

STATE OF NORTH CAROLINA)
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COUNTY OF STOKES)
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OFFICE OF THE COMMISSIONERS
STOKES COUNTY GOVERNMENT
DANBURY, NORTH CAROLINA
APRIL 6, 2010

The Board of Commissioners of the County of Stokes, State of North Carolina, met for regular session (Planning) in the Commissioners' Chambers of the Ronald Wilson Reagan Memorial Building (Administration Building) located in Danbury, North Carolina on Tuesday, April 6, 2010 at 7:00 pm with the following members present:

Chairman Jimmy Walker
Vice-Chairman Ernest Lankford
Commissioner J. Leon Inman
Commissioner Ron Carroll
Commissioner Stanley Smith

County Personnel in Attendance:
County Manager K. Bryan Steen
Clerk to the Board Darlene Bullins
Planning Director David Sudderth

Chairman Jimmy Walker called the meeting to order.

Vice Chairman Ernest Lankford delivered the invocation.

GENERAL GOVERNMENT-GOVERNING BODY-PLEDGE OF ALLEGIANCE

Chairman Walker opened the meeting by inviting the citizens in attendance to join the Board with the Pledge of Allegiance.

GENERAL GOVERNMENT – GOVERNING BODY – APPROVAL OF AGENDA

Chairman Walker entertained a motion to approve or amend the April 6, 2010 Agenda.

Commissioner Inman moved to approve the April 6, 2010 Agenda as presented.

Vice Chairman Lankford seconded and the motion carried unanimously.

PUBLIC COMMENTS

There were no public comments.

SPECIAL USE REQUEST – GREGORY E. WILLARD #216 – (Special Use Permit for Amusements/Recreational Facilities – Fishing Lakes)

PUBLIC HEARING/PRESENTATION/DISCUSSION/ACTION AGENDAS

Public Hearing

Chairman Walker called to order the Public Hearing for Special Use Permit #216 – Gregory E. Willard (Special Use Permit for Amusements/Recreational Facilities – Fishing Lakes).

The following spoke during the Public Hearing:

Tina Boles

1115 Foxy Lane
Walnut Cove, NC 27052

Re: Turkey Shoot and Pond – Opposition

Ms. Boles noted the following in opposition to the turkey shoot:

- Presented a petition with 50 signatures that lived within ½ to ¾ mile from the pond who object to issuing a Special Use Permit to Gregory and Lauren Willard at 1114 Tilley Road for a turkey shoot
- Issues with the closeness of her home to the proposed location (presented a picture indicating the distance to the Board)
- Issues with when it was in operation the last time, the shooting went pass the allotted time
- Very noisy, constant gunshot noise
- Would like to enjoy being at home – not listening to continuous gunshot noise

Rani Mabe

1128 Old Tilley Road
Walnut Cove, NC 27052

Re: Turkey Shoot and Pond – Opposition

Ms. Mabe noted the following in opposition to the turkey shoot:

- Residence is very close to the ponds (presented pictures to the Board regarding the closeness to her residence)
- Constant noise when it is in operation and feels no one on the Board would like a turkey shoot near their own home
- Wants peace and quiet when at home

Lewis Dickerson Jr.

1120 Lacy Lane
Walnut Cove, NC 27052

Re: Turkey Shoot and Pond – Support

Mr. Dickerson, a 15-year combat veteran, spoke in favor of the turkey shoot. Mr. Dickerson noted the following:

- Goes to the pond for therapy from PTS and fellowship with other Veterans
- Friends meet to have a good time
- Family oriented place
- Has horseshoes, arcade, volleyball net, etc. for children
- Very safe environment
- Worked hard to meet the rules and spent thousands of dollars to make it a place for people to go to have a good time

Shayne Hardy

1100 Old Tilley Road
Walnut Cove, NC 27052

Re: Turkey Shoot and Pond – Opposition

Mr. Hardy noted the following in opposition to the turkey shoot:

- Very close to his residence
- Extra noise and traffic
- No problem with people shooting guns on their own property, but 100 people shooting guns 4 hours a night is not acceptable

Jennifer Caprani

1100 Old Tilley Road
Walnut Cove, NC 27052

Re: Turkey Shoot and Pond – Opposition

Ms. Caprani noted the following in opposition to the turkey shoot:

- Live very close to the location of the pond

- Full time student and full time employee who likes to enjoy the limited time at home not listening to gunshots
- No problems with guns, but can't relax with shooting going on after 10:30 pm
- Proposed location too close to home

John Southern

1080 Foxy Lane
Walnut Cove, NC 27052

Re: **Turkey Shoot and Pond – Opposition**

Mr. Southern noted the following in opposition to the turkey shoot:

- Personal property adjoins Mr. Willard's property, constant noise when turkey shoot is operating
- Oppose the turkey shoot
- Feels the decision being made concerns the people who live in the neighborhood, not those coming from outside of the county
- Individuals in the community have worked hard to have a safe, quiet neighborhood

Mr. Southern requested permission from the Board to allow individuals in the audience to stand up who live in the neighborhood and oppose the turkey shoot.

Chairman Walker, with full consensus of the Board, allowed Mr. Southern to request individuals in the audience to stand up if they live in the neighborhood and oppose the turkey shoot. (10 individuals stood up)

Mr. Southern requested permission from the Board to allow individuals in the audience to stand up if they live in the neighborhood and support the turkey shoot.

Chairman Walker, with full consensus of the Board, allowed Mr. Southern to request individuals in the audience to stand up if they live in the neighborhood and support the turkey shoot. (23 individuals stood up)

Mr. Southern stated that several individuals who stood up in favor of the turkey shoot did not live in the neighborhood.

Ralph Mitchell

1272 Tilley Road
Walnut Cove, NC 27052

Re: **Turkey Shoot and Pond – Opposition**

Mr. Mitchell noted the following in opposition to the turkey shoot:

- Would like a quiet neighborhood
- Shooting goes on late in the night
- Lived in the area for forty years and enjoy a quiet neighborhood

Wayne Barneycastle

4511 HWY 66S
King, NC 27021

Re: **Turkey Shoot and Pond – Support**

Mr. Barneycastle noted the following in support of the turkey shoot:

- 25-year carp fisherman and turkey shooter
- Been to this facility several times and do not remember any shooting after midnight
- Family oriented facility
- Turkey shoot only operates approximately 3 months a year – 2 nights a week
- Mr. Willard has done a good job to have a place where families can go together
- Brings revenue into the county

James Whicker

Lives in the camping area at the pond
Walnut Cove, NC 27052

Re: **Turkey Shoot and Pond - Support**

Mr. Whicker noted the following in support of the turkey shoot:

- Lives in the camping area
- Very peaceful and safe place
- Greg has always operated a good, clean place
- Supports the turkey shoot and the third pond

Justin Wilson

2567 Tuttle Road
Walnut Cove, NC 27052

Re: **Turkey Shoot and Pond – Opposition**

Mr. Wilson noted the following in opposition to the turkey shoot:

- Opposes the third pond and turkey shoot
- Individuals believed to be coming from the pond pass my home and appear to have been drinking
- Two small children who go to bed with the constant noise of gunshot
- Wife leaves for work very early in the morning and has to go to bed with the constant noise of gunshot

Loraine Willard

3803 Henly Way
Walkertown, NC

Re: **Turkey Shoot and Pond - Support**

Ms. Willard, Greg Willard's mother, noted the following in support of the turkey shoot:

- Greg has done a lot of work to have a family oriented place
- Very safe place to bring children
- Greg loves for children to come and have a good time
- Wonderful place for children to come with their parents
- Wish individuals would come to visit to see what really goes on

Adam Baker

4980 Appalachian Road
Winston Salem, NC

Re: **Turkey Shoot and Pond – Support**

Mr. Baker noted the following in support of the turkey shoot:

- Entire family comes with him to the turkey shoot
- Great place for children – arcade for children to go
- Came to the turkey shoot just about every week when it was in operation
- Pond and turkey shoot bring revenue to Stokes County
- Board needs to hear comments from those who don't live in Stokes County
- Greg always stopped the shooting at 10:30 pm
- Greg works hard to provide a safe place that children can come to

Donna Freeman

2346 Duggins Road
Walnut Cove, NC 27052

Re: **Turkey Shoot and Pond - Support**

Ms. Freeman noted the following in support of the turkey shoot:

- Supports the Special Use Permit
- As kids were raised around a carp pond and enjoyed going to Greg's pond and turkey shoot
- Shooting never went past 10:30 pm and only operated on Fridays and Saturdays
- Not a lot in Stokes County for teenagers to do, teenagers hang out at the pond having a good time and not getting into trouble
- Kids are supervised by adults and not allowed to start trouble

Johnny Vern
1087 Mountainview Church Road
King, NC 27021
Re: **Turkey Shoot and Pond - Support**

Mr. Vern noted the following in support of the turkey shoot:

- Agrees with Mr. Barneycastle that Greg operates a good, safe place
- Fishermen will drive 2 hours for a good place to fish which is bringing money into Stokes County
- Known Greg for the past twenty years, he is a good person who just needs a chance to show he can continue to provide a business that families come to

Chairman Walker closed the Public Hearing.

Presentation Agenda

Before the presentation, Commissioner Carroll questioned why the two separate items were linked together into one Special Use Permit.

Planning Director David Sudderth noted the following:

- Mr. Willard started the third fish pond without any approval or permit
- After visiting the site, Planning Department staff advised Mr. Willard what would have to be done on the property to be in compliance with the Special Use Permit
- Mr. Willard had been operating a turkey shoot under the guidelines of Section #78 (Temporary Uses of the Zoning Ordinance)
- The Planning Department had received several complaints regarding the turkey shoot
- Mr. Willard was very willing about addressing the issues that were brought to his attention by the Planning Department regarding the entire facility
- Temporary Permit for the turkey shoot was denied by the Planning Department according to guidelines defined in Section 78 (The enforcement officer can still deny a permit if he determines that there exists special circumstances which create a risk of harm to life and/or property at or around the turkey shoot even though all dimensional requirements are met)
- The reason to tie both requests together was to get the Planning Board and the Board of Commissioners involved with the issue
- The Planning Department received as many calls in support of the turkey shoot as against the turkey shoot

Planning Director David Sudderth presented the following information regarding Special Use Request #216 – Gregory E. Willard (Special Use Permit for Amusements/Recreational Facilities – Fishing Lakes):

REQUEST: Obtain a Special Use Permit in the RA (Residential Agricultural) District for the expansion of an existing facility under “Amusements/Recreational Facilities for Profit (Outdoors) - Fishing Lakes. The applicant requests to be able to utilize an existing third pond for additional fishing and to establish an area for a turkey shoot subject to the guidelines of Section 78 (Temporary Uses) of the Stokes County Zoning Ordinance.

SITE OWNER: Gregory Willard

APPLICANT: Gregory Willard

SITE LOCATION: The property is located at 1114 Tilley Rd.

Map: 6965 **Parcel:** 1208 **PIN #:** 6965-00-40-1208

Deed Book: 540 **Page:** 2093 **Township:** Sauratown

SITE INFORMATION:

PARCEL SIZE: Total tract 23.415 acres.

ZONING DISTRICT: RA (Residential Agricultural)

PROPOSED USE: Expansion of an existing facility under “Amusements/Recreational Facilities for Profit (Outdoors) -Fishing Lakes. The applicant requests to be able to utilize an existing third pond

for additional fishing and to establish an area for a turkey shoot subject to the guidelines of Section #78 (Temporary Uses) of the Stokes County Zoning Ordinance.

FLOOD HAZARD AREA: Proposed site not located in flood hazard area.

FIRM MAP #: 3710696400J

FIRM MAP ZONE: Facility located in Zone X - Area outside 500-year floodplain.

WATERSHED DISTRICT: N/A

SEPTIC/WATER APPROVAL: Existing site has been evaluated and approved by the Stokes County Health Department (Environmental Health Section) for the proposed use.

SCHOOL DISTRICTS: N/A

EMERGENCY SERVICES: Walnut Cove VFD, EMS –Walnut Cove #101

EROSION CONTROL: N/A

ACCESS: The proposed facility will utilize the existing driveway access off of Tilley Rd. SR# 1713. NCDOT must approve any changes to the existing driveway to the site. There is a gravel driveway leading to the site.

SURROUNDING LAND USE: The surrounding land uses consist of mixed residential development and open land.

ISSUES TO CONSIDER:

- Impact on surrounding development
- Impact on community infrastructure, traffic, public services etc.
- Safety of the facility
- Economic benefit
- Recreational benefit to the community

STAFF COMMENTS: Mr. Willard purchased the property and existing business in November of 2005 and began operating the fish ponds and campgrounds that does business under the name of “Jim Booth’s Catfish Pond & Campground”. In or around 2006, Mr. Willard constructed a third pond on the property for the purpose of adding an area for additional fishing without the proper authorization and approvals. The department received complaints concerning the construction of a new pond on the property. Mr. Willard was informed by our department that he was not approved to open another fishing pond on the property and was instructed not to allow fishing in the new pond. At that time, he was informed that to open the newly constructed pond for fishing he would need to apply for and be approved for a Special Use Permit. Mr. Willard had previously operated a turkey shoot on the property under the guidelines of Section 78 (Temporary Uses) in the zoning ordinance. Temporary permits are issued by this office and approved by the zoning enforcement officer. Mr. Willard requested a new Temporary Permit and was denied by the Zoning Enforcement Officer under the provision in Section 78 of the ordinance stating that the enforcement officer can still deny a permit if he determines that there exists special circumstances which create a risk of harm to life and/or property at or around the turkey shoot even though all dimensional requirements are met. The department had received complaints concerning the turkey shoot about noise and hours of operation. There were also outstanding issues with the new pond and other zoning and building related issues that needed to be addressed. Mr. Willard stated that he would like to incorporate a “turkey shoot” into the site plan for the Special Use Permit. Mr. Willard was informed that a “turkey shoot” could be incorporated into the plan and that operational guidelines would fall under Section 78 (Temporary Uses) of the zoning ordinance.

Mr. Willard has been working on getting the site plan and application for the Special Use permit ready for a couple of years. The applicant will be able to utilize existing restrooms and parking that serve the current facility. The proposal will require a paved handicapped parking space near the entrance to the existing office. The applicant’s site plan appears to meet all the applicable requirements for the issuance of the Special Use permit to operate an Amusements/Recreational facility, “Fishing Lakes”. The Planning staff does not see any major problems with the expansion of the fishing pond as indicated on the proposed site plan. The Board should be aware that the guidelines and the proposed site plan address the new pond and the area designated on the site plan for the turkey shoot only. The two existing ponds and campground area were established prior to the adoption of the zoning ordinance in 1983. The proposed area for a “turkey shoot” appears to meet the dimensional criteria as specified in Section 78 (Temporary Uses) of the zoning ordinance; however, the Board should consider the additional noise and traffic that would be generated by the event. Controlling access to the area for the turkey shoot for the safety of participants, spectators and the general public should be considered. Turkey shoots cannot be established in the RA (Residential

Agricultural) on a permanent basis. They are considered temporary uses with a specific time frame and hours and days of operation. The applicant was asked to correct some deficiencies on the property, septic, electrical, plumbing and zoning issues that needed to be addressed which are directly associated with the proposed Special Use Permit request. As of this date, the applicant has corrected most of the problems and is working to fix the rest.

Discussion Agenda

Planning Director Sudderth noted the following criteria for both the proposed fishing lake and turkey shoot:

■ **Amusements/Recreational Facilities for Profit (Outdoors) (swimming pools, fishing lakes, etc.)**

- 1) Outdoor amusement facilities shall be separated by an opaque screen from any abutting property that is located in a residential district, if required by the Boards.
- 2) No amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within 100 feet of any adjoining property line.
- 3) Hours of operation shall be no earlier than 7:00 a.m. and no later than 12:00 midnight.
- 4) Motorized vehicles, such as motorcycles, dirt bikes, go-carts, all terrain vehicles, and similar uses shall not be allowed.
- 5) The site shall have a minimum of ten (10) acres, unless otherwise determined by the Board.
- 6) Ancillary support activities, such as the provision of food and beverages, parking and other concessions or vending operations shall be permitted on a temporary basis and only during the operation of the use and shall meet all applicable state health codes.
- 7) All parking shall be on site in a designated area for that purpose.
- 8) Any signage, which identifies the use, shall be in accordance with standards of the underlying zoning district.

Planning Director Sudderth included the following information regarding Temporary Use Permit in the Agenda packet used for permitting a turkey shoot:

Section 78. Temporary Uses (#26)

78.1 Intent

Certain uses shall not be allowed as permanent uses but may be allowed on a temporary basis if conditions are met that will minimize their impact on neighboring land uses.

78.2 Turkey shoots

78.21 Definition

A place or event where contestants discharge shotguns in competition for prizes.

78.22 Time Limits on Activity

This activity shall be limited to 120 consecutive days of operation. However, it may be reestablished after a six month waiting period.

78.23 Zoning Districts Where Allowed

R-A District

78.24 Operating times

No later than 10:30 P.M. on Thursday, Friday or Saturday.

78.25 Separation Distance From Property Line

All turkey shoots shall be established with the firing line to target area perpendicular to a road right-of-way with the following exception: Sites which have more than one road right-of-way must designate the road on which the front yard is to be located. A firing line must be established perpendicular to that road and for a distance of 200 feet from and parallel to any other intersecting road right-of-way. The minimum distance from any firing point measured in the direction of fire to the nearest property line shall be 300 feet. If a backstop is used, this separation may be reduced to 200 feet. However, the Zoning Enforcement Officer can still deny a permit if he determines that there exists special circumstances which create a risk of harm to life and/or property at or around the site of the turkey shoot even though all dimensional requirements are met.

- 78.26 Backstop Standard
All backstops shall be constructed of a material that will allow the shot to penetrate and not pass through it, shall be of a minimum thickness of two feet and maintained at a height of four feet above the target.
- 78.27 Health Requirements
Provisions for adequate and proper health standards shall be met in disposal of garbage and refuse and in sanitary facilities.
- 78.28 Off-Street Parking
Adequate off-street parking shall be provided outside of a public right-of-way.
- 78.29 Limited Access
The property where the turkey shoot is located shall be fenced, posted or otherwise controlled to insure the safety of contestants, spectators and the public at large.

Planning Director Sudderth reviewed the following with the Board:

- 136.9 Conditions and Guarantees
Prior to the granting of any special use, the Planning Board may recommend, and the responsible body may stipulate, such conditions and restrictions upon the establishment, location, reconstruction, maintenance, and operation of the special use as it deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Subsection 136.5 above. In all cases in which special uses are granted, the responsible body shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated are being met. Conditions may include, but not limited to, the following:
- (a) Conditions may be imposed to abate or restrict noise, smoke, dust, or other elements that may affect surrounding properties.
 - (b) Establish setback, side, front, and rear yard requirements necessary for orderly expansion and to prevent traffic congestion.
 - (c) Provide adjoining property with a buffer or shield from view of the proposed use if necessary.
 - (d) Establish a time limit at expiration of which the permit or approval shall no longer be valid, or shall require renewal.

Planning Director Sudderth reiterated the following Planning Board recommendation:

- The Planning Board voted of 6 to 2 to recommend the request. They expressed concerns about some of the standards for both the fishing lake and the turkey shoot that are stated in the zoning ordinance. There was some concern about the uniformity of the required operating hours versus the existing operating hours that the business currently operates under. These are standards in the ordinance that can only be changed by amending the text of the zoning ordinance.

Discussion Agenda

The Board discussed the item with Planning Director Sudderth.

Planning Director Sudderth reiterated the focus of the Board should be directed to the third fish pond and the turkey shoot.

Commissioner Carroll stated that he understood the reasoning to tie the two separate items together, but did not understand the authority to tie the two items together because Special Use is covered in a separate section from Temporary Use in the Zoning Ordinance.

Planning Director Sudderth reiterated his reasoning to tie the two items together was to bring the item before the Planning Board and the Board of Commissioners in hopes to find some type of equitable solution to the problem. Planning Director Sudderth stated, in his opinion, putting the

items in the Special Use Permit category would hopefully bring a conclusion to the issues.

Planning Director Sudderth also noted that, in his opinion, the two items are tied together as far as the requirements for amusements/recreational facilities, etc. with the focus on the phrase “etc.”.

Commissioner Carroll confirmed with Director Sudderth that the two could operate independently from each other.

Planning Director Sudderth reiterated the Planning Department received as many calls in support of the turkey shoot as against the turkey shoot.

Commissioner Carroll stated that he disagreed with Director Sudderth due to turkey shoots are excluded from the “etc”. since the Zoning Ordinance has a complete, separate section dealing specifically with turkey shoots as a temporary use. Commissioner Carroll stated that he felt the two should not be tied, turkey shoots should be dealt with as a temporary use and the third pond as a special use.

Planning Director Sudderth felt that the continuous denial of the turkey shoot was not and would not solve the issue and tying the two items together was the best way to try to arrange a solution to the issues.

Commissioner Inman agreed with Commissioner Carroll that the two items are entirely two separate entities and should be considered separately.

The Board continued a lengthy discussion regarding the two individual items and the items being tied together in a Special Use Permit.

Vice Chairman Lankford noted the majority of the complaints from those in attendance tonight deals with the noise from the turkey shoot.

Chairman Walker stated the Board had received a petition with approximately 400+ signatures who support Mr. Willard’s business.

Action Agenda

Chairman Walker entertained a motion.

Commissioner Carroll moved that this Board proceed to address the Special Use Permit as it applies to the third pond and to remove from consideration the temporary use for the turkey shoot since it is not in the jurisdiction of the Board to address that particular subject. Commissioner Inman seconded the motion.

Vice Chairman Lankford questioned Planning Director Sudderth regarding the action that would take place if the motion passed. Planning Director Sudderth noted that if the motion passed, the Board would only consider the third fish pond and the turkey shoot would be addressed as a

temporary use. Commissioner Inman confirmed with Planning Director Sudderth that if the Board of Commissioners wished to amend the Temporary Use Permit, direction could be given to the Planning Director to take the Board of Commissioners' suggestions to the Planning Board for consideration.

Chairman Walker noted that Commissioner Carroll's motion only separates the issues, it does not approve or deny the request for either item. The motion carried unanimously.

Commissioner Carroll moved that the Board of Commissioners direct the Planning Board to review Section #78 of the Zoning Ordinance as it relates to all temporary uses and report back to the Board of Commissioners any recommendations for changes. Commissioner Inman seconded and the motion carried unanimously.

Director Sudderth noted that in approving a Special Use Permit, the Board should follow these guidelines, respond, and vote on each of the following items concerning the issuance of a Special Use Permit:

136.8 Action by the Responsible Body

The responsible body shall approve, modify, or deny the application for special use following the public hearing. In granting a special use, the responsible body shall insure:

- (a) The requested use is listed among the special uses in the district for which application is made. Yes (5-0)
- (b) The requested use is essential or desirable to the public convenience or welfare. Yes (5-0)
- (c) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare. Yes (5-0)
- (d) Due consideration has been given to the suitability of the property for the use applied for with respect to trends of growth or change; the effect of the proposed use upon the community; requirements for transportation, schools, parks, playgrounds, recreational area, conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land. Yes (5-0)
- (e) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided. Yes (5-0)
- (f) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. Yes (5-0)

Vice Chairman Lankford moved to approve the Special Use Permit for Amusement/Recreational Facilities for a third fish pond (#216). Commissioner Smith seconded and the motion carried unanimously.

Chairman Walker informed those in attendance that Section #78 (Temporary Use) would be discussed at the Planning Board in May with recommendations (if any) presented to the Board of Commissioners at their June planning meeting.

**GENERAL GOVERNMENT –CHANGE OF CONDITIONAL USE REQUEST ON
CONDITIONAL USE PERMIT #75 ISSUED ON JANUARY 3, 1995 - KAVANAGH
PROPERITIES, L.L.C #218) - (Request for a 3,168 sq. ft. Retail General Store)**

PUBLIC HEARING/PRESENTATION/DISCUSSION/ACTION AGENDAS

Public Hearing

Chairman Walker called to order the Public Hearing for the Change of Conditional Use Request on Conditional Use Permit #75 issued on January 3, 1995– Kavanagh Properties, LLC, #218 (Request for a 3, 168 sq. ft. retail general store).

The following spoke during the Public Hearing:

Charles Kavanagh
3183 Moore’s Spring Road
Westfield, NC 27053
Re: **Conditional Use Permit #218**

Mr. Kavanagh spoke on behalf of his request to build a 3,168 sq. ft general store on Moore’s Spring Road. Mr. Kavanagh spoke briefly about his plans to build a general store which will bring jobs during construction and jobs operating the store along with tax revenue.

Chairman Walker closed the Public Hearing.

Presentation Agenda

Planning Director David Sudderth presented the following information regarding Change of Conditional Use Permit #75 issued on January 3, 1995 – Change of Conditional Use Permit – Kavanagh Properties, LLC #218 (Request for a 3, 168 sq. ft. retail general store):

REQUEST: The applicant is requesting a change in the Conditional Use permit #75 issued on January 3, 1995.

SITE OWNER: Kavanagh Properties L.L.C

APPLICANT: Charles Kavanagh

BUSINESS NAME: Hanging Rock General Store

SITE LOCATION: The property is located on the southwest side of Moore’s Spring Rd. (SR# 1001) approximately .1 mile from Hall Rd. (SR# 2012).

Map: 6927 **Parcel:** 6012 **PIN #:** 6927-04-93-6012

Deed Book: 600 **Page:** 1087 **Township:** Danbury

SITE INFORMATION:

PARCEL SIZE: Total tract 5.472 acres

ZONING DISTRICT: H-B-CU (Highway-Business Conditional Use)

FLOOD HAZARD AREA: NA

FIRM MAP #: 3710692700J

FIRM MAP ZONE: Zone X (area determined to be outside the 500-year floodplain).

WATERSHED DISTRICT: No

SEPTIC/WATER APPROVAL: Stokes County Environmental Health section along with a licensed soil scientist Joe Hinton have found an area suitable for septic disposal for the proposed use. No construction authorization permit has been issued at this time. The septic area delineated on the site plan is no longer applicable. It was necessary to move the proposed site based on soil and topography issues.

SCHOOL DISTRICTS: N/A

EMERGENCY SERVICES: Danbury VFD, EMS - Station # 2 Lawsonville.

EROSION CONTROL: N/A

ACCESS: The business has a proposed driveway access off of Moore’s Spring Rd. (SR# 1001). Authorization for the driveway permit must be obtained from the NCDOT.

SURROUNDING LAND USE: The subject property is located on Moore's Spring Rd. The surrounding land use consists of residences, vacant land and state park land. There is an existing H-B zoning district adjacent to the property. There are two other commercially zoned properties within .5 miles of the site. Vaden Quarry, which is zoned (M-1) and what used to be Nichol's Pottery which is, zoned (H-B).

ISSUES TO CONSIDER:

- Impact on community infrastructure, roads, public services etc.
- Added commercial tax base.
- Effect on tourism.

STAFF COMMENTS: The request comes to the Board as a request to change and amend the Conditional Use-Zoning Permit issued January 3, 1995 to King Services Inc. which sold the property. The applicant is requesting to increase the square footage of a retail general store and parking condition that was approved. The original proposal started with a proposal to use an old home (Fulk Estate circa 1903) of undetermined square footage and add an additional 20 ft. x 30 ft., 600 sq.ft. addition. The increase in size of the structure and change of building construction type and parking conditions require approval of the Board of Commissioners. You may discuss the proposed changes in detail. The applicant has requested the following changes.

- Construct a 3,168 sq. ft. retail general store on property that is currently zoned H-B-CU (Highway Business Conditional Use) based on the submitted site plan.

The original Conditional Use Permit was approved with the following conditions;

1. Parking will occur on the side and rear of the property, not in the front of the building.
2. Sign advertising the business should be designed to follow the style used by Hanging Rock State Park. The sign shall be limited to a size of thirty-two sq. ft.

The staff would recommend changing the first condition based on the topography of the site and Environmental Health's evaluation of the site showing the area necessary to locate a septic tank, drain field and a well. Parking in the front of the proposed store should not pose a problem.

The staff would also recommend that condition number two to design a sign be left up to the design of the current property owner and developer. The state park in the past has asked that commercial property not replicate the sign design of the park to avoid confusion between state owned property and private commercial development. The size requirement of 32 sq. ft. for the sign is recommended to be left as a condition.

The staff recommends that the proposed change of the Conditional Use Permit requested by Kavanagh Properties L.L.C. be approved.

Discussion Agenda

The Board discussed the request with Director Sudderth.

Director Sudderth presented the following conditions that were recommended by the Planning Board: (The Board may add or delete conditions as they deem necessary for the proper development of the proposal). Director Sudderth noted that Mr. Kavanagh had agreed to the conditions recommended by the Planning Board.

Additional Recommended Conditions for Kavanagh Properties L.L.C. #218

1. The use shall be for a "General Store" as delineated on the approved site plan.

2. The two conditions approved originally on January 3, 1995 concerning parking and signs be amended to address a revised site plan allowing parking in the front of the building and not to require the signs to follow the style of the NC State Park system at Hanging Rock State Park.
3. The site plan shall be revised to show the movement of the septic area and any additional changes that may be required to complete the project.
4. NCDOT must approve a commercial driveway access for the site.
5. Applicant shall adhere to all applicable Federal, State, and local laws.
6. If any of these conditions are not met or complied with or the permit has not been exercised in or before one (1) year from the granting of the permit, the permit shall become void and of no effect.
7. All required permits must be obtained from the County Inspections Department prior to placing structures on the property, as well as any signage that may accompany the project.
8. The structure shall post a visible lot number in a numbering scheme approved by the County to facilitate rapid emergency response (E- 911).
9. If conflict arises between any conditions or the developer's proposed site plan or written text, the most stringent conditions or requirements shall be considered the governing requirement.
10. All costs and expenses associated with complying with these conditions shall be borne by the landowner/developer, with no expense being borne by the County.
Upon written request by the County, evidence of compliance with any of these conditions shall be provided to the County within ten (10) days after each request.
11. If any of the conditions shall be found to be unreasonable, invalid or otherwise impermissible by a court of competent jurisdiction then the County may impose such alternative reasonable conditions as it finds to be necessary and appropriate.
12. If any of these conditions once met are not continuously maintained, the permit may be revoked by the County upon the failure of the owner/developer to cure the deficiency in any specific condition within thirty (30) days after written notice to the owner/developer of the specific failed condition.
13. All signage shall require permits from the Planning & Community Development department.
14. Or any other condition that the Boards may deem necessary at the time the project is approved.

The Board had no issues with Mr. Kavanagh's request to change the Conditional Use Permit

#75 that was issued on January 3, 1995.

Director Sudderth noted the following recommendation from the Planning Board:

PLANNING BOARD RECOMMENDATION: The Planning Board voted 8 to 0 to recommend approval of the Change of Conditional Use Request # 218 by Kavanagh Properties L.L.C. The Board recommended that the conditions attached to the original request in 1995 concerning parking and signs be amended to address the current proposal and site plan, and that the proposed recommended conditions be attached to the request.

Director Sudderth noted that in approving a Conditional Use Permit, the Board should follow these guidelines, respond, and vote on each of the following items concerning the issuance of a Conditional Use Permit:

The responsible body shall approve, modify, or deny the application for Conditional Use following the public hearing. In granting a Conditional Use Permit, the responsible body shall insure:

- (a) The requested use is listed among the special uses in the district for which application is made. Yes (5-0)
- (b) The requested use is essential or desirable to the public convenience or welfare. Yes (5-0)
- (c) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare. Yes (5-0)
- (d) Due consideration has been given to the suitability of the property for the use applied for with respect to trends of growth or change; the effect of the proposed use upon the community; requirements for transportation, schools, parks,

playgrounds, recreational area, conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land. Yes (5-0)

(e) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided. Yes (5-0)

(f) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. Yes (5-0)

Action

Chairman Walker entertained a motion.

Vice Chairman Lankford moved to approve the Change of Conditional Use Request on Conditional Use Permit #75 issued on January 3, 1995 – Kavanagh Properties #218. Commissioner Smith seconded and the motion carried unanimously.

The Board commended Mr. Kavanagh for his initiative to construct a general store in Moore's Spring area.

Adjournment

There being no further business to come before the Board, Chairman Walker entertained a motion to adjourn the meeting.

Commissioner Inman moved to adjourn the meeting. Vice Chairman Lankford seconded the motion.

Darlene M. Bullins
Clerk to the Board

Jimmy Walker
Chairman