of the ordinance and that section does allow "Boat Storage" with a special-use permit. The proposed development does not affect adversely the general plans for the physical development of the town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Council. The property is located in Neighborhood 9 of the CAMA Land Use Plan and is classified as Medium Density Residential. Commercial uses are limited and there are no industrial uses located within Neighborhood 9. Several tracts located on the west side of McCabe Road are currently used for agricultural purposes. Land Use Plan section 4.2.7 Areas of Local Concern, Policy 3 seems to promote the request: "Morehead City will continue to promote a variety of land uses which complement the residential, commercial, institutional, recreational and industrial needs of the community." Policy 9 also seems to promote the request: "Neighborhood-oriented commercial development will be encouraged only in areas where such use is compatible with existing surrounding and anticipated residential areas and where the street system is adequate to accommodate commercial vehicular traffic." The request does not appear to conflict with any of the Neighborhood 9 policy statements due to the fact that the property is already zoned for commercial use. The proposed use will not be contrary to the purposes stated in the regulations. The proposal has not been found to be contrary to the purposes outlined in the UDO. Items D, E, F, and H will be addressed by the applicant. The Unified Development Ordinance (UDO) requires the proposed use be placed on a lot of sufficient size to satisfy space requirements of the use, standards set forth for the use be met, minimum area, setback and other locational requirements of the district and parking requirements be met. Standards set forth for the use have been met. Setbacks will be met per the submitted site plan. Required parking must equal sixty (60) percent of the number of boats for which facilities for dry storage are available. The required parking will be provided per Article 20 requirements. Landscaping requirements will be met per the submitted site plan.

This hearing was advertised, notices were mailed to property owners adjacent to the site, and the site was posted per the statutory requirements. Staff has not received any inquiries concerning the public hearing signs. Ms. Lynch requested that her report be accepted into evidence.

Chairman Sewell asked if the Board had any questions for the Town. There were no questions and Chairman Sewell called upon the Applicant to address the special-use criteria.

Applicant Kyle McCarty of 5807 Saint Mary's Road, Hillsborough, NC, business partner to the Applicant Donald Phillips of 200 Pleasant Grove Road, Hillsborough, NC, and engineer for the applicant, John Wade of Arendell Engineers in Morehead City, spoke and addressed each of the special-use criteria.

D) The proposed use will not affect adversely the health and safety of residents and workers in the town. Mr. McCarty said the storage facility will only be used for boats. Mr. Wade said that the property has always been vacant to his knowledge. The proposed use is a boat storage facility where boaters will pick up and drop off their boats with limited traffic in and out. Mr. Wade said that the property will be gated. There will be no free-for-all use of property with access limited to paying customers.

E) The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses. Mr. McCarty said that the proposed facility would install landscaping buffers which meet the screening requirements of the Town. Mr. Wade said there are other commercial uses, vacant land, as well as a few homes surrounding the property. Security lighting will be oriented downward to minimize light pollution. Where the subject property abuts the residentially zoned properties there will be a twenty-five-foot (25') rear setback which will include a fence and natural vegetation to limit the resident's visibility of the facility. Mr. Wade said the facility would be gated to limit access to those permitted to use the facility.

F) The proposed use will not be adversely affected by existing uses. Mr. Wade said that the property has always been vacant but is zoned for commercial use and has many commercial uses surrounding it, as well as on Highway 70 heading towards Newport. Mr. Wade said that there are also a "handful" of residential properties, but that none of the existing uses would affect the development which was proposed to have a security system, lighting, gates, landscaping buffers, and fencing.

H) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, of the vehicular movement, or noise or fumes or of the type of physical activity. Mr. Wade said the site would not be a nuisance or hazard because it will be gated and unlike some facilities where boats sit around in disrepair, Mr. McCarty's facility will not have repairs on site. The facility will only be utilized for the pick-up and drop-off of boats and the only noise or fumes would be from limited vehicular traffic during those times.

Chairman Sewell asked the applicant how many boats were planned to be stored at the location. Mr. McCarty replied approximately 300 boats. Chairman Sewell asked how a customer would access the property. Mr. McCarty replied that the software he was proposing to use issues each user a custom password and that he could monitor the usage in and out. Chairman Sewell asked if there will be limited hours of access to the property. Mr. McCarty said that had not yet been determined. Chairman Sewell said that with the residents on the south side of the property and storage for approximately 300 boats, he felt Mr. McCarty would need to have guidelines so as not to be disruptive to the neighborhood. Mr. Wade stated that owners would not be cranking boat motors but simply picking up and dropping off boats. Mr. Wade said that a portion of the natural vegetative buffer between the residential area and the subject property will be kept to help minimize disruption.

Chairman Sewell asked the applicant about the property entrances. Chairman Sewell said that only a right turn onto east-bound Highway 70 is permitted at that location. Donald Phillips, business partner with the applicant, spoke and said that Highway 70 would be the entrance and McCabe Road would be the exit to keep a continuous flow of traffic and not impede the roadway. Chairman Sewell said that would help considerably.

Bobby Schultz asked the applicant if there were planned to be any other services offered at the site such as cleaning or motor flushes. John Wade said that the applicant would like to add a wash down area by the Highway 70 entrance. Sarah West asked if there would be running water on the site. John Wade said that there would be running water from a well. Ms. West asked if there would be boaters hosing down boats all over the property or primarily at the Highway 70 wash down area. Mr. Wade said it would just be at the designated area.

Chairman Sewell asked the applicant what kind of lighting was proposed to be used at the facility. Donald Phillips said that they had looked into motion detecting lighting but are still investigating lighting options.

Bobby Schultz asked if the entire property is proposed to be fenced. Donald Phillips replied yes. He said that he is related to someone who does fencing at U.S. military installations and plans to enclose the entire property. Sarah West asked if the applicant planned to use tall buffer materials. John Wade said that the fence would have to meet Town requirements for height and opacity and that plantings had height requirements as well. Mr. Phillips said that the fencing will have a nice aesthetic and will look very clean.

Chairman Sewell asked if the facility would just be for boats and trailers or if there would be building materials, salvaged automobiles, or other items located on site. Donald Phillips replied that the facility was proposed to be strictly boat storage. He said that he grew up coming to this area during the summer and it took his father around three years to find a place to store his boat. Mr. Phillips said that his father pulls his boat out of the water to take back home each winter, but is getting older and less able to do that each year. Mr. Phillips said that his father was the inspiration for the proposed boat storage facility. John Wade added that, because the special-use permit request was for boat storage, that was all that would be allowed to be on the property.

Sarah West asked if the boats would be size restricted. Mr. Phillips replied that the spaces were proposed to be about forty feet (40') long. Ms. West asked if there would be a security guard at night. Mr. Phillips replied that there would be electronic security monitoring at all times. Ms. West said that there was a new storage facility on North 20th Street that had done a nice job of diverting the lighting to be considerate to the neighboring properties and suggested the applicants look into what was used at that location.

Bobby Schultz said that he had asked about the additional services because many times boaters will crank their outboard motors when doing a motor flush, but that issue is mitigated by keeping the washdown area on the Highway 70 side of the property. John Wade said the location was the furthest point on the property from the abutting residential properties and that was why it was chosen.

Sarah West asked if some of these boats would have their own water which would not restrict them to use the wash down area at Highway 70. Bobby Schultz replied that was not typical. Ms. West asked if the surface was proposed to be gravel or pavement. John Wade replied that it would likely be gravel and grass.

Bobby Schultz asked where exactly the entrance gate would be located. He said that the corridor was narrow coming off of Highway 70 and was concerned that the wash down area in that location may impede traffic if boaters get backed up at the entrance. John Wade said that boaters would drive approximately one-hundred-eighty feet (180') before getting to the wash down area which he felt was plenty of room.

Jessie Dunn of 170 McCabe Road spoke in opposition to the request. Ms. Dunn said that the applicant had cleared land behind her home which belonged to her and requested that they stop work and have a proper survey conducted. Ms. Dunn said that her property continued behind the canal and said that the current property owner, Mr. Wysocki, had also cleared trees in the same area of her

property in the past. Chairman Sewell asked Ms. Dunn to show where her property was located on the aerial photography displayed on the screen and Ms. Dunn did so. She said that she was not willing to give away any of her property.

Brock Goss, realtor for the applicant with Coldwell Bankers, spoke and addressed what he believed to be an error on the part of the person hired to clean up the subject property. He felt that it was possible that part of Ms. Dunn's property was cut away in the effort to clean up a building and other debris on 5621 Highway 70. Mr. Goss said that the applicant has taken special care to ensure that professionals were hired to execute a survey, which had been submitted as part of the special-use permit application. Mr. Goss also said that the applicant had to extend his sales contract to purchase the property and pay additional earnest money due to the hearing being postponed. Mr. Goss submitted to the Board as evidence the paper trail of documentation that established the timeline the applicant had been working to close on the property. Mr. Goss said that he felt that evidence proved that the applicant had hired professionals and took special care and diligence.

Jessie Dunn spoke and asked Mr. Goss to please show her where the new survey removed her property. Chairman Sewell asked Ms. Dunn if she was disputing property lines. Attorney Taylor said that the Board of Adjustment does not address where property lines are, that would be a civil disagreement with competing surveys. Attorney Taylor said that the Board had been provided a survey as part of the application and advised Ms. Dunn that the Board of Adjustment meeting was not the correct venue to dispute surveyed property lines.

John Wade of Arendell Engineers told Ms. Dunn that if she believed the applicant's survey had included any portion of her property, she could hire a surveyor to have another boundary survey made. Ms. Dunn said that she did not have the funds to have another survey made. Ms. Dunn said that behind her home on the subject property there are wetlands which do not need any additional water. Attorney Taylor said that the plan the Board had before them for a boat storage use was the determination that was to be made. He said that stormwater would be taken into account during the building permit process. Ms. Dunn asked if she should wait for building permits to address her property line issue and Attorney Taylor advised that she hire an attorney to go through the process of determining property boundaries at the proper venue.

Chairman Sewell asked if the Town proposed to add any conditions to the approval of the Special-Use permit. Ms. Lynch replied no.

Chairman Sewell asked if there were any further questions before the public hearing was closed. Sarah West asked for clarification on the proposed flow of traffic through the property. Mr. Phillips replied that people utilizing the facility would enter from Highway 70 and exit from McCabe Road to keep a continuous flow of traffic. Mr. Phillips said that if someone tries to exit through the entrance, they would be able to do so because "code" dictates that there must be a trigger to allow someone to exit.

Bobby Schultz asked if the Town had received any other comments or written letters on the request. Ms. Lynch replied no.

Bill Stompf made **MOTION**, seconded by Sarah West, to close the public hearing. The motion carried unanimously.

Attorney Taylor told the Board that the Town provided evidence that items A, B, C, G, I, J, and K have been met and no contrary evidence was submitted.

The Board entered into deliberations on each of the special-use criteria addressed by the applicant. For item (D), Chairman Sewell did not see how the proposed use would adversely affect the health and safety of residents and workers in the town because it would be transitioning from a vacant lot to a boat storage facility, only, with limited entrance and exits to be used only by those purchasing a storage unit. Bobby Schultz said that he agreed because of the fencing, gates, and security system that the applicant plans to use. Sarah West said she agreed because the plan presented would discourage the dumping or release of sewage and there will be not "DIY" work on the boat yard. All Board members agreed that the proposed use would not affect adversely the health and safety of the residents and workers in the town.

For item (E), Chairman Sewell said that the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses because there are commercial uses and other vacant land surrounding most of the property and landscaping buffers will be used where the property abuts residentially zoned properties. Bill Stompf said that he agreed because of the landscaping buffer requirements. Sarah West said that the developers have plans to mitigate light pollution and have presented an aesthetically pleasing plan with nice fencing and buffering and she agreed that the use would not be detrimental to the use or development of adjacent properties. Bobby Schultz said that he found it encouraging that the developer had plans to keep some of the natural vegetation in addition to the required buffering. All Board members agreed that the use would not be detrimental to the use or development of adjacent properties.

For item (F), the proposed use will not be adversely affected by existing uses, Chairman Sewell said it appeared to him that the use would be a professionally run use and will be useful without disrupting the existing uses. Sarah West agreed, stating she did not see how any of the existing uses could adversely affect the proposed boat storage facility. All Board members agreed that the proposed use would not be adversely affected by any of the existing uses.

For item (H), the proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, of the vehicular movement, or noise or fumes or of the type of physical activity, Chairman Sewell said that the applicants had presented a good plan to address vehicular movement, reduce light pollution, and incorporate landscaping buffers will ensure the use does not become a nuisance or hazard. All Board members agreed that the use would not constitute a nuisance or hazard.

CONSIDERATION AND DETERMINATION OF CASE HEARD:

Regarding the special-use criteria contained under section 4-8.3, Board Members agreed on the following:

- D) The proposed use will not affect adversely the health and safety of residents and workers in the town;
- E) The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses;
- F) The proposed use will not be affected adversely by the existing uses; and

- H) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, of the vehicular movement, or noise or fumes or of the type of physical activity.

Bill Stumpf made **MOTION**, seconded Sarah West, to approve the Special-Use Permit. The motion carried unanimously.

UNFINISHED BUSINESS:

There was no unfinished business discussed.

ADJOURNMENT:

There being no further requests or comments, the meeting was adjourned at 6:33 p.m.

Annie Bunnell, Secretary

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