



Town of Beaufort, NC
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Board of Commissioners
Regular Meeting
6:00 PM Monday, January 13, 2025
Train Depot, 614 Broad Street

Call to Order/Pledge of Allegiance

Mayor Pro Tem Cooper called the meeting to order and asked all to join in the pledge of allegiance.

Roll Call

Elizabeth Lewis, Town Clerk, called the roll.

PRESENT:

Mayor Pro Tem Cooper
Commissioner Gillikin
Commissioner LoPiccolo
Commissioner Spiegler
Commissioner Oliver

ABSENT:

Mayor Harker

Agenda Approval

Commissioner Oliver made a motion to approve the agenda as presented.

The motion carried unanimously.

Items of Consent

1. Meeting Minutes- December 9, 2024
2. Resolution Awarding Contract for WWTP SCADA Upgrades

Commissioner LoPiccolo made a motion to approve the Items of Consent as presented.

The motion carried unanimously.

Quasi-Judicial Proceeding

1. Case # 24-12 - Variance Request 360 Steep Point Road

Mayor Pro Tem Cooper asked staff for background information on the item.

Ms. Lewis administered the oath to the Town of Beaufort representative, Kyle Garner, applicant, Alex Pully, and Beaufort Fire Chief, Tony Ray.

Kyle Garner, Planning Director, introduced the case and asked that all documents included in the meeting packet and the PowerPoint presentation be entered as evidence and part of the record. He noted the property facts related to zoning, location, environmental permits, flood zone, acreage, and shared there is currently one single-family residence on the property. He shared that the Town's Fire Department is requiring the owner/developer improve the existing private drive at a minimum of 20 feet in width and drive surface improvements to accommodate up to 75,000 lb vehicles and a 13.5 foot height clearance. Thus, the applicant's request is a variance from the requirement to install these improvements. He shared the property survey as a point of reference. He explained the Town's driveway requirements have been consistent with other past projects.

Commissioner Gillikin asked if there were variances associated with those past projects Mr. Garner mentioned.

Mr. Garner said the only one he was aware of is the Salt Wynd Development, which was granted a variance for the cul-de-sac length.

Mayor Pro Tem Cooper explained the Quasi-Judicial Proceeding process, sharing the following statement:

This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this Board must make its decision. The Board of Commissioners must base its decision upon competent, material and substantial evidence in the record. A quasi-judicial decision is a decision constrained by the standards in the Land Development Ordinance and based on the facts presented. All applications for variance request must be consistent with the Land Development Ordinance for the Town of Beaufort and whether the variance is appropriate in the proposed location. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. The Board of Commissioners shall hear relevant information from the parties with standing, as set forth in North Carolina General Statutes 160D-406 and 1402. At the sole discretion of the Board of Commissioners, other witnesses who do not have standing may present competent, material, and substantial evidence that is not repetitive. Parties may appear in person, by designee, or by attorney to present information relevant to the requirements of the Ordinance. Parties may present evidence, call witnesses and make legal arguments. The Board of Commissioners, acting through the Mayor, may subpoena witnesses and compel the production of evidence. For certain topics, the Board of Commissioners may hear opinion testimony from expert witnesses. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Witnesses must swear or affirm their testimony, which has already been done.

Mayor Pro Tem Cooper called for disclosure by Board members of any ex parte communication, bias and conflicts of interest. Each Board member confirmed they had nothing to disclose.

Mr. Pully explained he and the property owner were requesting the variance to be able to subdivide the lot and build a guest house on the property, noting the nature of the transaction would be family to family. He suggested it should not be treated like a subdivision development. He shared they had just recently learned of the fire code requirement related to the compaction rate and driveway width. He expressed his desire to use the subdivided lot to continue living in Beaufort, by having the opportunity to build a home there and asked the Board to grant the driveway variance to help him do so. He pointed out if the current structure caught fire, the Fire Department would respond using the same driveway. He noted there was an existing barn on the structure as well, making the total number of structures two. He suggested it would be extreme hardship to make the driveway compliant of the fire code restrictions. He noted the importance of

maintaining the character of the lot and expressed his desire to keep the mature trees located down the drive. He discussed the specific findings of facts and explained why he believed it to be a hardship. He shared the importance of maintaining natural beauty to the property at question and the neighbors. He noted the importance of understanding the family to family transaction and should be considered an exception as such.

Commissioner LoPiccolo confirmed the land would be a gift and explained he was having a hard time understanding the financial hardship. He pointed out at some point, the properties could be sold causing future development issues.

Mr. Pully explained the Board could put a condition on the variance addressing a future sale, but their intent was to keep the property in the family. He agreed the lot was a gift, but they would need to take out a loan to build the house and the cost of the proposed upgrades to the driveway would impact that amount.

Commissioner Gillikin asked if the road was currently gravel.

Mr. Pully explained that it was essentially all gravel, and his understanding was that it could remain gravel, but it had to have a 75,000 compaction rate.

Commissioner Oliver asked questions about the survey and surrounding driveways. He noted the only thing holding the applicant back from meeting the driveway requirements was the financial impacts and wanting to keep mature trees on the lot.

Mr. Pully suggested vast alterations to the driveway would ruin the lot and disturb the neighbors.

Commissioner Oliver shared from his personal experience related to constructing fire safety lanes.

Commissioner Spiegler asked how many trees would need to be cut down to meet the driveway regulations.

Mr. Pully said he was not certain about a number, but did share there were oak trees and pecan trees that would need to be removed.

Commissioner Spiegler shared her concerns related to cutting down any trees. She asked questions related to additional structures should the lot be subdivided.

Mr. Pully shared it was his understanding two structures would be allowed on each lot but offered that issue could be addressed in any conditions place on the variance.

Arey Grady, Town Attorney, confirmed that the Board could place any conditions they see fit on the variance, explaining that any variance granted under 160D does run with the land so the conditions would be binding on future ownership and allowable number of structures.

Commissioner Spiegler asked if the applicant had considered doing an additional to the current.

Mr. Pully said they had explored that option, but felt a new house would be safer and it would not impact the neighbor's water view.

Mayor Pro Tem Cooper shared his concerns related to fire safety in the area.

Mr. Pully said the driveway can currently handle the load of a fire truck.

Commissioner LoPiccolo confirmed the applicant would be removing some thick brush in the area of the proposed house.

Mayor Pro Tem Cooper shared his concern for cutting down trees.

Mr. Pully suggested whether or not they built a new house or renovate the barn, the Fire Department would be responding and saving the same amount of people.

Commissioner Oliver pointed out the survey showed a width of 30 feet for the driveway, but they are only asking for 20 feet to comply with the fire code.

Mr. Pully shared that part of the reason they could not just subdivide was because the driveway is 411 feet long, adding that each driveway would need 20 feet of road frontage.

Commissioner Oliver said he would personally like to hear from the Fire Marshall.

Mr. Pully said his neighbor would prefer they not make the improvements to the driveway and shared there had been a large dump truck down the current driveway without any issues.

Chief Ray explained that the fire code requirement for major subdivisions is a 75,000-pound compaction rate, which comes from the largest truck, and a 20-foot-wide driveway. He explained this allows two large fire trucks to safely pass each other. He shared that the 13.5-foot height minimum speaks to the ability of the apparatus to get on and off the lot. He noted other projects that triggered the same requirements.

Commissioner LoPiccolo asked Chief Ray if he had walked the property.

Chief Ray confirmed he had not been on the property and shared the Fire Marshall was in the period of resignation and was not in attendance because of that aspect. He explained the Fire Marshall had visited the property.

Commissioner LoPiccolo asked if the Chief's opinion, if the applicant chose not to meet the code, would it infringe on public safety.

Chief Ray did not offer his opinion and explained he was there to share factual information.

Commissioner LoPiccolo asked if a fire truck could make its way down the current driveway without impediment of any branches or limbs.

Chief Ray said he could not speak to that.

Commissioner LoPiccolo asked if upgrading the driveway to meet the requirements would improve access for the property.

Chief Ray confirmed that it would.

Commissioner Gillikin referenced other projects staff noted the driveway requirement was placed upon, such as Beaufort Club, Kelly Lane and Davis Bay. She asked if the Chief knew how many residents or houses those areas were serving.

Chief Ray shared Beaufort Club was well over 100 roofed houses and other subdivisions such as Davis Bay consisted of four properties.

Commissioner Oliver asked if the driveway requirements had been consistently applied to other projects under the Town's jurisdiction.

Chief Ray said yes.

Mayor Pro Tem Cooper asked if there were any rebuttals to the testimonies given so far.

Mr. Pully asked Chief Ray if there was a fire at 360 Steep Point Road later tonight, would Beaufort Fire Department respond to the call?

Chief Ray said yes sir, they are going to do everything they can.

Commissioner LoPiccolo asked Mr. Grady if the Town would face any kind of liability if there was some type of event where they could not access the property.

Mr. Grady explained that generally local governments in the state are not liable to individual citizens for failure to provide such services.

Mayor Pro Tem Cooper asked if the Board was satisfied with the materials provided in the case.

Commissioner Gillikin shared that she did see the hardships expressed by the applicant, noting she did not want to see any trees come down. She suggested a variance would be consistent with the spirit, purpose, and intent of the Land Development Ordinance. She

expressed support for placing conditions on the variance limiting the number of structures and any conditions being carried forward to future owners.

Commissioner Oliver said he was not confident that a 20-foot hard adequate surface could not be constructed in the area. He noted that he would like to see more effort to confirm whether or not it could be done to satisfy all issues discussed. He suggested there was a comfortable, non-tree destructive way to meet the requirements of the 20-foot wide drive way and other requirements of the ordinance without needing a variance.

Commissioner Spiegler pointed out this situation was somewhat different than the other examples, given the acreage and number of structures. She agreed the number of trees is not large but preferred not to see any disturbance. She agreed with Commissioner Gillikin, that it would create hardship and noted she would be willing to grant the variance with conditions in place addressing future property owners.

Commissioner LoPiccolo expressed his concerns related to safety.

Commissioner Gillikin asked if Mr. Pully had measured the current height of the trees.

Mr. Pully said in his opinion, one fire truck could access the driveway without any issues. He said the Fire Marshall told him to go to the Board and ask for a variance.

Commissioner Gillikin asked if they could put a condition on the variance that says there must be vertical clearance for at least one fire truck to access the property, it additional to the other conditions discussed.

Mr. Grady confirmed the Board could add that condition and offered additional language, such as the road be maintained in an all-weather, passable condition, sufficient to allow emergency vehicles to access the residences located on the property.

Mr. Pully said the driveway is meticulously maintained and they would want it to stay that way.

Commissioner Gillikin made a motion to close the evidentiary portion of the hearing.

The motion carried unanimously.

Commissioner LoPiccolo expressed concerns about granting a variance without current information from the Fire Marshall related to safe ingress and egress of the driveway.

Commissioner Oliver made a motion to table the request, with the hopes that the applicant will reexamine the survey and carefully remeasure the driveway to come up with a way to meet all of the requirements related to compaction, height and width, without damaging the driveway and disturbing the neighborhood.

Commissioner Oliver amended his motion to add clarity on whether one or two fire trucks could safely access and pass on the current driveway, directing the Fire Chief and staff to determine accessibility.

Charlie Burgess, Interim Town Manager, proposed that the Planning Director, Fire Chief and himself meet on-site to do a physical inspection with the consent of the property owner. He noted they would come back to the Board with visual information.

Mayor Pro Tem Cooper called for a vote on Commissioner Oliver's amended motion.

The motion carried unanimously.

Old Business

1. 138 Chadwick Rd- Certificate of Sufficiency

Ms. Lewis presented the Certificate of Sufficiency for annexation of 138 Chadwick Rd, as listed below. She asked the Board set a public hearing date for February 10, 2025.

To the Board of Commissioners of the Town of Beaufort of Carteret County, North Carolina:

I, Elizabeth Lewis, Town of Beaufort Clerk, do hereby certify that I have investigated the attached petition and hereby make the following findings:

- a) The petition for Voluntary Annexation of 138 Chadwick Rd, 0.258 acres, contains an adequate boundary of requested area to be annexed, via the survey map.*
- b) The area described in the petition is contiguous to the Town of Beaufort primary corporate limits, as defined by G.S. 160A- 31.*
- c) The petition is signed by the owner of the referenced parcel above and includes the addresses of all owners of real property lying in the area described therein.*

In witness whereof, I have hereunto set my hand and affixed the seal of the Town of Beaufort of Carteret County, this ____ day of _____ 2025.

Commissioner Spiegler made a motion to set a public hearing for February 10, 2025, on the question of voluntary annexation at 138 Chadwick Road in Beaufort.

The motion carried unanimously.

2. Case # 24-12 Preliminary-Final Plat - 360 Steep Point Road

Mr. Burgess noted the item should be tabled in conjunction of the variance request.

3. Beaufort Waterfront Operations and Finance Committee Update

Commissioner Spiegler provided an update from the Beaufort Waterfront Operations and Finance Committee, noting Dexter Matthews had met with County Commissioners in efforts to gain their support for the waterfront project and potential state legislature appropriations. She shared it was a very positive meeting.

Mr. Burgess provided updates related to the current RFP's open for fuel service and dock management.

Public Comment

Cheryl Toles, 1010 Broad Street in Beaufort, expressed her concerns about the sidewalks at the west end of Front Street. She said the Town owned sidewalks were removed by private homeowners at 105 Front Street and 113 Front Street. She noted the sidewalks provided direct access to the west end of Front Street and to the Town benches and waterfront viewing area. She suggested it creates a safety issue for the public. She asked if there was a rational reason as to why the Planning Department let this happen.

Hunter Lupton, 358 Steep Point Road in Beaufort, shared his support of the Newmans and their request of a variance to subdivide their property. He noted they had been transparent throughout the whole process. He shared the importance of preservation in Beaufort, and expressed concerns related to alterations of the gravel road and fence in the area. He suggested the current driveway suffices, as he recently had a dual tandem truck down there without any issues.

Manager Report

Mr. Burgess shared the final version of the Professional Park Stormwater Study would be released in the next few days and suggested it be placed on the January 27th Work Session agenda. He discussed other upcoming agenda items and shared staff would update the Board about the sidewalk topic at the January 27th Work Session.

Mr. Grady shared closing of the 611 Front Street property was scheduled to be complete in the next few days.

Mayor/Commissioner Comments

Commissioner Gillikin acknowledged the passing of several Town of Beaufort residents and the impact they made in the community. She shared a historical article from a 1920 Beaufort newspaper.

Commissioner Oliver shared the Maritime Educational Center was under construction. He extended prayers to those suffering in the western part of the United States.

Commissioner Spiegler thanked the Mayor for everything she did for the Town and wished her a speedy recovery.

Mayor Pro Tem Cooper extended a thank you to all who sent well wishes to Mayor Harker following her accident.

Closed Session

1. Pursuant to NCGS 143-318.11 (a) (6)

Commissioner LoPiccolo made a motion to enter closed session, pursuant to NCGS 143-318.11 (a) (6).

The motion carried unanimously.

Recess

Commissioner Oliver made a motion to recess the meeting until January 15, 2025, at 6:00 p.m., to be reconvened at the Beaufort Train Depot.

The motion carried unanimously.

Sharon E. Harker, Mayor

Elziabeth Lewis, Town Clerk