



ONslow COUNTY BOARD OF ADJUSTMENT  
MEETING MINUTES  
July 28, 2020  
Onslow County Government Center  
Commissioners' Chambers  
234 NW Corridor Blvd, Jacksonville, NC 28540

**BOARD MEMBERS WERE PRESENT:**

Mr. Jerome Shaw, Chairman  
Mr. John Smith  
Mr. Ricky Cannon  
Mr. Jeff Brown  
Ms. Marilyn Bunce  
Mr. Kyle Fountain

**PLANNING AND DEVELOPMENT DEPARTMENT MEMBERS PRESENT:**

Jessica Rhue, Planning and Development Director  
Angie Manning, Land Use Administrator  
Austin Brinkley, Chief Zoning and Environmental Officer

**I. MEETING CALLED TO ORDER**

Mr. Jerome Shaw, Chairman, called the meeting to order at 6:30 p.m.

**II. INVOCATION**

Mr. Jerome Shaw pronounced the invocation.

**III. PLEDGE OF ALLEGIANCE**

Mr. Smith led all present in the Pledge of Allegiance.

**IV. APPROVAL OF MINUTES AND DECISIONS**

Mr. Smith made the motion to approve the June 23, 2020 minutes. Mr. Cannon seconded the motion. All members were in favor and the motion passed.

Mr. Jeff Brown made the motion to approve the Board Decision: VAR-2020-00001. Mr. Jeff Brown seconded the motion. All members were in favor and the motion passed.

Mr. Cannon made the motion to approve the Board Decision: SUP-2020-00009. Mr. Jeff Brown seconded the motion. All members were in favor and the motion passed.

Mr. Smith made the motion to approve the Board Decision: SUP-2020-00010. Mr. Jeff Brown seconded the motion. All members were in favor and the motion passed.

Mr. Jeff Brown made the motion to approve the Board Decision: SUP-2020-00011. Mr. Cannon seconded the motion. All members were in favor and the motion passed.

## **V. NEW BUSINESS**

- A. VAR-2020-00002— Mr. & Mrs. DeMark are requesting a variance from the elevation requirements of the Onslow County Flood Damage Prevention Ordinance effective November 3, 2005 on property at 1331 Piney Green Road in Jacksonville, NC, Parcel ID 1106E-19.**

Ms. Manning provided an overview of the application VAR-2020-00001.

**Applicant:** Michael & Jacque DeMark

**Summary of proposal:** Michael and Jacque DeMark are requesting a variance from the elevation requirements of the Onslow County Flood Damage Prevention Ordinance effective November 3, 2005. This home was flooded during Hurricane Florence and has been determined Substantially Damaged. The home is compliant with the FEMA Base Flood Elevation requirement; however, the elevation does not meet the freeboard requirement. This is the first flood variance that has been heard by this Board. Onslow County discourages variance applications; however, in this instance, staff reached out to State NFIP Flood staff who agreed that since the home does meet the FEMA requirement, they felt as though this request would not be unreasonable.

Mr. Shaw stated that Board Alternate Marilyn Bunce will be voting on this item.

Mr. Smith asked if this was the new or old ordinance.

Ms. Manning answered that it was the old ordinance.

Mark Ledford, 1331 Piney Green Road, Jacksonville, NC 28540 stated that he is the contractor for the applicant. He stated that this house has been sitting in disrepair since the storm and the owners live out of state.

**First General Conclusion:** That unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. Ms. Bunce made a motion to approve the finding. Mr. Jeff Brown

seconded the motion. Ms. Bunce stated that she felt that this was reasonable. The motion passed by unanimous vote.

**Second General Conclusion:** That the hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. Mr. Cannon made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Cannon stated that 0.2 feet would create a hardship for the applicants. The motion passed by unanimous vote.

**Third General Conclusion:** That the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. Mr. Jeff Brown made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Jeff Brown stated that 0.2 feet will not make a difference. The motion passed by unanimous vote.

**Fourth General Conclusion:** That the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. Mr. Smith made a motion to approve the finding. Mr. Jeff Brown seconded the motion. Mr. Smith stated that staff had conferred with the State. The motion passed by unanimous vote.

**B. SUP-2020-00013— Mr. & Mrs. DuRant are requesting to construct a detached residential accessory building in the front yard on property in Sneads Ferry, NC, Parcel 773-38.2.**

Mr. Brinkley provided an overview of the application SUP-2020-00013.

**Applicant:** Lawrence and Paula DuRant

**Summary of proposal:** Lawrence and Paula DuRant are requesting a Special Use Permit to construct a detached residential accessory building in the front yard at 263 Bill Canady Road in Sneads Ferry, NC. The waterfront lot is within the Residential 8M (R-8M) Zoning District. The subject property consists of approximately 0.81 acres. The Future Land Use Map shows this property as being within Conservation. A TRC meeting was conducted on June 16, 2020 and the following comment was received:

1. A note was required that indicates the effective flood data.

Paula DuRant, 263 Bill Canady Road, Sneads Ferry, NC 28460 stated that she and her husband moved into this house three years ago and Hurricane Florence flooded the basement. They looked into elevating the house, but it was too expensive. They used the basement primarily for storage. They have now decided to construct an accessory building for storage instead of putting their storage items back into the basement.

Mr. Shaw stated that Board Alternate Kyle Fountain will be voting on this item.

**First General Conclusion:** That the Special Use, if approved, will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved. Mr. Fountain made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Smith stated that the building would be used only for storage. The motion passed by unanimous vote.

**Second General Conclusion:** That the use meets all special uses and specifications. Mr. Jeff Brown made a motion to approve the finding. Mr. Cannon seconded the motion. Mr. Jeff Brown stated that it appears to be compliant with the standards set forth in the Zoning Ordinance. The motion passed by unanimous vote.

**Third General Conclusion:** That the use would not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity. Mr. Smith made a motion to approve the finding. Mr. Jeff Brown seconded the motion. Mr. Smith stated that there is no evidence that the use will injure the value of the adjoining or abutting properties based on the appraiser's report provided with the application. The motion passed by unanimous vote.

**Fourth General Conclusion:** That the location and character of the use, if developed according with the plan as submitted and approved, will be in harmony with the area in which it was to be located and in general conformity with the Onslow County Comprehensive Plan and other Onslow County Ordinances. Mr. Jeff Brown made a motion to approve the finding. Mr. Fountain seconded the motion. Mr. Jeff Brown stated that it appears to be in harmony with the area. The motion passed by unanimous vote.

**C. SUP-2020-00014— Mr. Jones is requesting to expand a non-conforming structure on property located in Hubert, NC, Parcel ID 1314A-9:**

Mr. Brinkley provided an overview of the application SUP-2020-00014.

**Summary of proposal:** Floyd Jones is requesting a Special Use Permit to expand a non-conforming structure at 104 Pirate Island Drive in Hubert, NC. The property is within the Residential 15 (R-15) Zoning District. The subject property consists of approximately .16 acres. The Future Land Use Map shows this property as being within Conservation. While making roof repairs after Hurricane Florence, the applicant decided to extend the roof with an a-frame cover over the existing stoop. Staff requested a survey that showed the expansion does not encroach on the neighboring property. The applicant provided the survey and it showed that the structure was on their property.

Mr. Shaw stated that Ms. Bunce will be voting on this item.

Mr. Brown asked if this is new construction or is it a repair to an existing structure.

Mr. Brinkley responded that there had been a lean-to porch cover and after the hurricane, they decided to remove the porch roof and extend the roof with an a-frame cover for the stoop.

Ms. Bunce asked why there was a septic letter included.

Mr. Brinkley responded that the letter was for a comment that was made during TRC review about the location of the septic system.

Floyd Jones, 104 Pirate Island Drive, Hubert, NC 28539 read a prepared statement. He apologized for not requesting the Special Use Permit at the appropriate time and explained that when they were repairing their shingles on their home from Hurricane Florence, they repaired and upgraded their porch cover from a lean-to roof to an A-frame roof. Mr. Jones stated that the roofing contractor had informed him and his wife that since the roof was existing and they were not changing the footprint of the home, a permit was not needed. There was confusion about the newly constructed roof encroaching onto the neighboring property. Mr. and Mrs. Jones hired a surveyor to show that the roof was within their property boundary and not encroaching into the neighbor's property. Mr. Jones explained that this use meets all the special use standards.

Sam Morris, 1107 Bridges Street, Morehead City, NC 28557 came forth to testify as the attorney representing the adjoining property owners, Rob and Sara Flannery. Mr. Morris referenced a survey from 1990 that was recorded. He stated that the original lean-to roof did not extend out past the property line that the 1990 survey showed. The new survey now shows that part of the retaining wall is on the Jones' property and that the roof does encroach onto the Flannery's property. Mr. Morris stated that the new survey is not recorded. There is now a title dispute and the only thing on record is the 1990 survey. Mr. Morris stated that this special use request is not just the replacement of a non-conforming structure, but the extension of a non-conforming structure. He stated that they oppose the granting of the Special Use Permit due to the value of the adjoining property. He expressed that this could be viewed as trespassing. Mr. Morris entered pictures and a copy of the survey into evidence.

Ms. Bunce asked how far the new roof encroaches onto the Flannery's property.

Mr. Morris stated it encroaches approximately 0.4 feet.

Ms. Bunce asked if this would be taken to Court if approved.

Mr. Morris explained that this matter is already in Court. He stated that this Board will making a decision based on a survey that is currently being challenged in Court.

Ms. Bunce stated that she has seen surveys before that are wrong that have been recorded for years.

Mr. Morris stated that the Flannerys were not present because Mrs. Flannery was recovering from surgery.

Mr. DeSelms stated that this Board should not be included in the property line dispute and that the condition that staff is recommending would protect them if they were to vote in favor. This Board is not responsible for determining the credibility of a survey.

Alan Bell, Bell & Phillips Surveying, 604 E Cedar Point Blvd, Cedar Point, NC 28584 spoke that the problem began with the 1990 survey. Mr. Bell explained his process of re-surveying the property. He explained that he does not know where 39.21' came from that is referenced on the 1990 survey.

Greg Fitzpatrick, 30 Arrowhead Drive, Hubert, NC 28539 stated that Mr. Jones is the best neighbor he has ever had.

Abby Mabry, 9 Arrowhead Drive, Hubert, NC 28539 provided pictures to show the old porch roof and the new roof. She stated the Patricia Pike reviewed the survey and agreed it was correct.

**First General Conclusion:** That the Special Use, if approved, will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved. Mr. Jeff Brown made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Jeff Brown stated that the use will not pose an immediate threat to the public health or safety. The motion passed by unanimous vote.

**Second General Conclusion:** That the use meets all special uses and specifications. Mr. Jeff Brown made a motion to approve the finding with the condition that the expansion may not encroach onto the neighboring property. Ms. Bunce seconded the motion. The motion passed by unanimous vote.

**Third General Conclusion:** That the use would not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity. Ms. Bunce made a motion to approve the finding. Mr. Smith seconded the motion. Ms. Bunce stated that based on the pictures provided by both properties, it looks as if the structure has been improved and based on the NC licensed appraiser's letter, there are no negative impacts on the neighboring properties. The motion passed by unanimous vote.

**Fourth General Conclusion:** That the location and character of the use, if developed according with the plan as submitted and approved, will be in harmony with the area in which it was to be located and in general conformity with the Onslow County Comprehensive Plan and other Onslow County Ordinances. Mr. Jeff Brown made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Jeff Brown stated that the use appears to be in harmony with the area and in generally conformity with the Onslow County Comprehensive Plan. The motion passed by unanimous vote.

**D. SUP-2020-00015— Joseph and Joy Jones are requesting to set-up a single RV on property in Hubert NC, Parcel ID 1310-21:**

Mr. Brinkley provided an overview of the application SUP-2020-00015.

**Applicant:** William A. Parker

**Summary of proposal:** Mr. Parker is requesting a Special Use Permit to set-up a single RV at 102 Willie Lane in Hubert, NC. The property is owned by Joseph and Joy Jones and is within the Residential 8m (R-8M) Zoning District. The property consists of approximately 0.37 acres. The Future Land Use Map shows this property within the Conservation land use category. A TRC meeting was conducted on June 16, 2020 and the following comments were received:

1. A note was required to be added that states the RV must be road ready due to its location in the AE flood zone and is required to be moved off the property every 180 days or be elevated to meet the RFPE.
2. A note was required that indicates the effective flood data.
3. A valid septic permit is required.
4. A note has been required that indicates any accessory structures, porches, etc. require building permits.

Mr. Shaw stated that Board Alternate Kyle Fountain will be voting on this item.

Mr. Fountain asked how to verify if the RV has been moved every 180 days.

Mr. Brinkley stated that the RV must be ready to hook up and drive it down the road to meet FEMA's requirements.

**First General Conclusion:** That the Special Use, if approved, will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved. Mr. Smith made a motion to approve the finding. Mr. Fountain seconded the motion. Mr. Smith stated that the use will not pose an immediate threat to the public health or safety. The motion passed by unanimous vote.

**Second General Conclusion:** That the use meets all special uses and specifications. Mr. Jeff Brown made a motion to approve the finding. Mr. Fountain seconded the motion. Mr. Jeff Brown stated that the application appears to be compliant with the standards set forth in the Zoning Ordinance. The motion passed by unanimous vote.

**Third General Conclusion:** That the use would not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity. Mr. Smith made a motion to approve the finding. Mr. Jeff Brown seconded the motion. Mr. Roger Brown stated that based on the report provided by a NC licensed appraiser, there will be no adverse effects on the surrounding properties. The motion passed by unanimous vote.

**Fourth General Conclusion:** That the location and character of the use, if developed according with the plan as submitted and approved, will be in harmony with the area in which it was to be located and in general conformity with the Onslow County Comprehensive Plan and other Onslow County Ordinances. Mr. Jeff Brown made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Jeff Brown stated that it seems to be in character and harmony with the surrounding area and in general conformity with the Onslow County Comprehensive Plan. The motion passed by unanimous vote.

**E. SUP-2020-00012— Joseph and Joy Jones are requesting to set-up a single RV on property in Hubert NC, Parcel ID 1312-89:**

Mr. Brinkley provided an overview of the application SUP-2020-00012.

**Applicant:** Daniel and Faye Peters

**Summary of proposal:** Daniel and Faye Peters are requesting a Special Use Permit to set-up a single RV at 290 Howell Road in Hubert, NC. The property is within the Rural Agriculture (RA) Zoning District. The property consists of approximately 0.50 acres. The Future Land Use Map shows this property within the Conservation land use category. A TRC meeting was conducted on June 16, 2020 and the following comments were received:

1. A note has been required that indicates any accessory structures, porches, etc. require building permits.
2. A valid septic permit is required.

Mr. Shaw stated that Board Alternate Marilyn Bunce will be voting on this item.

Mr. Smith asked what type of RV it is.

Mr. Brinkley responded that it is a park model, but because it does not have a HUD sticker, it is considered an RV.

Daniel Peters, 1292 Massengill Pond Road, Angier, NC 27501 stated that he thought this was a trailer when he bought it. He and his wife hooked a generator up to it for heat, and the neighbors complained. He stated that the park model is 42' long and he realizes now that it is a camper, not a trailer.

Mr. Shaw asked if there is anything else on the property.

Mr. Peters responded that there is a building for his lawn mower.

Ms. Bunce asked if Mr. Peters understood the septic permit requirement.

Mr. Peters answered that he had someone come and clean it out.

Ms. Bunce asked if he has a septic permit.

Mr. Peters stated that he does have a septic permit.

James Childress, 286 Howell Road, Hubert, NC 28539 spoke against the special use request. He stated that this is not the place for an RV and that this area is strictly residential.

Randy Arnold, 276 Howell Road, Hubert, NC 28539 spoke against the special use request. He stated that this is an RV park model that is 8' wide, not a mobile home park model. He expressed that it needs to go in an RV park. Mr. Arnold stated that this RV would devalue everyone else's property.

Robert Wilson, 277 Howell Road, Hubert, NC 28539 spoke against the special use request. He stated that there was a double wide there that was torn down due to Hurricane Florence. Mr. Wilson stated that he feels this is a residential property. He expressed that there are RV parks all around in Hubert and that is where an RV belongs. Mr. Wilson stated that there are all kinds of things on this property and it is not pleasant. He stated that there are too many RV parks in this residential area.

Ms. Bunce asked if there was an appraisal report submitted with this application.

Mr. Brinkley stated that Jerry Setton provided a value opinion for this submittal; however, Mr. Setton is a realtor and not a licensed appraiser.

Mr. Smith asked if Mr. Peters plans to build a home on this property.

Mr. Peters stated that he does plan to build a home, but he is not sure when.

**First General Conclusion:** That the Special Use, if approved, will not materially endanger the public health or safety, if located where proposed according to the plan submitted and approved. Mr. Cannon made a motion to approve the finding. Mr. Jeff Brown seconded the motion. Mr. Cannon stated that the use will not pose an immediate threat to the public health or safety. The motion passed by unanimous vote.

**Second General Conclusion:** That the use meets all special uses and specifications. Ms. Bunce made a motion to approve the finding. Mr. Jeff Brown seconded the motion. Ms. Bunce stated that the application appears to be compliant with the standards set forth in the Zoning Ordinance. The motion passed by unanimous vote.

**Third General Conclusion:** That the use would not substantially injure the value of the adjoining or abutting property, or that the use is a public necessity. Ms. Bunce made a motion to approve the finding. Mr. Smith seconded the motion. Ms. Bunce stated that she does not see where a nice park model would devalue the adjoining property values. The motion passed by unanimous vote.

**Fourth General Conclusion:** That the location and character of the use, if developed according with the plan as submitted and approved, will be in harmony with the area in which it was to be located and in general conformity with the Onslow County Comprehensive Plan and other Onslow County Ordinances. Mr. Jeff Brown made a motion to approve the finding. Mr. Smith seconded the motion. Mr. Jeff Brown stated that it seems to be in character and harmony with the surrounding area and in general conformity with the Onslow County Comprehensive Plan. The motion passed by unanimous vote.

**VI. PROCEDURAL UPDATE – ATTORNEY GUIDANCE**

Mr. DeSelms explained to the Board the options that an applicant has once a Special Use Permit has been denied. If an applicant chooses to resubmit, the Board cannot accept a new application unless it is determined by the Board that the new application has “substantially changed” and if there is new evidence to be presented.

**VI. COMMENTS**

**A. PUBLIC**

There were no comments from the public.

**B. BOARD OF ADJUSTMENT MEMBERS**

There were no comments from the Board of Adjustment.

**C. PLANNING DEPARTMENT STAFF**

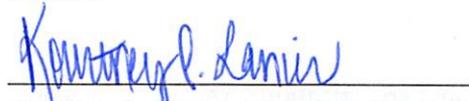
There were no comments from the Planning Department staff.

**VII. ADJOURNMENT**

There being no further discussion, the meeting was adjourned at 7:37 p.m.

  
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Jerome Shaw, Chairman

ATTEST:

  
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Courtney P. Lanier, Administrative Assistant