



**The Town of Clayton
Clayton Board of Adjustment Minutes
Wednesday, September 20, 2017 @ 6:00 PM
Council Chambers**

BOARD MEMBERS PRESENT:

Bobby Bunn
Mark Helmer
Johnny House
Tom Medlin
William Wenzel
Matt Evans

STAFF PRESENT:

Jay McLeod, Senior Planner
Haley Hogg, Planner
Merrick Parrott, Town Attorney
Christy Anastasi, Deputy Town Clerk

MEMBERS ABSENT:

Donna White

1 CALL TO ORDER

- a) Mr. Evans, Chair, called the meeting to order at 6:00 p.m.

Roll call was completed and a quorum was noted. All board members were present except Donna White.

2 ADJUSTMENT OF THE AGENDA

3 APPROVAL OF MINUTES

- a) June 21, 2017 DRAFT Minutes

ACTION: Approval of June 21, 2017 Minutes

Motion: Board Member Medlin
Second: Board Member House
Vote: Unanimous

4 OLD BUSINESS

5 NEW BUSINESS

- a) 2017-140-CUP Holy Cross Lutheran Church
Presenter: Jay McLeod

Town Attorney Parrott provided information regarding Quasi-Judicial proceedings to include the type of testimony that can be considered. The Deputy Town Clerk issued the oath via affirmation to all those wishing to offer testimony.

Jay McLeod provided information regarding application and request 2017-140-CUP (Conditional Use Permit) with concurrent Major Site Plan application 2017-110-SP. The applicant is Dalton Engineering. Holy Cross Lutheran Church proposes an expansion to develop a 14,000 square foot educational building with parking on an existing church owned site with expansion onto the adjacent vacant parcel. Mr. McLeod stated the associated site plan was approved at the last Planning Board meeting.

The site is located on the North side of NC Highway 42 West, and is adjacent to (West side) the existing Holy Cross Lutheran Church. Currently the 5.42 acre wooded lot is vacant. Mr. McLeod stated the clearing or grading of the site would be limited to the building, parking areas and stormwater treatment areas. The Unified Development Code requires a Class B landscape buffer along all property boundaries. The proposed building height will be 26'. The impervious surface is 50,141 square feet (11.36%). Due to the school not having buses, the calculation for parking spaces is a higher with the required being 184 spaces however, the applicant has proposed 190 spaces including 7 handicap accessible spaces. There are no changes to the existing driveways to NC Hwy 42. Currently there is one ingress and one egress. A condition of approval would include sidewalk and crosswalk ramps across the entire frontage of NC Hwy 42 West fee-in-lieu is allowed for sidewalks along NC Hwy 42 frontage. Sidewalks will be extended from the frontage along NC Hwy 42 to the buildings. Mr. McLeod stated a recombination of the two parcels would be required prior to any building permits being issued to prevent one parcel having the church, school and a small parking lot and the other parcel being a partial parking lot. Mr. McLeod stated that NCDOT was contacted and a traffic impact analysis was not needed due to the three existing lanes in that area of NC Hwy 42.

The board asked for clarification on how stormwater run-off on to adjacent properties would be handled. Mr. McLeod stated the site would be adding a stormwater retention pond that can withstand a 100-year storm. Currently Johnston County regulates and handles any permitting for stormwater, erosion control and sedimentation control for the Town of Clayton. It is required that the applicant go through the proper channels and regulations to obtain the proper permits.

Mr. Jerry Dalton with Dalton Engineering represented the applicant. Mr. Dalton stated that he is aware of the concerns, one being traffic and two stormwater run-off. Mr. Dalton stated there would be no increase in traffic during peak hours. Mr. Dalton stated the stormwater pond would handle the water run-off. The stormwater standards are set by Johnston County and the state.

The stormwater pond is designed based on a 100-year storm event prior to water leaving the site. Mr. Dalton stated the planned pond is over and beyond the set guidelines. In fact, the pond is over and beyond a 100-year storm. Mr. Dalton

stated due to the current site not having a stormwater pond water is free to run off anywhere. Once the stormwater pond is in place, the pond will collect the water run-off instead of the water running onto the adjacent properties. NCDOT will be reviewing the stormwater guidelines due to the NCDOT encroachment that will be needed for this site. Mr. Dalton stated that Johnston County, Town of Clayton and NCDOT will be reviewing and confirming all guidelines and regulations have been met prior to any permits being acquired. Mr. Dalton stated that in addition to the stormwater pond there would be a vegetated filter strip that will help absorb water to help prevent runoff onto the adjacent properties.

Board Member Wenzel had concerns about the peak flow traffic concerning this expansion.

Board Member Wenzel asked would the stormwater pond be able to handle future development on the two parcels. Mr. Dalton stated that the size and location of the stormwater pond would be large enough to handle any future development the church may have. The pond is designed to acquire the maximum impervious surface allowed per acreage. With this expansion, the maximum impervious surface allowed per acre is not being used. Mr. McLeod stated the maximum impervious surface allowed is 50% of the total site area. Mr. McLeod stated that any future expansion would be handled the same way meaning any permits etc... At that time, the development standards would have to meet current regulations. Mr. McLeod addressed the peak traffic flow concerns. Mr. McLeod stated that NCDOT was contacted and NCDOT stated that a traffic analysis was not warranted. Board Chairman Evans asked if there is a concern for public safety in reference to the additional traffic. Mr. McLeod stated that staff does not see an adverse impact over and beyond its current impact in that area. Mr. McLeod stated that NCDOT has funded and committed to the future expansion of NC Hwy 42 to help with the traffic flow.

Board Member Medlin asked if the stormwater pond would be fenced for safety. Mr. Dalton stated yes the stormwater pond would be fenced. This will be a long shallow dry pond.

Board Chairman Evens asked if a Dwarf Wedge mussel study had been conducted. Mr. McLeod stated to his knowledge a study had not been done.

Board Member Helmer asked for clarification on the size of the landscape islands. Mr. McLeod stated the requirement is eight feet inside of a curb at 150 sqft. each which meets the Town requirement. Mr. Dalton stated that a landscape architect is being used.

Board Member House asked how the dry pond would be controlled. Mr. Dalton stated there would be detention within the pond and a pipe outlet enough to control the peak flow to the adjacent right-of-way.

Board Chairman Evans asked for clarification on the stormwater pond detention. Mr. Dalton stated that the stormwater pond would be designed based on the maximum impervious allowable to handle a 100 year storm and even more. The expansion would not even come close to using the maximum impervious allowed. NCDOT will review and determine the water flow from the structure impacts their right-of-way. Water that enters the NCDOT right-of-way some water continues down NC Hwy 42 and some water runs across NC Hwy 42 into a pipe. Mr. Dalton stated that all stormwater plans submitted must meet the required regulations and would be reviewed and commented on. Johnston County would determine if any additional studies would be needed.

Board Member Helmer asked for clarification of the class B landscape buffer adjacent to the stormwater pond. Mr. Dalton stated that the natural vegetation would be used as much as possible. In any area that needs additional landscaping the landscape architect would make those adjustments and would be approved by the Town in order to make sure all regulations are met. Mr. McLeod stated that the depth of a class B buffer can be anywhere from 10-20 feet in width. On average, this would include 3-5 trees and 5-9 shrubs per linear feet. The plans would have to show landscaping and must meet the Code requirement prior to receiving approval from the planning department.

Mr. Charles Williams a resident living on Brady Drive in the Austin Pond neighborhood. Mr. Williams stated his property is located downhill from the church and has concerns about the volume of water run-off coming from the church property. Mr. Williams stated that currently there is 125 feet of wooded area between the church and his property. This wooded area is currently serves as a way for water to be absorb. With the expansion, there will be less trees and vegetation to assist with retaining the water run-off. A concern of the Austin Pond being downhill from the church. Mr. Williams stated he would inquire with Johnston County and NCDOT about his concerns with the stormwater issues. Mr. Williams's second concern is the quality of water after the expansion. Due to water running off the parking lot will be channeled into a pipe towards Austin Pond. Mr. Williams's concern is during a dry period where tire, oils and residue from vehicles that would not be caught by the sedimentation traps and possibly would deteriorate the water in Austin Pond. Austin Pond is used as a recreational area for boating and sport fishing for the residents. However, Mr. Williams is in support of an education building at the church.

Board Chair Evans asked Town Attorney Parrott how much of Mr. Williams testimony could be considered as competent material. Town Attorney Parrott stated that most of Mr. William's testimony was opinion testimony and expressing concerns rather than fact based testimony.

Board Member Wenzel asked for clarification on where the discharge point would be from the stormwater pond would be located. Mr. McLeod stated at a point when the stormwater pond is full the water will weep into the NCDOT right-of-way via a pipe that is required and eventually would end up in Austin Pond. This

pipe is required and is used to help drain the stormwater pond at a standard rate. Mr. McLeod stated that having a stormwater pond placed at the lowest point possible on the property.

Mr. Kenneth Wilson a resident living on Brady Drive in the Austin Pond neighborhood. Mr. Wilson stated he is in support of the educational expansion. Mr. Wilson has concerns about the water overflow of the stormwater pond onto Brady Drive ditches. Mr. Wilson stated that NCDOT currently does not take care of the ditches. Most of the time the residents are maintaining the ditches in order for water to drain properly. Mr. Wilson asked that the Town notify NCDOT about the residents' concerns with the lack of maintenance being conducted in keeping these ditches maintained.

Board Member Wenzel asked if it would be feasible to make the pond longer, wider or deeper. In order to maintain a greater amount of water and to prevent the water from over flowing in the stormwater pond. Mr. McLeod stated the current runoff that would be received would be less after a stormwater pond is installed. The amount of water run-off will be either the same or less post construction but not more.

The Deputy Town Clerk issued Ms. Patty Duffy the oath via affirmation.

Ms. Patty Duffy a resident living on Alex Drive in the Austin Pond neighborhood. Ms. Duffy stated that erosion over the past five years has become an issue. A retaining wall was installed to help with the erosion. During hurricane, Matthew a tree fell on her home causing damage. Ms. Duffy stated that the area behind her property would not be able to handle any extra run off water. Ms. Duffy's concern is that even a small amount of extra water would cause even more of an erosion problem. The board asked where her property is located in reference to the church property. Ms. Duffy stated that her backyard is behind the area where the stormwater pond would be located.

Mr. Lenard Pomrehn a resident living on Brady Drive in the Austin Pond neighborhood. Mr. Pomrehn stated he lives behind the proposed expansion area. His septic field there is a pipe that runs under the culvert where the water runoff will be. Currently the culver is a little washed out. Mr. Pomrehn stated he has erosion problems as well. Where the pipe ends in the NCDOT right-of-way is where Mr. Pomrehn states is his septic field. Mr. Pomrehn stated he had concerns with the buffer however, with clarification from Dalton Engineering meeting Mr. Pomrehn states he is now fine with the class B buffer. Mr. Pomrehn stated he is not opposed to the project. He has concerns with water run-off has plans to contact Johnston County to address the issue.

Mr. Dalton stated that the stormwater requirements are to reduce nitrogen and to reduce solids. There are water quality standards that are incorporated into the stormwater requirements therefore that is the reason for the three to five day

retention period. During this retention period, that is where the reduction in nitrogen and solids happen to prevent them from moving on into Austin Pond.

Board Member Bunn asked for clarification on the amount of stormwater run between prior and post construction. Mr. McLeod stated the post development runoff will be the same or less than currently. The stormwater pond will meet the standards that are set forth.

Board Member Medlin asked would having a stormwater pond slow the amount of water that would be going downhill towards Austin Pond and would that help with the current erosion. Mr. McLeod stated that the stormwater pond would contain the water and disburse the water out over several days therefore; the stormwater pond would help with erosion. Mr. McLeod stated he was not a stormwater engineer.

At 7:17 p.m., the hearing was closed for board members to discuss.

There was discussion among the board members about the concerns the adjacent property owners have concerning water run-off. Board Member House stated that Dalton Engineering and The Town of Clayton has gone over and beyond the concerns of the citizens of Austin Pond.

Board Member Wenzel stated that another condition to be considered is a traffic impact analysis be provided by NCDOT.

Board Member Evans stated his understanding is that NCDOT has not reviewed because NCDOT stated it was not required.

There was additional discussion about traffic and the future widening project of NC 42 and the possibility that there may be even more wastewater issues at that time.

Mr. McLeod stated the applicant has addressed all four of the findings of fact. The applicant is consistent with the 2040 Comprehensive Plan, the proposed development is consistent with, and meets the applicable requirements of the Unified Development Code (UDC) provided the Conditional Use Permit is approved and all Conditions of the approval are met. Asking NCDOT to review the application would significantly delay the applicant. Mr. McLeod stated that the Town contacted NCDOT stated a traffic impact analysis was not warranted.

Board Member Wenzel would like a condition be set that the Town along with Dalton Engineering to work with the adjacent property owners concerning the erosion on the neighboring property owners. Town attorney has concerns that placing such a condition that staff needs to be handling these types of concerns. Town Attorney Parrott stated that this type of condition would be very difficult to enforce. Mr. McLeod stated that the stormwater pond would be put in place to help with the stormwater runoff. Mr. McLeod stated that all property owners

within 100 feet were notified of the change via US postal service. Mr. McLeod stated a neighborhood meeting was provided and the plans at that time showed a clearing of all trees and showed a ball field. The change now shows trees, which will help with water runoff. Once construction begins all permits and requirements must be met. Mr. McLeod stated that stormwater permits are obtained by Johnston County. Johnston County has certain criteria that must be met before a permit is issued.

With there being nothing further, the Public Hearing was closed and the item was turned over to the board for deliberation. After a lengthy discussion among board members about the process as well as the understanding that if approved the site or grading shall be limited to the building and parking areas and the stormwater treatment areas Board Member Wenzel stated that he would withdraw the previous two conditions he set forth.

ACTION: Approval of Conditional Use Permit 2017-140-CUP

Motion: Board Member Evans

Second: Board Member House

Vote: Unanimous

6 INFORMAL DISCUSSION AND PUBLIC COMMENT

- a) Save the Date - Volunteer Appreciation Event

Mr. McLeod provided a reminder to the board members of the Volunteer Appreciation event being held on Tuesday, December 5, 2017 from 6:00 p.m. - 8:00 p.m. at Brick & Mortar.

7 ADJOURN

- a) With there being nothing further, the meeting was adjourned at 7:50 p.m.

Motion: Board Member Medlin

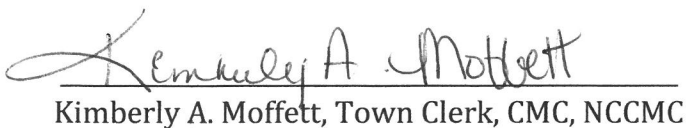
Second: Board Member House

Vote: Unanimous



Matt Evans, Chairman

ATTEST:



Kimberly A. Moffett, Town Clerk, CMC, NCCMC