

**MINUTES
BREVARD BOARD OF ADJUSTMENT
May 12, 2015**

The Brevard Board of Adjustment met in regular session on Tuesday, May 12, 2015 at 7:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
Dr. Allen Delzell, Vice Chair
Carol Dillingham
Tad Fogel
Tom Tartt
Mike Young

Members Absent: Josh Burdette

Staff Present: Josh Freeman, Planning Director
Daniel Cobb, Asst. Planning Director
Janice H. Pinson, Board Secretary
Mike Egan, Board Attorney

Others: Collin O'Berry, Pilot Cove
Lane Lastinger, Pilot Cove
Doug Harris, New Paradigm Homes, LLC

I. Welcome and Introduction of Board Members

Chair, J. Mathews called the meeting to order at 7:00 PM, Board and Staff Members introduced themselves.

II. Approval of Agenda

J. Mathews requested that the agenda be amended to include, under Old Business: Reaben Oil Special Use Permit. She requested a motion to approve the agenda as amended, motion to approve by M. Young seconded by A. Delzell, unanimously carried.

Tad Fogel requested that J. Mathews, Chair, establish who would be the voting members for the meeting. She indicated that T. Fogel would not vote unless necessary.

III. Approval of Minutes

J. Mathews requested a motion to approve the Minutes of the April 14, 2015 meeting. A. Delzell requested a couple of minor revisions to the minutes. Motion was made to approve minutes as amended by C. Dillingham, seconded by T. Tartt, unanimously carried.

compatible with the surrounding area and not detrimental to the value of adjoining property and associated uses.

Further stating that the site is designed to facilitate good access by fire and other emergency services personnel, the lodge structure will receive a commercial fire suppression system, and recommended that it also be subject to the recommended condition that the campground be designed to comply with the NC Fire Wise Program. He stated that Staff recommends approval with the NC Fire Wise guidelines condition, and because the proposed campground would not be injurious to the health, safety and welfare of the public.

J. Freeman explained that the NC Fire Wise Program is a way of designing urban wild fire interfaces in places where there is a higher than normal risk of wild fires impacting development and gave design examples such as fire breaks, brush control, etc.

Collin O'Berry presented a slideshow with a narrative of the proposed Pilot Cove Campground. He stated that they were hoping to fill a need for quality accommodations in the area. That they are catering to the adventure vacationist, people who would want to drive in, park their car and ride their bikes until they are ready to leave. He further stated that they are very much in support of preserving the natural environment and through their design hope to also educate people on conservation. That their plan is to promote the greenway as access to downtown and hope to work with local businesses to promote tourism. He went over the development plans in detail which are included in his narrative; a copy of which is attached hereto, labeled Exhibit "A" and incorporated herein by reference.

J. Mathews asked if the existing house on the property would be the proposed lodge. The answer was yes, the current Bryson residence.

A. Delzell asked how the property would be accessed.

C. O'Berry responded access would be from US Highway 276 across a private easement which will comply with all Unified Development Ordinance guidelines.

M. Young asked if there were concerns about adequate parking for groups that were traveling from different directions to meet at the campground.

C. O'Berry answered that there were concerns but that their advertising would make it clear that there would be only one parking spot available per campsite and cabin. They will also be exploring options with surrounding businesses to utilize existing parking lots for overflow parking.

T. Fogel asked if cars would be able to access the campsites or cabins.

C. O'Berry answered that each site would have a parking space available in close proximity. He further explained that no trailers or campers would be permitted.

c) The proposed use or structure will not be injurious to the public health, safety, and welfare, and will not be detrimental to the value of adjoining property and associated uses.

Accordingly, I further move the Board to grant the requested special use permit in accordance with and only to the extent represented in the application and plans and subject to the Staff's recommended condition that the campground be designed to comply with the NC Fire Wise guidelines. (<http://www.ncfirewise.org/>).

M. Young seconded motion, unanimously approved.

B. Consideration of Application for Variance (#15-126) by New Paradigm Homes, LLC, for a variance in the rear setback from 25' to 18'6". The property is located at 405 W. Probart Street within the corporate limits of the City of Brevard, further identified by PIN # 8586-32-4492-000.

C. Consideration of Application for Variance (#15-127) by New Paradigm Homes, LLC, for a variance in the rear setback from 25' to 18'6". The property is located at 415 W. Probart Street within the corporate limits of the City of Brevard, further identified by PIN # 8586-32-4475-000.

J. Mathews, Chair, combined the two (2) variance applications into one (1) hearing, stating that they would be voted on separately.

The following were sworn as witnesses by Board Secretary, Doug Harris, Applicant, Josh Freeman and Daniel Cobb, Staff.

J. Mathews polled the board as to exparte communications and conflicts of interest. There were none.

J. Mathews polled the Applicant, Doug Harris, as to whether or not there were any objections to any of the board members voting on the cases. There were none.

J. Freeman presented his staff report stating that the variance request was for a 6'4" variance from the rear setback to facilitate placement of a stairway, which will provide secondary ingress/egress to two (2) existing residential structures upon the property. He guided the Board through City Code as it applies to granting variances and then through the principles that the Board needs to consider to make their decision.

Brevard City Code, UDO Section 16.3 authorizes the Board to grant variances upon positive affirmation of the following findings:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

4. Table a decision until the June, regular meeting and request that Staff and or the Applicant provide additional information.

T. Tartt requested an explanation of the current setbacks. J. Freeman explained that rear setbacks for structures and all parts of the structure in general residential zoned districts is 25' but that the setback for accessory structures is 10'.

M. Young asked why inspections did not catch the violation before construction, wondering why the variance was not requested before construction.

J. Freeman explained that when the Applicant realized that they had violated the rear setback, they did the honorable thing and came forward to report the violation. They proceeded to ask their options. He further explained that the current ordinance does not allow Staff any authority to grant a variance. Therefore, the Applicant's choices were to apply for the variance or to tear down the steps and rebuild to be in compliance. He stated that the Applicant was granted a conditional final zoning approval contingent on the fact that if the variance does not pass, the steps will be removed and reconstructed to be in compliance with the setback requirements.

Doug Harris, Applicant, stated that he had some photos that he would share with the Board in a few minutes. He stated that he appreciated the Board hearing the case and that he realizes that they got the cart before the horse.

D. Harris testified that he formed a partnership with others to build small, well designed, energy efficient homes to fill the need for people who wanted the convenience of a new home in town. He as the Architect handled the design and permitting aspect of the project and his contractor partner was responsible for the construction. At the end of the project a subcontractor was instructed to build the steps. The subcontractor made an assumption that the stairs were not subject to the same setbacks as the house. He stated that once into the project they discovered the grade of the lot was steeper than realized and this presented sewer connection and drainage issues.

He further testified that, after reviewing their options, the stairs as built were the least impactful and that they felt it important to provide egress from the rear of the house for the occupants. D. Harris presented site pictures for the Board to review. He stated that if they had realized upfront the situation, they would have been in front of the Board 8 months ago. His opinion is that if you drive by and view the steps as currently built that they are not detrimental to the neighborhood.

J. Mathews, Chair, ask if the Board had any questions.

M. Young ask if they have heard from any of the neighbors.

D. Harris delivered a letter to the Board from 5 neighbors in support of the requested variance. M. Egan ask if the applicant wanted the letter admitted into evidence. The applicant requested that it be admitted into evidence and it is attached hereto and labeled "Applicant's Exhibit "A". J. Mathews read the letter to the Board. M. Egan advised the Board that the letter is hearsay and that it cannot be considered as evidence by the Board.

standing in litigation. He further explained Staff's position to be that the hardship was created by the Applicant and that he would question the Board's ability to find otherwise, staying true to the findings of fact, and if the Board is so inclined to approve that they need to be certain that there are no other options. He suggested that the Applicant bring more information before the Board to confirm that there are no better options.

J. Mathews asked if the Applicant wanted to make a rebuttal statement.

D. Harris stated that they had looked at a lot of options but due to heights, dimensions, topography of the lot, they felt that there were no other viable options that were less impactful. He stated that he did not have any examples to show but that if the Board wishes, he will bring something before them.

J. Mathews stated that the Board would like to see more options.

T. Tartt made a motion to continue the hearing until June 9th to allow the Applicant time to provide further information. Seconded by C. Dillingham and unanimously approved.

J. Mathews closed the hearing.

V. Old Business – Daniel Cobb report on Hall Waddell Extension of Special Use Permit.

D. Cobb reported on the Reaben Oil Company Special Use Permit, the original application was file # 11-007; the permit had been extended twice file # 13-399 and 14-382. He stated that he spoke with Hall Waddell about their plans and he stated that they were still in the process of building their new store in Asheville and that due to the size of their company; they did not have the manpower to work on both projects at the same time. Mr. Waddell said he plans to finish the Asheville project and will be coming back to the Board next fall to request another 12 month extension. His plans are to begin the Brevard project in the summer of 2016. D. Cobb explained to the Board that there is no limit to the number of times an extension to an SUP can be requested and brought before the Board.

He explained that if the Board is interested in seeing changes to limit the amount of time a special use permit can be extended, the Board would need to Staff direction to do so, at which time a text amendment can be sent to the Planning Board for review and if approved, it would move on to City Council for approval, at which time the Board's Rules of Procedure would be amended accordingly.

T. Tartt thanked D. Cobb for the information and said that he had no interest in trying to change the ordinance at this time.

VI. Other Business

T. Fogel requested that Chair, J. Mathews certify a quorum each meeting and establish the voting members.

J. Mathews stated she would do so.

Project Narrative - Pilot Cove Campground

I - Background

Pilot Cove is a proposed campground and short-term lodging development located near the Pisgah National Forest Gateway on US Highway 276. Pilot Cove will feature modern, upscale accommodations in smaller footprint "eco-cabin" units, along with improved campsites, all designed to integrate seamlessly with the natural setting of the site. It is the intention of the developers to promote the guest use of bicycles as their primary transportation choice to both trails in the Pisgah National Forest, nearby amenities, and downtown Brevard.

II - Property and Location

Transylvania County PINs 8597-46-3919-000, 8597-47-7887-000, and 8597-48-2017-000. Property will be accessed from Hwy 276 via a 30' ROW across PIN 8597-45-4982-000. The access road and improvements will be designed in accordance with City of Brevard guidelines for a commercial side street as outlined in the City of Brevard Unified Development Ordinance. Entrance will be a shared curb cut with the future location of the HUB at Pisgah Forest Outdoors located on PIN 8597-45-4982-000.

The proposed location offers unparalleled access to world-class outdoor recreation opportunities in the Pisgah National Forest, along with access to the bustling city of Brevard via both US 64 and the Brevard Greenway. Currently the Greenway will be accessed by crossing the vehicular traffic bridge on US-64 across the Davidson River. Within reasonable walking distance from the proposed campground are many amenities, including several restaurants (Hawg Wild BBQ, SORA Japanese, Pizza Hut, Taco Bell, El Chapala, Pisgah Fish Camp, Dolly's Ice Cream, Subway), two bike shops (HUB at Pisgah Forest Outdoors + Pisgah Taproom and Sycamore Cycles + Crank Coffee), Bi-Lo grocery store, Wal-Mart, an ABC package store, and a fly-fishing store & guide service. It will be encouraged that guests walk or ride to take advantage of these amenities.

III - Accommodations

Proposed lodging accommodations will consist of three categories, eco-cabins, campsites, and units in the Lodge.

Eco-cabins will be smaller "tiny house" units around 400 square feet in size (to be determined). These units will be constructed in accordance with both energy efficient and water efficient practices in mind. Units will consist of an open living room and kitchenette area, a bathroom with toilet, vanity, and shower, and a sleeping area. Some units will have a lofted sleeping area for extra guests. Emphasis will be placed on a unique architectural standard for all units, while also incorporating artistic finishes and reclaimed materials. Running water, electricity, cable, secure bike storage, 1 parking spot, and wi-fi will be available at each eco-cabin.

Campsites will be natural surface wherever possible. If steeper slopes exist, then decking or platform structures will be used as needed. These tent camping sites will feature fire rings (natural surface sites

Due to the steep topography of the site, approximately 25% of the site is being planned for development improvements. The remaining approximate 75% of the site will be placed under conservation easements to protect the existing natural resources and viewsheds from the valley below. Within these conservation easements trail systems are planned for both guest use and public use (public use will be liability dependent). These trails will be machine built "flow" trails catering to beginner and intermediate mountain bike riders.

V - Phasing

0-12 months of property acquisition - The first phase of the project will involve the improvement of the right-of-way (18' two lane road w/ paving, a 5' sidewalk, and other improvements as needed), along with utilities along the existing access road. Initial building construction will include the campground office at property entrance, 7 eco-cabin units, 10 campsites, 1 toilet facility, campground pathways as needed, and 21 parking spaces. Trail system planning and construction will also begin during this time.

12-24 months of property acquisition – The second phase of the project will involve the construction of additional campsites, toilet facilities, campground pathways, and expansion of the trail system.

24-60 months of property acquisition – The third phase of the project will involve the construction of the second main road up the central ridge, along with the installation of utilities and construction of the largest cluster of eco-cabins. The trail system will be fully completed during this time if not already.

VI - Business Operations

Business operations will focus on generating revenue from short-term lodging and campsite accommodations. Operations will not be seasonal, although not all lodging accommodations will be offered during non-peak seasons. It is the intention of the developers to showcase the many activities Transylvania County offers during non-peak seasons, helping to increase occupancy and spur additional visitation and tourism spending during these times of year.

VII – Project Contacts

Collin O'Berry, Partner – collin@lookingglassresearch.net, (828)-772-1667

Lane Lastinger, Partner – lanelastinger@hotmail.com, (727)-641-5263

Beth Lastinger, Partner – blastinger@gmail.com, (828)-398-8902

Greg Cloos, Landscape Architect – gcloos@msn.com, (828)-243-1070

Brad Kee, Surveyor – brad@keemapping.com, (828)-645-8275

Civil Engineer – TBD, engineering concepts and drawings forthcoming in coming weeks

APPLICANT'S EXHIBIT "A"

April 7, 2015

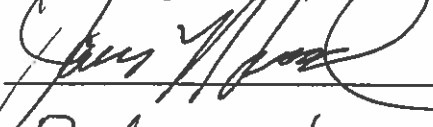
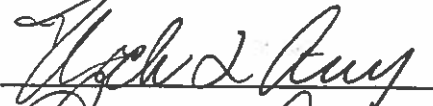
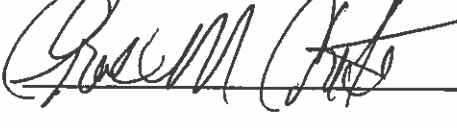
City of Brevard
Board of Zoning Adjustment

Re: Variance Request
405 & 415 West Probart Street

STATEMENT OF SUPPORT

We, the undersigned neighbors of 405 & 415 West Probart Street would like to express our support for the requested zoning variance related to the rear yard setback and the steps leading from the back porch into the back yard. We believe the steps, as constructed, are in keeping with the character of our neighborhood and do not present any problem if permitted to remain. We encourage the Board of Zoning Adjustment to approve the variance request as presented.

Thank you.

Signature	Name	Address
	Katie Sands	96 Thomas St. Brevard NC 28712
	James W. Wood	430 Probart St. Brevard 28712
	Robert W. Wilson	408 Probart
	Vicki Airey	451 W. Probart St. 28712
	ERIC Gabe	389 Probart St.