

**ABERDEEN BOARD OF COMMISSIONERS
MINUTES OF
APRIL 9, 2007 REGULAR BOARD MEETING**

The Aberdeen Board of Commissioners met Monday, April 9, 2007 at 6:00 p.m. for their regular Board meeting. Members present were Commissioners Pat Ann McMurray, Donna Shannon, Arthur Parker, Robbie Farrell and Walter Wright. Mayor Elizabeth Mofield was unable to attend. Others in attendance were Town Manager Bill Zell, Town Clerk Nancy Matthews, Planning Director Ben Warren, Deputy Planner Patti Jilson, Finance Officer Beth Wentland and Town Attorney, Mr. T. C. Morphis. Others in attendance were Planning Board member Elease Goodwin, and Katherine Evans and Tom Emery, Reporters for the Pilot Newspaper. There were approximately twenty citizens and several developers who were also in attendance of the meeting.

1. Call to Order

In the absence of Mayor Mofield, Mayor Pro-tem Farrell called the meeting to order and welcomed all those in attendance. He stated there were three Public Hearings to be held.

PUBLIC HEARINGS

a. Application for Conditional Use Permit CU#07-03 submitted by Shannon Sheppard for a home occupation at her residence located at 903 North Poplar Street, Aberdeen, N. C.

Mayor Pro-tem Farrell opened the Public Hearing on Application for Conditional Use Permit CU#07-03 submitted by Shannon Sheppard for a home occupation at her residence located at 903 Poplar Street, Aberdeen, N. C. for public comments and Board discussion.

Planning Director Ben Warren gave a quick overview on the conditional use permit request. He stated that voice lessons will be held at Ms. Sheppard's residence. He stated this will be held on a one-on-one type basis. He also stated the students will be dropped off and then picked up. He stated vehicles at this property will not be a problem.

With no public comments or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on Application for Conditional Use Permit CU#07-03 closed.

- b. Zoning Code Text Amendment ZA#07-02 submitted by Planning Staff to amend Section 155.051 Downtown Retail Overlay District to ensure compliance with the standards set forth by the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000.**

Mayor Pro-tem Farrell then opened the Public Hearing on Zoning Code Text Amendment ZA#07-02 submitted by Planning Staff to amend Section 155.051 Downtown Retail Overlay District to ensure compliance with the standards set forth by the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 for public comments and Board discussion.

Planning Director Warren informed the public and Board that this zoning code text amendment's primary purpose is to ensure total compliance with RLUIPA. He stated there were no changes in the standards or uses. He stated this has been reviewed and suggested by the Town attorney for better clarification in interpreting the ordinance.

With no public comments or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on Zoning Code Text Amendment ZA#07-02 to amend Section 155.051 Downtown Retail Overlay District to ensure compliance with the standards set forth by RLUIPA of 2000 closed.

- c. Voluntary non-contiguous annexation submitted by Horace and Hattie O'Neal for property located at 708 Sun Road, Aberdeen, N. C.**

Mayor Pro-tem Farrell then opened the Public Hearing on voluntary non-contiguous annexation submitted by Horace and Hattie O'Neal for property located at 708 Sun Road, Aberdeen, N. C. for public comments and Board discussion.

Planning Director Warren informed the public and Board that Mr. and Mrs. O'Neal wanted to be annexed into the Town limits and

to receive the in-town utility rates. He stated this was one of the over sights of property that had previously requested to be annexed.

With no public comments or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on voluntary non-contiguous annexation submitted by Horace and Hattie O'Neal for property located at 708 Sun Road, Aberdeen, N. C. closed.

d. Voluntary non-contiguous annexation submitted by Harry Eilert for property located at 620 Longleaf Road, Aberdeen, N. C.

Mayor Pro-tem Farrell then opened the Public Hearing on voluntary non-contiguous annexation submitted by Harry Eilert for property located at 620 Longleaf Road, Aberdeen, N. C. for public comments and Board discussion.

Planning Director Warren stated that Mr. Eilert is building a new home and has requested up front for annexation into the Town limits. He stated that Mr. Eilert will receive the in-town utility rates.

With no public comments or Board discussion, Mayor Pro-tem Farrell declared the Public Hearing on voluntary non-contiguous annexation submitted by Harry Eilert for property located at 620 Longleaf Road, Aberdeen, closed.

2. Setting of the Agenda

With no additions, deletions or changes to the agenda, motion was made by Commissioner Parker, seconded by Commissioner Wright, to approve the Setting of the Agenda as presented. Motion unanimously carried.

3. Approval of the Consent Agenda

All items listed below are considered routine or have been discussed at length in previous meetings and will be enacted by one motion. No separate discussion will be held except on request by a member of the Board of Commissioners.

- a. Minutes of Regular Board Meeting of March 12, 2007; Regular Work Session of March 29, 2007; Budget Work Sessions of March 5th, 6th, 8th, 13th, 20th, 27th; Closed Session of March 29, 2007.**
- b. Approval of changes/amendments to the Aberdeen Personnel Policy.**

With no additions, deletions or changes, motion was made by Commissioner Wright, seconded by Commissioner Parker, to approve the Consent Agenda as presented. Motion unanimously carried.

4. Informal Discussion and Public Comment

- a. Mr. John David McRae, 1133 Pinebluff Lake Rd., Aberdeen, briefly spoke to the Board concerning the adult magazines in clear view at the area convenience stores. He asked if the Board had any update to give pertaining to this issue.

Manager Zell informed Mr. McRae that this issue is being reviewed by the Town attorney and he was waiting to hear from him. He stated the Town attorney was working on an ordinance to address this issue. He stated as soon as there was information received, he would let Mr. McRae know.

- b. Ms. Tracy Davenport, 101 Debnan Street, Aberdeen, briefly spoke stating she had a complaint against the police department. She stated as many times as she had called, not only the police but the Town Hall, she felt that no one has done enough. She stated that phone calls were not returned and that she was not being helped.

Manager Zell tried to talk to Ms. Davenport but she would not listen and she abruptly left the meeting.

Manager Zell informed the Board that there was another side to this domestic dispute and he would discuss it at a later date.

- c. Mr. Mike Green, 1603 Crest Drive, spoke to the Board of the ongoing situation concerning problems with a rental house next to his property. He stated there has been vandalism with the discharging of a firearm in the Town limits in which his bathroom window was shot out. He had removed the window and brought to the meeting in order to show the Board. He stated he is getting very angry with this situation and something has to be done before somebody really gets hurt. He asked the Board to seriously consider this situation and to do whatever possible before the neighborhood is completely destroyed.

5. Financial Report

Finance Officer Beth Wentland gave the financial report for the month of March, 2007. Each Board member received copies of the monthly revenues and expenditures. She stated in the General Fund for March figures, the total revenues were lower than expenses at \$44,948.68, bringing the year-to-date overall financial net gain at \$538,343.86.

Mrs. Wentland stated in the Water/Sewer Fund, because of no bi-monthly utility billing, that revenues came in only at \$24,643.14 bringing the year-to-date overall financial net gain at \$199,643.04.

Mrs. Wentland stated that the audit contract with Dixon Hughes had been received earlier than usual. She asked the Board's consideration to go ahead and approve this audit contract for Fiscal Year 2006-2007.

After some review and questions, motion was made by Commissioner McMurray, seconded by Commissioner Shannon, to approve the Fiscal Year 2006-2007 Audit Contract with Dixon Hughes, PLLC. Motion unanimously carried.

6. Old Business

There was no Old Business for discussion or consideration at this time.

7. **New Business**

- a. Consideration of adoption of Annexation Ordinance #42-407 for non-contiguous annexation submitted by Horace and Hattie O’Neal for property located at 708 Sun Road, Aberdeen, N. C. with the effective date of annexation as April 9, 2007.**

A motion was made by Commissioner Shannon, seconded by Commissioner McMurray, to adopt Annexation Ordinance #42-407 for non-contiguous annexation submitted by Horace and Hattie O’Neal for property located at 708 Sun Road, Aberdeen, N. C. with the effective date of annexation as April 9, 2007. Motion unanimously carried.

- b. Consideration of adoption of Annexation Ordinance #42-507 for non-contiguous annexation submitted by Harry Eilert for property located at 620 Longleaf Road, Aberdeen, N. C. with effective date of annexation as April 9, 2007.**

A motion was made by Commissioner Parker, seconded by Commissioner Shannon, to adopt Annexation Ordinance #42-507 for non-contiguous annexation submitted by Harry Eilert for property located at 620 Longleaf Road, Aberdeen, N. C. with effective date of annexation as April 9, 2007. Motion unanimously carried.

- c. Consideration of approval of Application for Master Sign Plan MSP#07-01 submitted by Primax Properties, LLC. for the proposed signage within the Aberdeen Pines Shopping Center.**

A motion was made by Commissioner McMurray, seconded by Commissioner Parker, to approve Application for Master Sign Plan MSP#07-01 submitted by Primax Properties, LLC. for the proposed signage within the Aberdeen Pines Shopping Center. Motion unanimously carried.

- d. Consideration of accepting a petition submitted by Addison Utley, 177 Jones Street, Aberdeen, N. C. for voluntary contiguous annexation and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31.**

A motion was made by Commissioner Parker, seconded by Commissioner McMurray, to accept a petition submitted by Addison Utley, 177 Jones Street, Aberdeen, N. C. for voluntary contiguous annexation and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31. Motion unanimously carried.

- e. Accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for May 14, 2007.**

A motion was made by Commissioner Shannon, seconded by Commissioner Parker, to accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for May 14, 2007. Motion unanimously carried.

- f. Consideration of accepting a petition submitted by Aaron Clark, Parkway Drive, Aberdeen, N. C. for voluntary contiguous annexation and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31.**

A motion was made by Commissioner Parker, seconded by Commissioner McMurray, to accept a petition submitted by Aaron Clark, Parkway Drive, Aberdeen, N. C. for voluntary contiguous annexation and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31. Motion unanimously carried.

- g. Accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for May 14, 2007.**

A motion was made by Commissioner McMurray, seconded by Commissioner Wright, to accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for May 14, 2007. Motion unanimously carried.

- h. Consideration of accepting a petition submitted by Michele Tew, 800 Magnolia Drive, Aberdeen, N. C. for voluntary contiguous annexation and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31.**

A motion was made by Commissioner McMurray, seconded by Commissioner Wright, to accept a petition submitted by Michele Tew, 800 Magnolia Drive, Aberdeen, N. C. for voluntary contiguous annexation and adopt a Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31. Motion unanimously carried.

- i. Accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for May 14, 2007.**

A motion was made by Commissioner McMurray, seconded by Commissioner Parker, to accept the Clerk's Certificate of Sufficiency and adopt a Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for May 14, 2007. Motion unanimously carried.

- j. Consideration of approval of Application for Conditional Use Permit CU#07-02 and Site Plan Review SP#07-03 submitted by Charles R. Barnes for office and commercial storage/warehousing complex located in the northeast corner of Parkway Drive and Pee Dee Road, Aberdeen, N. C.**

A motion was made by Commissioner Parker, seconded by Commissioner McMurray, that Application for Conditional Use Permit CU#07-02 submitted by Charles R. Barnes for office and

commercial storage/warehousing complex located in the northeast corner of Parkway Drive and Pee Dee Road, Aberdeen, N. C. with the following FINDINGS OF FACT:

1. That all parties were duly noticed.
2. That Charles Barnes, the applicant, proposed to operate an office/warehouse and storage complex on property identified by Moore County Tax records as LRK#99000635.
3. That the application for the office/warehouse and storage complex was accepted on February 16, 2007 by the Town of Aberdeen Planning Department.
4. That Charles Barnes owns the property upon which the proposed office/warehouse and storage complex will be situated.
5. That the proposed site details are as follows:
Zoning: C-I Commercial Industrial (Light) District; Adjacent Zoning: HC Highway Commercial District, C-I Commercial Industrial (Light) District, R-10 MH Residential District; Acreage: 1.44 (+-); Watershed: No; Floodplain: No; Historical Use: Vacant Land.
6. That an office/warehouse and storage complex requires a conditional use permit in the C-I Commercial & Industrial (Light) District.
7. Upon a motion to approve the conditional use permit, the Town of Aberdeen Planning Board voted unanimously to approve the conditional use permit application and forwarded such recommendation to the Board of Commissioners.
8. If constructed in accordance with the site plan submitted and in compliance with the Town's Ordinances and Codes, the establishment, maintenance, or operation of the office/warehouse and storage complex will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare.
9. The proposed use is consistent with uses on properties in the immediate vicinity. Therefore, the office/warehouse and storage complex will not be injurious to the use and enjoyment of other property(s) in the immediate vicinity for the purposes already permitted, or substantially diminish, and impair property values within the neighborhood.

10. That the establishment of a office/warehouse and storage complex will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the C-I Commercial & Industrial (Light) Zoning District.
11. That the exterior architectural appeal and function plan of the proposed office/warehouse and storage complex will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.
12. That adequate utilities, access roads, drainage, and necessary facilities have been provided, as shown on Site Plan SP#07-03.
13. That adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The history of the proposed use indicates that the use will generate minimal traffic.
14. That the conditional use shall, in all other respects, conform to the applicable regulations of the C-I Commercial & Industrial (Light) Zoning District in which it is located, except as such regulations may be modified by the Board of Commissioners pursuant to the recommendation of the Planning Board.
15. That the landscaping will be installed in accordance with Section 155.190 Landscaping of the Zoning Ordinance. The minimum requirements are as follows:
Front: 8 Tall Trees, 12 Understory Trees, 30 Shrubs; Side: 6 Understory Trees, 17 Shrubs; Rear: 11 Understory Trees, 27 Shrubs; Front/Side of Building: Shrubs – 18” minimum height at planting, along front and sides of all buildings that can be seen from the road.

ADDITIONAL CONDITIONS

1. The dumpster shall be enclosed behind a fence.
2. Existing vegetation along the northern and western property lines will be maintained to the extent that those requirements in Section 155.190 Landscaping of the Zoning Ordinance will be met.
3. A sprinkler system will be installed so as to maintain the landscaping planted on site.

CONCLUSIONS OF LAW

1. That the Town of Aberdeen Board of Commissioners has jurisdiction over the persons and subject matter in this action and that the parties are properly before the Board.
2. That the applicant, Charles Barnes, satisfied all the requisite standards pursuant to the Town of Aberdeen Zoning Ordinance.
3. That sufficient evidence was presented by Charles Barnes to satisfy the requirements of the Town of Aberdeen Zoning Ordinance.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the applicant satisfied all of the requisite standards pursuant to the Town of Aberdeen Zoning Ordinance.
 2. Based upon the evidence submitted and the above findings of fact, the application for a conditional use permit for the office/warehouse and storage complex to be located at Pee Dee Commerce Park and Site Plan Review SP#07-03 is hereby approved. Motion unanimously carried.
- k. Consideration of approval of Application for Conditional Use Permit CU#07-03 submitted by Shannon Sheppard for a home occupation (private voice lessons) located at 903 Poplar Street, Aberdeen, N. C.**

A motion was made by Commissioner Shannon, seconded by Commissioner McMurray, that Application for Conditional Use Permit CU#07-03 submitted by Shannon Sheppard for a home

occupation (private voice lessons) located at 903 Poplar Street, Aberdeen, N. C. with the following FINDINGS OF FACT:

1. That all parties were duly noticed.
2. That Shannon Sheppard, the applicant, proposed to operate a home occupation on property identified by the Moore County Tax records as LRK#48530.
3. That the application for the home occupation was accepted on March 6, 2007 by the Town of Aberdeen Planning Board.
4. That Phillip Maxwell owns the property upon which the proposed home occupation will be situated.
5. That the proposed site details are as follows:
Zoning: R-10 Residential District; Adjacent Zoning: R-10 MH Residential District and B-3 Neighborhood Transitional District; Acreage: 1.04 (+-); Watershed: No; Floodplain: No; Historical Use: Residence.
6. That a home occupation requires a conditional use permit in the R-10 Residential District.
7. Upon a motion to approve the conditional use permit, the Town of Aberdeen Planning Board voted unanimously to approve the conditional use permit application and forwarded such recommendation to the Board of Commissioners.
8. The establishment, maintenance, or operation of the home occupation will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare.
9. The home occupation will not be injurious to the use and enjoyment of other property(s) in the immediate vicinity for the purposes already permitted, or substantially diminish, and impair property values within the neighborhood.
10. That the establishment of a home occupation will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the R-10 Residential District.
11. That the exterior architectural appeal and function plan of the proposed home occupation will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood.

12. That adequate utilities, access roads, drainage, and necessary facilities have been provided.
13. That adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
14. That the conditional use shall, in all other respects, conform to the applicable regulations of the R-10 Residential District in which it is located, except as such regulations may be modified by the Board of Commissioners pursuant to the recommendation of the Planning Board.

CONCLUSIONS OF LAW

1. That the Town of Aberdeen Board of Commissioners has jurisdiction over the persons and subject matter in this action and that the parties are properly before this Board.
2. That the applicant, Shannon Sheppard, satisfied all of the requisite standards pursuant to the Town of Aberdeen Zoning Ordinance.
3. That sufficient evidence was presented by Shannon Sheppard to satisfy the requirements of the Town of Aberdeen Zoning Ordinance.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the applicant satisfied all of the requisite standards pursuant to the Town of Aberdeen Zoning Ordinance.
2. Based upon the evidence submitted and the above findings of fact, the application for a conditional use permit for the home occupation to be located at 903 Poplar Street is approved. Motion was unanimously carried.

8. Other Business

Planning Director Warren informed the Board he had one item for discussion. He then distributed to the Board a letter from Aldena Frye with Custom Floral Designs, who has recently opened her floral shop at 120 West Main Street, in which Mrs. Frye is requesting to apply for a permit to allow display merchandise of a floral nature on the sidewalk in front of her shop. Mrs. Frye realizes that the permit is only allowed for two days at a time and she would like to be able to get a permit that would be self-renewing at the end of the two days.

After some discussion, the item was deferred for discussion at the next Work Session.

9. Closed Session: Attorney-Client Privilege

A motion was made by Commissioner Wright, seconded by Commissioner Parker, to go into Closed Session for the purpose of Attorney-Client Privilege. Motion unanimously carried.

10. Adjourn

The Board left Closed Session and returned to Regular Session. With no action taken, a motion was made by Commissioner Parker, seconded by Commissioner Farrell, to adjourn the meeting. Motion unanimously carried.

Nancy M. Matthews, Town Clerk

Robert A. Farrell, Mayor Pro-tem

These minutes prepared and
completed on April 19, 2007

These minutes were adopted
May 14, 2007