



BOARD OF ADJUSTMENT

MINUTES

Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

October 20, 2010

MEMBERS PRESENT		TOWN ATTORNEY	STAFF
Thomas Arnel		Mike Brough	James Thomas
David Collins			Jane Tuohey
Catherine DeVine			Marty Roupe
Richard Ellington			
Bob Kirschner			
Absent/Excused: Sriv Navaratnam, John Gant			

MINUTES APPROVAL

MOTION MADE BY DAVID COLLINS AND SECONDED BY BOB KIRSCHNER TO APPROVE MINUTES FROM JULY 21, 2010 MEETING. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

PUBLIC HEARING: Special Exception Permit for 108 Elm Street

The applicant/owner, Charles and Karen Goss, are requesting two Special Exception Permits. The first Special Exception request is to allow the new 6 ft x 28 ft front porch to encroach 4ft and 7 inches into the required 10 foot side yard setback. The second Special Exception request is to allow a new 14ft x 15ft rear porch to encroach 4ft and 10 inches into the required 10 foot side yard setback.

Jane Tuohey, Notary Public, swore in staff members and members of the general public, who wished to speak concerning all projects. Mr. Thomas informed the board that he had sent out letters to residences within 150' and posted the property, but hadn't heard from anyone regarding this project. Mr. Thomas showed board members where the property is located and pointed out the areas where the applicants are requesting permission to encroach. Owner Karen Goss stated that they are not building on the side of the house. Board members did not have any questions.

There being no questions a MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY CATHERINE DEVINE TO CLOSE THE PUBLIC HEARING. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY CATHERINE DEVINE THAT THE APPLICATION COMPLIES WITH ALL (A-F) APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

1. the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance
2. if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect
3. that the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house is permitted by this special exception permit.

MOTION MADE BY DAVID COLLINS AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION BE GRANTED SUBJECT TO THE ABOVE CONDITIONS. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

PUBLIC HEARING: Special Exception Permit for 104 Ashe Street

The applicant/owner Sybil Tate, is requesting two Special Exception Permits. The first Special Exception is to allow a new two-story accessory building to encroach up to 50 percent in the required 10 foot rear yard setback. The second encroachment in the

rear consists of the 2.5 foot building overhang that will encroach into the maximum encroachment of 5 feet into the required 10 foot rear yard setback.

Staff member, Marty Roupe explained that the project is to modify a permit that was issued in August, 2009. The applicant came in and talked to staff about demolishing the existing non conforming garage. Once the demolition permit was issued and the applicant had proceeded with demolishing the building, Town Staff received a complaint call from an adjacent neighbor, this led to discussion with the Town Attorney and a meeting was called to review the 2 special exceptions that would allow the continuation of the project which is a 2-story structure. Mr. Roupe showed board members drawings of the planned structure and how it differs now from the original building. Existing building has been demolished and grading had started but has been put on hold until the approval is given to continue.

Mr. Brough, Town Attorney asked to see the proposed footprint of the building, and which was originally approved. Mr. Roupe pointed out the front area of the garage area was originally approved by the Board of Adjustment.

Mr. Collins stated that the structure now appears smaller; Mr. Roupe said that the overhangs will make it go to the same distance. Mr. Brough made it clear that it wasn't discussed last year whether the structure was going to be a one or two story structure.

Mr. Ellington asked what would happen if they decide to use this structure as an accessory apartment. Mr. Roupe said that this has been discussed; they cannot rent out the upstairs because they do not have enough land to support an accessory dwelling unit.

Bob Kirschner asked why they didn't move the foundation, Mr. Roupe said that they put a lot of thought into where the building would go and this was the best location.

Roy Mars, home owner, spoke about the project and how difficult it has become since they had to stop digging, they submitted everything in good faith and miscommunication has brought them here. The job has begun, and so he wishes the Board to consider them not having to move the building because of money and time.

Mr. Ellington asked why they chose to not put the building up in an area where it was compliant. Mr. Mars said they didn't think about it because they were working with the original footprint. Also, they are building an urban garden in the northern area and they didn't want to encroach on that and they didn't want more activity on the back side and noise.

Mr. Roupe added that there is a petition that has been signed by all applicable neighbors except one and there is a letter from a real estate agent regarding property values in front of the board members.

Jane Meads addressed the board; she lives behind the Mars/Tate property. She asked if it was clear that this project could be a two story 35' high project with bathroom and kitchen. Mr. Mars said there is no kitchen and will be less than 24'. Ms. Meads was very concerned about this

affecting her property value and loved her privacy out back, which would be gone. Ms. Meads said that this is on her fence line and there is a lot of noise.

The board asked questions about the old structure, where her property line is and where the new building will be. Mr. Roupe showed the board the aerial view of the property lines and explained about the drainage infrastructure to take into consideration.

Cynthia McLaren and her husband of 106 Ashe Street spoke in agreement of this project, they told the board that they share a drainage system with this property and the other neighbors which would be a hardship if this project is not approved.

A MOTION WAS MADE BY BOB KIRSCHNER AND SECONDED BY RICHARD ELLINGTON TO CLOSE THE PUBLIC HEARING. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

After discussion all board members spoke in agreement of this project. Mr. Collins asked the board members if they wanted to include any extra conditions.

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY CATHERINE DEVINE THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY CATHERINE DEVINE THAT THE APPLICATION COMPLIES WITH ALL (A-F) APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

1. the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Zoning Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance
2. if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect

3. that the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house is permitted by this special exception permit.
4. building shall be constructed largely compliant with all drawings submitted to and statements made by the applicant to the Board of Adjustment on October 20, 2010.

Mr. Brough said that the fourth condition is similar to the first condition, and is not necessary for both conditions. **FRIENDLY AMENDMENT MOTION MADE BY RICHARD ELLINGTON AND SECONDED BY CATHERINE DEVINE TO REMOVE CONDITION #1 AND REPLACE IT WITH CONDITION #4. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam**

1. if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect
2. that the special exception is granted only to the extent necessary to provide for the proposed addition (including roof overhangs), and that no other additions or enlargements of any other portion of the house is permitted by this special exception permit.
3. building shall be constructed largely compliant with all drawings submitted to and statements made by the applicant to the Board of Adjustment on October 20, 2010.

MOTION MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION BE GRANTED SUBJECT TO THE ABOVE CONDITIONS. VOTE: AYES 4 (Thomas Arnel, David Collins, Richard Ellington, Catherine DeVine). NOES 1 (Bob Kirschner). ABSENT/EXCUSED: John Gant, Sriv Navaratnam

PUBLIC HEARING: Special Use Permit @ 203B Ashe Street

Little House Playschool, as represented by the business owners Rachel Beck and Stephanie Ferrell, have submitted an application for a SUP to operate a Child Day Care Facility (use# 22.200) at 203B Ashe Street. The reason that the applicants are requesting a SUP is due to the change in hours that the child day care home will operate, from 8:30am - 12:30pm to 8:30am - 3:30pm, in addition, the number of children to be cared for will not exceed fourteen.

Mr. Thomas made it clear to board members that only the hours are being changed, they have a valid zoning permit, but the LUO changed in 2007 and so they need to get an SUP for this change of hours. Nothing is changing on the property, everything will stay the same.

Rachel Beckford asked if the Town could get in line with the State requirements because State and Town are not in sync. Mr. Roupe said that the Town has exceeded the State's requirements.

MOTION WAS MADE BY BOB KIRSCHNER AND SECONDED BY RICHARD ELLINGTON TO CLOSE THE PUBLIC HEARING. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

Mr. Collins asked if the Board if they should approve the hours of 7:30am – 5:30pm to cover additional hours in case the owners of the playschool need more hours in the future. Mr. Roupe said that there has been discussion about this, but the business owner’s only specified the hours of operation from 8:30am – 3:30pm.

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY CATHERINE DEVINE THAT THE APPLICATION COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION, IF GRANTED, BE ISSUED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Development Review Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION IS GRANTED SUBJECT TO THE CONDITIONS AGREED UPON UNDER SECTION III OF THE WORKSHEET. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

PUBLIC HEARING: Special Use Permit @ 102 Hargraves Street

Steve Hawley of Fanning/Howey & Associates, representing the applicants is requesting a SUP for a Child Day Care Facility at 102 Hargraves Street. The property was previously used as an elementary school (use# 5.110) and is owned by the Town of Carrboro.

James Thomas, stated that this building was used previously as an Elementary School, they are proposing to make it into a Day Care Facility, the building will be gutted inside, they have applicable permits for this work. They will be paving and re grading the parking area, the play area and basketball court will stay as is. The LUO requires 21 parking spaces, they are asking for a reduction of one space for a total of 20 spaces. They have provided a justification letter; the 20 parking spaces will be made up of 11 standard spaces, 6 compact spaces, 1 handicapped space and 3 motor cycle spaces and one bike shelter. James Thomas told the Board that the TAB had recommended a different type of bike rack, which is what will be used and the shelter will be installed, he also explained to the Board how the Town came up with the need for 21 spaces. Richard Ellington asked if there have ever been parking problems and are 20 spaces sufficient. Mr. Thomas said that the applicant will speak on this matter.

Steve Hawley spoke about a survey that they had performed to prove that 20 spaces will be sufficient because the number of children has decreased. He showed the Board the new inverted u bike rack that will be used per the request from the TAB. Mr. Hawley said that there will only be cosmetic changes outside, the footprint has not changed.

MOTION WAS MADE BY RICHARD ELLINGTON AND SECONDED BY CATHERINE DEVINE TO CLOSE THE PUBLIC HEARING. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

All board members spoke in agreement of this project. David Collins wrote two additional conditions for the consideration of proposed conditions to follow.

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION IS FOUND TO BE COMPLETE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY CATHERINE DEVINE THAT THE APPLICATION COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY RICHARD ELLINGTON THAT THE APPLICATION, IF GRANTED, BE ISSUED SUBJECT TO THE FOLLOWING CONDITIONS. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard

Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board, a copy of which is filed in the Carrboro Town Hall. Any deviations from or changes in these plans must be submitted to the Development Review Administrator in writing and specific written approval obtained as provided in Section 15-64 of the Land Use Ordinance.
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.
3. Details of the proposed bike shelter and bike rack are to be included on the SUP plans and that the applicant use an inverted u-type bike rack or one of the alternatives provided by the Transportation Advisory Board.
4. The applicant is allowed to reduce the parking requirement from 21 to 20 spaces.

MOTION WAS MADE BY DAVID COLLINS AND SECONDED BY BOB KIRSCHNER THAT THE APPLICATION IS GRANTED SUBJECT TO THE CONDITIONS AGREED UPON UNDER SECTION III OF THE WORKSHEET. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam

OLD/NEW BUSINESS

Thomas Arnel spoke about the attendance letter that he had received from the Town Clerk stating that if Board Members miss 30% of meetings or 3 consecutive meetings in the previous 12 month period they will receive a letter from the Town Clerk and then the discretion of the Chair as to whether they will be removed as a Board Member. Mr. Arnel said that he had received such letter regarding Mark Brantley. Mr. Brantley turned in his resignation to Mr. Arnel.

Bob Kirschner asked about term limits. Mr. Arnel said that if there are no other applicants that he can continue on the Board.

ADJOURN

There being no other business, MOTION WAS MADE BY CATHERINE DEVINE AND SECONDED BY RICHARD ELLINGTON THAT THE MEETING BE ADJOURNED. VOTE: AYES 5 (Thomas Arnel, David Collins, Richard Ellington, Bob Kirschner, Catherine DeVine). NOES 0; ABSENT/EXCUSED: John Gant, Sriv Navaratnam.