

TOWN OF FUQUAY-VARINA
BOARD OF ADJUSTMENT REGULAR MEETING
March 14, 2022

CALL TO ORDER

Chairman Dan Miller called the Fuquay-Varina Board of Adjustment regular meeting to order on Monday, March 14, 2022, at 7:00 p.m. Attendees participated virtually and in person.

Board Members Present: Dan Miller (Chairman)
Jeff Jaeger (Vice - Chairman)
Andrew Rubley
Michelle Braxton
William Hartman
Genel Webb
Qisoundra Flowers

Others Present: Planning Director Pam Davison
Assistant Planning Director Melissa Sigmund
Clerk Eva Mayfield
IT Director Scott Clark
Town Attorney James Adcock
Senior Planner Josh Jurius
Planner Jessica Crenshaw
Planner Slater Knox

Others Present Virtually: Assistant Town Manager Jim Seymour

Chairman Dan Miller made an announcement stating that Item 5. A. Administration of the Board of Adjustment - Oath of Office was moved to the beginning of the meeting to administer the Oath of Office to *Board Members Andrew Rubley and Qisoundra Flowers*. He explained that this would allow them to vote on items presented to the Board.

New Business

Agenda Item No. 5. A.: – Administration of the Board of Adjustment - Oath of Office

Purpose

The purpose of this agenda item is to administer the oath of office to the newly appointed Board of Adjustment members, Andrew Rubley and Qisoundra Flowers.

Recommendation - No Action Required.

Chairman Dan Miller asked the *Clerk to the Board of Adjustment Eva Mayfield*, to administer the oath.

Clerk to the Board of Adjustment Eva Mayfield administered the oaths of office to Board of Adjustment members Andrew Rubley and Qisoundra Flowers.

Approval of The Minutes

Agenda Item No. 2. A: – Approval of the Minutes from the February 14, 2022, Meeting.

The February 14, 2022, regularly scheduled Board of Adjustment meeting minutes were presented for approval.

No corrections were requested.

Motion – Approve the minutes from the February 14, 2022, meeting of the Board of Adjustment as presented.

MOTION: Andrew Rubley
SECOND: William Hartman
MOTION RESULT: Passed Unanimously (7-0)

Chairman Dan Miller made the announcement that quasi-judicial hearings are a time for petitioners to present justification for special use permits or variance requests and for the members of the public to testify in support of or in opposition to these presented justifications. Quasi-judicial hearings are unlike legislative hearings in that witness testimony is limited to the field of expertise or a party withstanding and not for general public comments in support of or in opposition to the request. He then asked *Planning Director Pam Davison* to review the protocol for the witness testimony related to this meeting.

Vice-Chairman Jeff Jaeger asked for a moment while he had a sidebar with *Chairman Dan Miller*.

Chairman Dan Miller asked if, prior to Staff presenting testimony, should the Clerk swear in parties providing testimony?

Planning Director Pam Davison responded that she was only presenting the meeting protocol and that the swearing-in of witnesses would occur after her announcement of the meeting protocol.

HYBRID MEETING INSTRUCTIONS

Planning Director Pam Davison read aloud the hybrid meeting protocol and instructions for public participation. Since this is a quasi-judicial meeting, she announced that everyone wishing to testify, or comment would need to be sworn in. Attendees can comment both in person and virtually via the Zoom virtual meeting platform. Anyone wishing to participate in the meeting virtually needs to either join using the Zoom media application or call the Zoom meeting with the provided list of phone numbers on the Town's website.

Clerk Eva Mayfield swore in each expected speaker for the meeting:

- Thomas H. Johnson – Petitioner’s Attorney (In Person)
- Jill Donovan – Petitioner (In Person)
- John J. Feore – Witness (In Person)
- Josh Crumpler – Expert Witness (In Person)
- Laurie Jackson – Expert Witness (Online)
- Pam Davison – Planning Director (In Person)

Chairman Dan Miller opened the public hearing.

Public Hearings

Agenda Item No. 4. A: – Special Use Permit Petition - 5727, 5733 & 5803 Hilltop Road - PINs 0687293420, 0687292136, and 0687280920 - BOA-SUP-2022-03.

Purpose

The purpose of this agenda item is to consider a Special Use Permit, BOA-SUP-2022-03, at 5727, 5733 & 5803 Hilltop Road submitted by petitioner Jill Donovan.

Staff Comments – *Planning Director Pam Davison* entered the agenda abstract and supporting documents for this agenda item into the official record of the Town.

Special Use Request – The petitioner is requesting a special use permit to allow for a banquet hall within the Residential Agricultural (RA) zoning district as required by the Permitted Use Table in Section §9-1254 of the Land Development Ordinance (LDO). The three (3) subject properties would be recombined to create one (1) lot for development.

Recommendation – Approve BOA-SUP-2022-03 as presented, under the terms and conditions identified in the applicant's application, testimony, site layout exhibit, and preserving all conditions of the special use permit BOA-SUP-2022-03 not inconsistent therewith. Or Deny BOA-SUP-2022-03 as presented.

Public Hearing – The public hearing was opened for speakers in favor of the petition.

Tom Johnson, 301 Fayetteville Street, Suite 1700, Raleigh, stated that he represents the petitioner on this item, Jill Donovan. He noted that with him was Jill Donovan, the petitioner; John Feore, Ms. Donovan's father; Josh Crumpler, the engineer and expert witness; and Laurie Jackson, the architect, and expert witness. Mr. Johnson explained that he would present the Findings of Facts to the Board, and then if the Board had any questions, the witnesses and expert witnesses could provide answers to those questions.

Mr. Johnson provided responses to the Findings of Fact:

Finding of Fact #1: The proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted because it is located on the main road for convenient ingress and is on a large tract of land that exceeds the acreage requirement under the ordinance by over ten (10) acres, the LDO has a three (3) acre requirement. He explained that they have a 13.4-acre

tract for the banquet hall. The activities on the site will be well buffered and attractive, including a berm toward the residential property to the north. As part of the Fuquay-Varina transportation plan, Hilltop Road is to be re-routed to Lake Wheeler Road, and the balance of Hilltop Road toward this site will no longer be a through street. As a result, the traffic impact will be much less. This plan includes a sidewalk and streetlights along Hilltop Road, making pedestrian and vehicle travel safer. The use will comply with all fire and building code requirements.

Finding of Fact #2: The proposed use meets all required conditions and specifications. These conditions and specifications are outlined in the ordinance with respect to the requirements for banquet halls. Mr. Johnson stated that the plan exceeds the minimum acreage of three (3) acres by over ten (10) acres. There's little vegetation, but the existing vegetation will be preserved where possible. The plans meet the 50-foot minimum perimeter setback. Any noise outside the structures will not be audible beyond the boundary of the property after 11 p.m., as required by the ordinance. As required by the ordinance, the banquet hall is more than half a mile from any other banquet hall. The proposed use will not have a restaurant on site; any events will be catered. Mr. Johnson wanted to clarify that the mention of a kitchen by Staff was a catering type kitchen, and the intent is not to cook on site.

Finding of Fact #3: The proposed use will not substantially injure the value of adjoining property, or the use as a public necessity because the use is consistent with the surrounding uses with a commercial car repair business use to the north, the railroad to the east, Terrible Creek to the south and the Fuquay - Varina wastewater treatment plant to the west. There will be a berm on the northern property line to buffer the residential properties to the north. Given the size of the property, the banquet hall has plenty of room for parking and to buffer activities from its surroundings. This area is already a mix of residential and commercial uses. By allowing a banquet hall as a special use with specific conditions in the RA district, the ordinance recognizes this as a use compatible with the surrounding uses. The conditions reduce the impact of the value of adjoining properties. Additionally, the railroad serves as a buffer to the properties to the east, the stream serves as a buffer to the properties to the south, and Hilltop Road serves as a buffer for the properties to the west.

Finding of Fact #4: The location and character of the proposed use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the Town of Fuquay-Varina and its ordinances. Because a banquet hall is listed as a special use in the RA zoning district, by law it's presumptively in harmony with the area and in general conformity with the plan of development of the Town of Fuquay - Varina. In addition, and as stated previously in Finding of Fact #3, this property is surrounded by a mix of residential and commercial uses, including a car repair business to the north, the railroad to the east, and the Fuquay-Varina wastewater treatment plant to the west. A banquet hall is in harmony with this area since this area already consists of a mix of commercial and residential uses.

Mr. Johnson provided the responses for contributing factor descriptions:

Circulation: Circulation for safety and convenience for automotive, bicycle, pedestrian movement, and public safety. Mr. Johnson explained that there would be two (2) entrances to the property with turnarounds on the site to ensure good traffic circulation and to comply with fire codes. Sidewalks would be added along Hilltop Road. The site plan shows that ADA compliant pedestrian paths will be included throughout the

property to allow convenient and easy pedestrian access. A drive is being added to the barn with a hammerhead turnaround. The parking lot is designed for ease of parking and traffic circulation. The front of the residence has a circular drive that exists now and will continue to be used for ease and safe travel for vehicles.

Parking & Loading Location Areas – Parking lot and loading locations, as shown on the site plan, provide the required number of parking spaces, including ADA compliant spaces. The parking lot has drive aisles for ease of movement. Drives are provided to the house and barn for the ease of loading and unloading.

Service Entrance & Areas – Drives with service entrances are provided to the main structure and barn. A dumpster with required screening and landscaping adjoins the main structure.

Lighting – The lighting will comply with the Land Development Ordinance and be designed to keep the lighting on site. Streetlights and lights in the parking lot will be provided as required during the site plan review.

Utilities – The site will continue to use well and septic. Electricity is available at the site.

Open Space & Landscaping – Mr. Johnson stated that the goal in this instance is for this to be an attractive venue to be used in a rural setting with landscaped open spaces. The existence of the adjoining creek will be enhanced to create locations for photographs and enjoyment of the natural surroundings. As noted on the site plan, existing trees and natural vegetation will be preserved as much as possible and supplemented with additional landscaping.

Environmental Protection – Mr. Johnson stated that the stream buffer and floodplain would not be developed, and trees on site would be preserved to the maximum extent possible. Additional landscaping will be added to enhance the appearance of the site. Stormwater will be managed as required by local and state regulations.

Effect on Adjacent Property – Mr. Johnson stated that the noise would comply with the ordinance standards as set forth. There will be no noise exceeding the property lines after 11 p.m. Lighting will be limited to the site as much as possible. There will be no odor, and traffic will be managed for the benefit of the use and to limit any impact on surrounding properties. The applicant will comply with DOT requirements for any driveway permit. The future transportation plan calls for this portion of Hilltop Road to no longer be a through street, with this being the only use on this section of Hilltop Road. Mr. Johnson stated that there are no other properties to be accessed once the project is completed. A berm will be added to the north to buffer the properties on the north side. The railroad and stream will serve as buffers for the properties to the east and south, and Hilltop Road will serve as a buffer to the properties to the west.

Compatibility – Mr. Johnson stated that the structures would be spread throughout the property. Any structures will be consistent with the agricultural heritage of the area. Mr. Johnson explained that the intent is to have a venue that highlights the agricultural heritage of this area. The size of the property will allow for buffering from adjoining properties. There will be plenty of space to separate activities throughout the site rather than having them concentrated in any one location.

Mr. Thomas stated that is the extent of what they had to present for the findings, based upon the information already given. He advised the Board that he had Petitioner Jill Donovan and Josh Crumpler available to speak if there were any questions. Mr. Johnson stated that Ms. Donovan is excited about this because they have been looking for a location for a long time and this is the ideal location because of the home's beauty, buildings, acreage, the creek that is there, and other things that enhance this as an entertainment venue for her. He said that Ms. Donovan already has a catering company and will be catering the events held at the venue. Mr. Johnson closed by saying that he was available to answer any questions.

Chairman Dan Miller asked the Board members if anyone had any questions for the petitioner?

There were no questions from the Board members.

Chairman Dan Miller stated that the next person on the list of witnesses to speak was Josh Crumpler and asked Mr. Crumpler if he wanted to make a statement?

Mr. Crumpler responded that he did not have a statement to make.

Mr. Johnson stated that all parties on the list of witnesses are all supporting this request and do not plan on speaking unless the Board had specific questions with respect to engineering or the architecture or Ms. Donovan as far as the operation of the venue.

Chairman Dan Miller asked if there was anyone in the audience that would like to speak in opposition to the special use permit request.

Chairman Dan Miller asked if there was anyone online that would like to speak in opposition to the special use permit request.

There were no speakers in opposition to the request.

Chairman Dan Miller closed the public hearing for Board discussion.

Board Discussion on Finding of Fact #1:

Chairman Dan Miller asked if there was any discussion by the Board on Finding of Fact #1.

Board Member Genel Webb stated that she did have a question and wanted to clarify. She said that the application indicates that structures will be spread throughout the property and asked if there were only two (2) structures?

Mr. Johnson responded to *Mrs. Webb* that there are two (2) main structures, and then there are existing structures that are out there. Mr. Johnson said that those structures would be moved to other locations on the property. They are in a location where they would interfere with the parking lot, and they want to preserve as many of those as they can because they want the venue to maintain that agricultural feel that it currently has.

Mr. Johnson stated that, as of now, that is all that is planned. There is an outdoor section where there may be outdoor events, and there is potential to have a temporary tent up when there is an outdoor event, but that will be permitted through the Town. There is a permitting process for that on a temporary basis.

Board Member Qisoundra Flowers stated that it was mentioned that the NCDOT plans in the future to no longer have Hilltop Road as a through street as of 2024. *Mrs. Flowers* asked if this request is approved, when will the construction be finished, and how long will that be a through street while banquet visitors are using the street?

Mr. Johnson responded to *Mrs. Flowers* that the plan is to get this request approved and do construction over the next year. There will be a period of time based on the existing schedule of about three (3) years where it will still be a through street, but after that, it will not be a through street. Mr. Thomas stated that it is just a matter of coordination of that.

Mrs. Davison stated that the Town would require a curb and gutter and a sidewalk along that section.

Mr. Miller asked which way is the road being abandoned or broken from the existing network? Would it be at the north side where it veers off to tie into Lake Wheeler Road?

Mrs. Davison and Mr. Johnson responded by stating yes, that was correct.

Mr. Miller asked if there would be a pavement break up there and some barricades, so access would be from the south?

Mrs. Davison responded that she did not know.

Mr. Miller asked if access to the property coming from the south, heading north on Hilltop Road?

Mr. Johnson stated that he would anticipate that since Lake Wheeler Road is going to be a new thoroughfare, he does not think they are going to want access to the south. Mr. Johnson stated that he would anticipate access to the north where Hilltop Road is veering off to get to Lake Wheeler Road. That would be consistent with what NCDOT typically does, but there would be that short stretch where there will be access. Mr. Johnson stated that based on the plan, that is what it appeared like to him because access must be provided to these properties. It could not be terminated. Mr. Johnson stated that it would eventually become a driveway to the site.

There was no other discussion from the Board.

The Board voted on the Findings of Fact as follows:

Finding of Fact #1: *Vice Chair Jeff Jaeger* made a motion that the proposed use will not materially endanger the public health or safety if located were proposed and developed according to the plan as submitted because it will be located on the main road. It will be well buffered with an attractive feel to it. It will include sidewalks and streetlights. It will meet all fire and building requirements and provide for ease of traffic circulation on the property. Upon second by *Board Member William Hartman*, the Board voted 7 in favor of the motion and none in opposition of the motion. Finding

of Fact #1 was unanimously approved.

The Board voted on the Finding of Fact as follows:

Finding of Fact #2: *Board Member William Hartman* made a motion that the proposed use will meet all required conditions and specifications as outlined by the Town because the plan exceeds the minimum acreage, the vegetation will be maintained, and all buffers will be met. Upon second by *Board Member Qisoundra Flowers*, the Board voted 7 in favor of the motion and none in opposition of the motion. Finding of Fact #1 was unanimously approved.

The Board voted on the Finding of Fact as follows:

Finding of Fact #3: *Board Member Andrew Rubley* made a motion that the proposed use will not substantially injure the value of the adjoining property or the use is a public necessity. The use is consistent with the surrounding use with the commercial car repair used to the north, the railroad to the east, a stream to the south, and the Fuquay - Varina wastewater treatment plant to the west. There will be a berm on the northern property line to buffer the residential properties to the north. Given the size of the property, the banquet hall has plenty of room for parking and to buffer activities from its surroundings. The area is already a mix of residential and commercial uses. By allowing a banquet hall as a special use with specific conditions to the RA district, the ordinance recognizes this use as compatible with the surrounding uses and conditions reduce the impact of the total value of adjoining properties. In addition, the railroad serves as a buffer for properties to the east. The stream serves as a buffer for the properties to the north, and Hilltop Road serves as a buffer for the properties to the west. Upon second by *Board Member Michelle Braxton*, the Board voted 7 in favor of the motion and none in opposition of the motion. Finding of Fact #3 was unanimously approved.

The Board voted on the Finding of Fact as follows:

Finding of Fact #4: *Board Member Michelle Braxton* made a motion that the location and character of the proposed use if developed according to the plan submitted will be in harmony with the area in which it was to be located in general conformity with the plan of the development of the Town of Fuquay-Varina and its ordinances because there is already a mixed use there and the banquet hall would add to that. Upon second by *Board Member Genel Webb*, the Board voted 7 in favor of the motion and none in opposition of the motion. Finding of Fact #4 was unanimously approved.

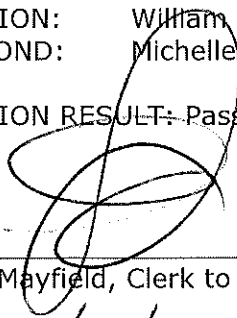
Motion – Approve BOA-SUP-2022-03 as presented, under the terms and conditions identified in the applicant's application, testimony, site layout exhibit, and preserving all conditions of the special use permit BOA-SUP-2022-03 not inconsistent therewith.

MOTION: Jeff Jaeger
SECOND: Andrew Rubley
MOTION RESULT: Passed Unanimously (7-0)

ADJOURN - 7:36 p.m.

MOTION: William Hartman
SECOND: Michelle Braxton

MOTION RESULT: Passed unanimously (7-0)



Eva Mayfield, Clerk to the Board

8/8/22

Date



Jeff Jaeger, Vice - Chairman

8-8-2022

Date