



**CURRITUCK COUNTY
BOARD OF ADJUSTMENT REGULAR MEETING
August 8, 2013**

REGULAR MEETING

The Currituck County Board of Adjustment met on August 8, 2013 at 7:00 p.m. in the Historic Currituck County Courthouse. The following members were present: David Palmer, Cameron Tabor, Michael Painter, Vivian Simpson, Donna McCloud, C. Shay Balance, and Theresa Dozier. Brad Schuler, Planner; Stacey Smith, Code Enforcement Officer/Board of Adjustment Clerk; and Ben Gallop, Board of Adjustment Attorney; were also present.

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

Mr. Tabor asked if there were any changes to the agenda.

Brad Schuler stated that the applicant withdrew Item 3.

Item 1: Approval of July 11, 2013 Minutes

David Palmer motioned to approve the July 11, 2013 minutes with no changes. Theresa Dozier 2nd the motion and the motion passed unanimously.

Item 2: BOA 13-05 CHRISTOPHER SUSKO: Appeal of administrator's determination that all vehicle maintenance associated with the non-accessory home occupation for a limousine/taxi service be behind the fence/gate. The property is located at 102 North Sea Breeze, Tax Map 76, Parcel 80B, Fruitville Township.

Brad Schuler, Stacey Smith, Christopher Susko, Todd Whitehead, Mary Whitehead, and Jody Batesole were sworn in before the board.

Brad Schuler reviewed the following memo and attachments to the board:

MEMORANDUM

To: Board of Adjustment
From: Planning Staff
Date: July 3, 2013
Re: BOA 13-05 Susko Appeal

Chris Susko is appealing the administrator determination that all vehicle maintenance associated with his non-accessory home occupation for a limousine/taxi service must be behind the fence/gate shown on the approved site plan.

The Board of Adjustment issued a conditional use permit to Mr. Susko on April 11, 2011 to operate a limousine/taxi service at his residence at 102 Seabreeze Lane N in Knotts Island. Additional conditions were placed on the permit including:

“6. The two vehicles associated with the business shall be stored in the back yard as indicated on the site plan.”

Originally, staff interpreted this condition to allow for minor maintenance to be conducted outside of the fenced/gated area due to it being short term in nature. However, that interpretation changed after reviewing the audio recording from the August 11, 2011 BOA meeting as requested by an adjoining property owner. At the August 11, 2011 meeting, Mr. Susko requested modifications to his conditional use permit including to not install the fence/gate from his house to the fence along the property line.

In the audio recording of the meeting, Richard Black of 108 Seabreeze Lane N stated his concerns regarding maintenance of the vehicles and that the vehicle should be maintained behind the fence and gate. Mr. Bryan Bass, Chairman of the BOA, also stated the concern of a neighboring property owner was the visible maintenance of the vehicles including changing oil and washing and that it should adhere to the original condition of storing the vehicles in the back yard. Staff believes it was the intent of the Board to have all maintenance occur behind the fence/gate in the area designated for the limo parking as shown on the approved site plan.

The County submits the following attachments:

Attachment 1: Letter of Determination dated May 21, 2013 from Brad Schuler, Planner I.

Attachment 2: Appeal application.

Attachment 3: Approved site plan.

Attachment 4: Conditional use permit issued April 11, 2011.

Attachment 5: The minutes of the modification request from the August 11, 2011 BOA meeting.

Attachment 6: CD of audio recording:

Track 1: Beginning of agenda items.

Track 2: Richard Black concerns over maintenance of vehicles.

Track 3: Bryan Bass' summary.

DISCUSSION

Mr. Tabor stated that to him it did not sound clear what was meant by storing, and asked is that why we are here.

Mr. Schuler stated yes, the board needs to determine what storage means.

Mr. Tabor commented that a citizen could change their oil in their driveway.

Mr. Schuler stated that yes a citizen can however this is a condition on the permit.

Mr. Palmer asked if this was due to complaints.

Mr. Schuler stated that this appeal was not due to a Notice of Violation it is an appeal of the staff determination.

Mr. Gallop clarified that this case is not an amendment of the permit it is a determination if stored in the backyard means maintenance as well.

Mr. Susko gave some background on the history of his business and stated that county staff told him when he first got my permit that he could do maintenance to my vehicles in my driveway and that is just what he has done. It is no different then washing your personal business in your driveway.

Mr. Susko then went over the letter he received from Code Enforcement Officer Stacey Smith allowing him to perform his maintenance in his driveway. He went on to review emails between Mr. Schuler and Mr. Whitehead regarding the washing and maintenance of vehicles as well as showed pictures of the area in which he currently washing vehicles verses the back view where it would be more visible. He stated that it makes it difficult to clean in the rear yard as he would have to keep the gate open to haul off the supplies to the rear of the property and he felt as long as he was doing the cleaning during the approved business hours he should be able too. Many people drive their work vehicles home and wash them. He took the limos to Moyock Automotive to perform other maintenance such as oil changes.

Mr. Tabor asked the size of the fence and if you could see through it.

Mr. Susko stated that it was a 6-foot stock privacy fence.

Mrs. Simpson asked if there was clutter when washing and how long does it take to wash them.

Mr. Susko stated it takes about 2 hours and I have a pale, some rags, and a shop vac.

Mr. Painter asked if the fence ran down the property line.

Mr. Susko stated that it does on the left side of the property and then went into the history of the requirement of the fence

Mr. Tabor advised Mr. Susko that the fence is another matter and we are not here to address the fence.

Mr. Painter asked how many limos he had.

Mr. Susko stated that he had five however only two were kept at the property.

Mr. Painter asked if the permit limited the number of limos.

Mr. Susko stated that yes the permit only allowed for two limos storage at the property.

Mr. Susko then went on to state that had tried everything he could to work with the neighbor and now he has surveillance cameras watching his house.

Jody Batesole who lives to the right of the Susko's went on to say that, Mr. Susko is a very big contributor to the Knotts Island community. The church right across the street has car washes, other people wash their work vehicles in their driveways, and where do we draw the line. Her son is the loudest driver on the street, not the limos. He is a very generous person and she thinks it is unfair that he cannot wash his vehicles in the driveway like everyone else and she thinks it would be a shame to stop him as he is trying to provide for his family

Todd Whitehead, adjoining property owner stated that it was his understanding that the vehicles were going to be behind the gate at all times and his party bus when parked in the driveway it blocks a lot and it is going to be hard to sell my house. Mr. Bass clarified that all activities should be behind the fence and gate. The Suskos have a nice yard and during the week he cleans them all the time and this is forcing me to move. It is a business no matter which way you look at it and it has been nice the last couple of months since he has been washing in the backyard and would like to see that continue.

Mary Whitehead, adjoining property owner stated that she thinks it is great he volunteers for others but that is not why we are here. She moved here to a quite community not next door to a business. They wash cars all day long and most of the time it is on the weekends. She would like to see the limos begin washed in the backyard.

Rick Susko stated that everyone washes their cars in their driveways

Mr. Tabor asked Mr. Susko what the 104 emails pertained too.

Mr. Susko reviewed sections of the emails regarding this complaint.

Mrs. Batesole stated that she did not want to argue, but what is the difference between the party buses and if she had 18 kids, in which she had a large van. Would she be discriminated against for having a large vehicle? We need to be concerns with other issues on Knotts Island not whether he can wash his vehicles in the driveway or not.

Mrs. Whitehead discussed the reason for the fence.

Mr. Palmer advised the board that we needed to get back to why we are here.

Mrs. Whitehead advised that her main concern is looking at the limos in the driveway.

Mr. Tabor closes the public hearing.

Mr. Palmer asked Mr. Schuler if the section of the audio of Mr. Bass was before the motion.

Mr. Schuler stated that the discussion by Mr. Bass was before the motion.

Mr. Tabor asked for the audio to be played again.

Mr. Schuler played the audio.

Mr. Palmer asked what the original conditions were.

Mr. Schuler reviewed the eight conditions on the original permit

Mr. Palmer commented that in the original use permit, it did not say.

Mr. Tabor stated that he sees that it only states they have to store behind the fence

Mr. Schuler restated the condition.

Mr. Painter asked what the reason was for the hours of operation.

Mr. Schuler stated so vehicles were not coming in too late.

Mr. Palmer stated that it is unfortunate this is before us. There are no regulations for kids coming home late, I come home late, and I wash in my front yard. It is his opinion that we did not state that washing had to be performed behind the fence.

ACTION

David Palmer motioned to overturn the decision and find that the Suskos are operating in accordance with his permit conditions. Theresa Dozier 2nd the motion. Motion carried unanimously.

ADJOURNMENT

There being no further business to discuss, David Palmer motioned for adjournment. Theresa Dozier 2nd the motion and the motion passed unanimously. The meeting adjourned at 8:03 pm

Respectfully Submitted,

Stacey Smith

Stacey Smith
Code Enforcement Officer/BOA Clerk