

**CURRITUCK COUNTY
BOARD OF ADJUSTMENT REGULAR MEETING
November 8, 2012**

REGULAR MEETING

The Currituck County Board of Adjustment met on November 8, 2012 at 7:30 p.m. in the Historic Currituck County Courthouse. The following members were present: Bryan Bass, David Palmer, Christian Conner, Cameron Tabor, and Michael Painter. The following member was absent: Theresa Dozier and Vivian Simpson. Brad Schuler, Planner; Stacey Smith, Code Enforcement Officer; and Ike McRee, Board of Adjustment Attorney; were also present.

Mr. Bass called the meeting to order and announced a quorum have been met with three regular members and two alternate members.

APPROVAL OF JULY 12, 2012, 2012 MINUTES

Mr. David Palmer motioned to approve the July 12, 2012 minutes with no changes. Mr. Christian Connor seconded the motion and the motion passed unanimously.

CONSIDERATION AND ACTION on BOA 09-15 THE LAMPE COMPANY INC:
Extension of the conditional use permit to allow a mini-warehouse and outdoor storage located at 8418 Caratoke Hwy in Powells Point, 0124-000-068G-0000, Poplar Branch Township.

Mr. Terry Wethington, Mr. Derek Dail, Mrs. Stacey Smith and Mr. Brad Schuler appeared before the board and were sworn in.

Mr. Schuler presented the following case to the Board:

To: Board of Adjustment
From: Brad Schuler, Planner I
Date: November 1, 2012
Subject: The Lampe Company CUP Extension

On September 10, 2009, the Board of Adjustment voted to approve BOA 09-15, a Conditional Use Permit application for mini-warehousing and outdoor storage at 8418 Caratoke Highway. The CUP approval was due to expire on September 10, 2011, however, the North Carolina General Assembly passed a law that suspended the vesting period for development approvals

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that were valid at any time during January 1, 2008 through December 31, 2010. With the law in effect the CUP expiration date is January 1, 2013.

On August 24, 2012 the applicant, The Lampe Company, submitted a request for a two year extension of the permit (see attached).

In accordance with the UDO Chapter 11 Section 11.10.2, the Board of Adjustment may grant an extension of the CUP one time for a period of two years, if they conclude that:

1. The permit has not yet expired.
 - a. The permit has not yet expired and will expire January 1, 2013.
2. The permit recipient has proceeded with due diligence and in good faith; and,
 - a. The decline in the economy has delayed the development of the property.
3. Conditions have not changed so substantially as to warrant a new application. Successive extensions shall not be granted. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

There are no changes proposed in the extension request.

DISCUSSION

David Palmer asked if the applicant had 5 percent of cost of the permit completed.

Brad Schuler stated they have not submitted any evidence that they have met the 5 percent to be vested for their permit.

Terry Wethington stated he thought he had until December 31st to have 5 percent done and have recently applied for permits and in hopes to start by October 1. We were required to go back through TRC again, which has delayed applying for the building permits.

Brad Schuler stated that they were required to go back to TRC to get the final approval, which was a requirement of their permit.

Terry Wethington just received that approved plan tonight and are ready to start construction and is prepared to spend the 5 % by the December 31st deadline. He does not want to push the local contractors to get it done as there are two major holidays and when rushed contractors make mistakes. However, he is ready to start with the full project.

David Palmer asked if they were going forward with the full project.

Terry Wethington stated they were as they have a lot of money invested in this project and they are committed to this project. We do not develop to sell; we develop to manage it ourselves, as that is our business

Derek Dail with Quible stated that he is here to answer any questions the board may have about the project.

ACTION

David Palmer motioned to extend the permit. Christian Conner 2nd that motion. Motion carried unanimously.

Item 4:

BOA 12-15 CO PARTNERS OF JARVISBURG: Appeal of administrator's decision that signage contains off-premise advertising and is in violation of Section 7.4 of the Unified Development Ordinance. Located at 5243 Caratoke Hwy, Parcel 0083-000-006A-0000, Poplar Branch Township.

Mr. Thomas Wright, Mr. Jerry Wright and Mr. Dennis Anderson appeared before the board and were sworn in.

Mrs. Smith presented the following case to the board:

To: Board of Adjustment

From: Planning Staff

Date: October 31, 2012

Re: BOA 12-15 CO Partners of Jarvisburg

Jerry Wright is appealing the administrator's decision regarding signs located at The Muddy Motorsports Park, 5243 Caratoke Hwy, Poplar Branch.

On March 17, 2011 the County issued building permits for two 240 square foot on-premise signs in accordance with the standards of the Unified Development Ordinance (UDO). At the time, the UDO allowed for two on premise signs for the property with a maximum area of 250 square feet each. The building permit application did not illustrate any off premise advertisements.

An on site inspection found the two signs to be advertising businesses not located on the premises on which the signs are located. The UDO states:

"Section 7.4 Prohibited Signs

The following signs are expressly prohibited:

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A. *Off-premise advertising signs (billboards), including digital billboards.*"

Section 17.2 Definitions of the UDO states:

"Sign, On Premise

Any sign that directs one's attention to a service, commodity, entertainment, or business offered on the premise where the sign is located."

The County submits the following attachments:

- Attachment 1: Appeal application submitted September 17, 2012 by Jerry Wright, property owner.
- Attachment 2: Notice of violation sent September 4, 2012 from Stacey Smith, Code Enforcement Officer.
- Attachment 3: Photos taken August 30, 2012 of the two signs found in violation.
- Attachment 4: Building Permit #201100342 issued on March 17, 2011 for 2 freestanding on premise signs
- Attachment 5: Copy of Sections 7.4 & 17.2

DISCUSSION

David Palmer made mention of the note on permit application "for illustration purposes only" on the construction drawings

Jerry Wright provided an overview of the history of the Mud Park. He felt the notice of violation should have gone to the Muddy Motor Sports and not CO Partners of Jarvisburg. He also wanted to know which commissioner this complaint came from.

Ike McRee stated that there is written documentation in the file and the files are public record.

Stacey Smith stated that the complaint was giving to the commissioners during the Terry Miles sign request along with three others during a BOC meeting.

Jerry Wright stated that the staff had determined the signs were off-premise. Ask staff to read signs.

Stacey Smith reads the whole signs.

Jerry Wright stated that the signs do not state location of Cam2. They are an activity of the park and Hall Automotive provides cash incentives. No place on the sign does it direct you to different locations. UDO never envisioned with these type of uses.

Bryan Bass summarizes: 1. violation should not have be cited to Co Partnership but to Muddy Motor Sports. 2. Signs are sponsors of the event.

Jerry Wright stated that outdoor advertising is the most effective advertising in the County. Biggest problem is most people cannot afford them.

Cameron Tabor asked if they have been receiving any fines.

Jerry Wright stated no as we appealed. If ruled against Dennis will have to take down sign soon or face fines of up to \$500 a day.

Mike Painter asked whom the permit was issued to.

Stacey Smith stated that the building permit was issued to Dennis Anderson Muddy Motor Sports Park.

Stacey Smith quoted the section of the UDO where it speaks of persons liable for the violation. We always send violations to property owner.

Bryan Bass does the sign change if sponsor changes?

Dennis Anderson sign stays the same. He gave an overview of how the park is run.

Bryan Bass asked who paid for the skins for the sign.

Dennis Anderson stated that Hall Automotive and Cam2 paid for the signs and gives me products. He paid to have the signs built.

Chris Conner asked how long up have the signs been up.

Dennis Anderson stated that the signs have been up since about April of this year.

Christian Connor asked what was up before these signs.

Dennis Anderson stated no signs other then the little sign with just the name on it.

David Palmer asked Mr. Anderson is it correct that Cam2 gives you product and you give to participants.

Dennis Anderson answered yes they do.

David Palmer stated he thinks that in this case it is in fact part of operation.

Bryan Bass asked what relation Hall has in the operation.

Dennis Anderson stated that Hall Automotive sponsors a truck that he drives and pays the purse for the winners.

David Palmer asked if the sponsoring is on all the time.

Dennis Anderson answered, yes they do.

David Palmer asked Ike McRee for an interpretation.

Ike McRee advised the board to refer to the UDO

Cameron Tabor stated that the UDO does not say you have to sell it

ACTION

David Palmer motioned to overturn the administrator's decision as the signs stated sponsorship not location. Michael Painter 2nd the motion. Motion carried unanimously.

ADJOURNMENT

There being no further business to discuss Mr. Cameron Tabor motioned for adjournment. Mr. Christian Conner seconded the motion and the motion passed unanimously. The meeting adjourned at 8:50 p.m.

Respectfully Submitted,

Stacey Smith

Code Enforcement Officer