

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

CALL TO ORDER

Chairman Dan Miller called the Fuquay-Varina Board of Adjustment regular meeting to order on Monday, February 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
William Hartman
Qisoundra Flowers

Others Present: Planning Director Pam Davison
Clerk Eva Mayfield
IT Director Scott Clark
Town Attorney James Adcock
Senior Planner Josh Jurius

Others Present Virtually: Assistant Town Manager Jim Seymour
Michelle Braxton – Board Member (logged into meeting but dropped off at 7:18 pm. Was not counted for voting)
Assistant Planning Director Melissa Sigmund
Planner Jessica Crenshaw
Planner Grant Vestal
Planner Slater Knox

Approval of The Minutes

Agenda Item No. 2. A: – Approval of the Minutes from the December 13, 2021, Meeting.

The December 13, 2021, regularly scheduled Board of Adjustment meeting minutes were presented for approval.

Vice-Chairman Jeff Jaeger requested the following corrections be made to the December 13, 2021 Minutes:

- Page 15 - second to the last paragraph, the fourth line down states "will not materially endanger the public health or safety if located were proposed" should be changed to "where proposed."
- Page 17 – second to the last line on the page should be changed from isles to aisles.
- Page 23 – the ninth full line from the bottom going upward should state a police presence is often in their neighborhood.
- Page 24 – second to the last paragraph, the third line from the bottom should be changed from a three (3) storage to a three (3) story building.
- Page 25 – should be changed from the last paragraph, second to the last word on the page should be changed from plated to platted.

No other corrections were stated or requested.

Motion – Approve the minutes from the December 13, 2021 meeting of the Board of Adjustment as amended.

MOTION: Andrew Rubley
SECOND: William Hartman
MOTION RESULT: Passed Unanimously (5-0)

Chairman Dan Miller stated 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 to 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 as it relates to this meeting.

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:

- R. Keith Shackelford – Petitioner’s Attorney (In Person)
- Wayne Mauldin – Expert Witness - Surveyor (In Person)
- Stephen Lyons – Petitioner (In Person)
- Pam Davison – Planning Director (In Person)

Public Hearings

Agenda Item No. 4. A: – Special Use Permit Petition - 6833 & 6837 Dwight Rowland Road - Stephen Lyons, Everlasting Life Christian Church - PINs 0687117289 & 0687118298 - BOA-SUP-2022-02.

Purpose

The purpose of this agenda item is to consider a Special Use Permit, BOA-SUP-2022-02, at 6833 and 6837 Dwight Rowland Road by petitioner Stephen Lyons, on behalf of Everlasting Life Christian Church.

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 a place of worship within a residential zoning district as required by Section §9-1255 t. (1) A.

iii. of the Land Development Ordinance (LDO). As shown on the submitted site plan, the petitioner is proposing a 40' by 60' principal structure for the Everlasting Life Christian Church, which meets the development standards for a place of worship in a residential district by providing a minimum 50' building setback from all property lines and rights-of-way. The required frontage improvements to Dwight Rowland Road, including curb and gutter and a 5' sidewalk, are shown on the site plan and the provisions for the required parking and perimeter landscape buffers. The property has not been the subject of previous cases seen by the Board of Adjustment.

Recommendation – Approve BOA-SUP-2022-02 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-2022-02 not inconsistent therewith OR Deny BOA-SUP-2022-02 as presented.

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

Keith Shackelford, 343 South White Street, Wake Forest, stated that he represents the petitioner on this item, Everlasting Life Christian Church. He noted with him are Wayne Mauldin of Mauldin – Watkins Surveying, the expert witness, and Stephen Lyons, the pastor of Everlasting Life Christian Church. They were to provide witness testimony to the four (4) elements that must be presented in order for the Board to approve the special use permit request. He requested that Wayne Mauldin present the evidence to the Board of Adjustment, then stated Mr. Lyons would give his testimony when Mr. Mauldin was finished.

Wayne Mauldin, 139 North Main Street, Fuquay-Varina, stated that he and his staff created the site plan that was before the Board for approval. The special use permit request was for a small church they requested to build. The site plan shows a 40' x 60' building located in the Willow Springs area, and the surrounding pieces of property are vacant. This building will not infringe on any surrounding neighbor's privacy. The site plan shows a small driveway and about 20 parking spaces. Mr. Mauldin provided responses to the Findings of Facts:

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 a very small building that will not generate much traffic.

Mr. Mauldin stated that it is not in a neighborhood and the Town will require road improvements. This project will improve public safety and help improve traffic for a nearby school and post office during school hours.

Finding of Fact #2: The proposed use meets all required conditions and specifications because, as Town staff indicated, they meet all requirements and conditions.

Mr. Mauldin stated that they are not requesting special consideration. They are requesting to put a place of worship on the lot they have. They meet the size requirements for this request and can meet all the minimum setbacks required by the ordinance.

Finding of Fact #3: The proposed use will not substantially injure the value of adjoining property, or the use is a public necessity because nothing is adjoining the proposed property for it to devalue in any way. He explained that a church would be a nice fit for this area or any neighborhood, and it would be an asset to the community.

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 they will abide by any and all rules and regulations by the Town for building this place of worship.

He explained that they would adhere to the lot size, lighting, and parking requirements. He explained that they have had meetings with the Town staff and have been advised on what is required and will meet all the requirements in order to remain compliant with the Town's Ordinance.

Mr. Mauldin provided the responses for contributing factor descriptions:

1. Circulation – There will be one (1) access point to Dwight Rowland Road, which will need to be widened and will require an NCDOT driveway permit. The lane may or may not become a turn lane. All improvements will be addressed and applied in the site plan process. The site plan will then be submitted to the Town for approval.
2. Parking & Loading Location Areas – Parking will be located at the front of the church. He explained that there would be one (1) driveway on the east side of the property line. It will meet the Town's parking requirements, including being paved, installing lighting, and ADA pedestrian access and landscaping.
3. Service Entrance & Areas (locations of service areas and dumpsters) – Will be placed per the Town's Ordinance and code and will be submitted at the site plan approval process.
4. Lighting – The lighting plan will be done at the site plan process and will be done by Duke Progress Energy.
5. Utilities – There are no utilities in that area. The church plans on continuing to use well and septic.
6. Open Space & Landscaping – Mr. Mauldin explained that they would make every effort to save the existing trees. The only trees to be removed will be the ones in the way of the proposed driveway and the trees in the area where the road will be widened as required by the Town.
Mr. Mauldin stated that any required landscaping buffers would be installed, including perimeter buffers of a 20' type B buffer along the three (3) sides, and a 15-foot type C buffer along the roadway and evergreen shrubs to screen the parking and parking island if more than 25 spaces. He explained that they don't currently have 25 parking spaces but have a parking island, as shown on the site plan.
7. Environmental Protection – Mr. Mauldin explained that they would avoid all environmental features. There are not any environmental features on this lot. All buffers are shown as taxed on the preliminary plan. The only buffer for an environmental feature is the dashed-dotted line on the map provided; this is flood hazard soils based on Wake County and the Town of Fuquay-Varina soil survey.
8. Effect on Adjacent Property – The lots adjacent to their site on both sides and the rear are vacant at this time. If approved, their site will have minimal impact on the community. The facility's primary use will be on certain days of the week. The building is in the middle of an open field. The church is a place of worship and will only be having church services maybe once or twice a week with bible meetings maybe once or twice a week. He stated that Stephen Lyons would explain more about the meetings during the week.

9. Compatibility – Mr. Mauldin explained that this is a small community church that will not affect properties in the area. There will not be any loud noises or lighting that could affect anyone nearby. As previously stated, there are no adjacent property owners. The properties on all three (3) sides of this property are vacant at this time. Mr. Mauldin stated, as the town staff mentioned earlier, 500 feet back from this property is an elementary school and a post office. However, during the hours of operation for the proposed church, the post office and school will be closed and not impacted by the church activities, gatherings, and meetings.

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 asked if anyone else wanted to speak in favor of or in opposition to the petition.

Stephen Lyons, 604 Hadlow Street, Fuquay-Varina, stated that he is a founding member and the pastor of Everlasting Life Christian Church. He advised that several supporters are in the audience and online tonight, supporting their church and this request. Mr. Lyons thanked the Town staff and planners for their help with this request. He stated that he was excited about this opportunity to address the Board regarding this project and the development of their land. The church members have worked long and hard for 12 years to raise funds to purchase this land and maintain its upkeep while they patiently wait to build what they believe God has called them to build. His church believes that they have been called by God not just to build a place of worship for him and his members but to build a place that will help their fellow neighbors in this town and surrounding communities. He felt they had been called not just to preach and teach about the love of God but to demonstrate His love. He explained that living in this area, they have met so many phenomenal people who share their desire to help and grow the community, from other church leaders and congregants to other nonprofits and business owners.

Their intention is not to reinvent the wheel but to keep the wheel rolling. Everlasting Life Christian Church will not only provide a place to worship, but it will be a place where they can continue to show and demonstrate the love that they have shown throughout the community over the last several years. They will continue this by using the teachers, instructors, and retired educators in the church to provide programming for kids and seniors in our community. They will continue to award students with scholarships which over the last five (5) years have been blessed to award \$8,500 in scholarships.

Mr. Lyons stated that they would use business owners and entrepreneurs to educate aspiring business owners. They will bring in individuals who understand that mental health, divorce, poverty, hunger, and addiction are the realities of all communities. People who are going through suffering tragedies need safe places to go for support, healing, and education.

Mr. Lyons closed by quoting the Bible, Ephesians 5:15-17. He stated it says so be careful how you live. Don't live like fools, but like those who are wise, make the most of every opportunity in these evil days. Don't act thoughtlessly but understand what the Lord wants you to do. Mr. Lyons stated that it is clear to him what the Lord wants

them to do and were therefore requesting approval for the special use permit application and agreed that all four (4) Findings of Fact had been met. He requested the Board help them get one step closer to realizing their vision for a place of worship and another safe haven for our community. He thanked the Board for their time, attention, and consideration and said he looks forward to working with the Town on this project.

The public hearing was closed with no other questions and no other speakers in favor of or in opposition to the petition.

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 Andrew Rubley stated that he felt this would be good for the Town of Fuquay-Varina.

There was no other discussion from the Board.

The Board voted on the Findings of Fact as follows:

Finding of Fact #1: *Board Member William Hartman* 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 the location is currently uninhabited, and development of the location will add to the neighborhood in the surrounding area. Upon second by *Board Member Andrew Rubley*, Finding of Fact #1 was unanimously approved.

Board Discussion on Finding of Fact #2

Chairman Dan Miller asked if there was any discussion by the Board on Finding of Fact #2.

There was no other discussion from the Board.

The Board voted on the Finding of Fact as follows:

Finding of Fact #2: *Board Member Andrew Rubley* made a motion that the proposed use will meet all required conditions and specifications of §9-1255, f. (1) A. of the Town Ordinances. The lot size is three (3) acres, and the principal structure will have a minimum setback of 50 feet from all property lines and public roadways. Upon second by *Board Member William Hartman*, Finding of Fact #2 was unanimously approved.

Board Discussion on Finding of Fact #3

Chairman Dan Miller asked if there was any discussion by the Board on Finding of Fact #3.

There was no other discussion from the Board.

The Board voted on the Finding of Fact as follows:

Finding of Fact #3: Board Member Andrew Rubley made a motion that the purposed use will not adversely affect the adjoining property. The properties to the east, west, and north are each vacant. The property across Dwight Rowland Road to the south is a residential area. Upon second by Vice-Chairman Jeff Jaeger, Finding of Fact #3 was unanimously approved.

Board Discussion on Finding of Fact #4

Chairman Dan Miller asked if there was any discussion by the Board on Finding of Fact #4.

There was no other discussion from the Board.

The Board voted on the Finding of Fact as follows:

Finding of Fact #4: Board Member Andrew Rubley made a motion that the proposed use will be in harmony with the existing uses in the neighborhood. The existing uses to the west are the United States Post Office and Willow Springs Elementary School. The adjacent lots are vacant, and there are single-family homes across Dwight Rowland Road. The proposed use of the subject lots will be an asset to the community. Upon second by Board Member Qisoundra Flowers, Finding of Fact #4 was unanimously approved.

Motion – Approve BOA-SUP-2022-02 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-2022-02 not inconsistent therewith.

MOTION: Jeff Jaeger
SECOND: William Hartman
MOTION RESULT: Passed Unanimously (5-0)

New Business

Agenda Item No. 5. A: – Election of Board of Adjustment Vice-Chair 2022.

Purpose

The purpose of this agenda item is to nominate and elect a Board of Adjustment member to serve as Vice-Chair.

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

Recommendation – MOTION TO: Elect _____ (Board of Adjustment member) to serve as Vice-Chair for the term lasting through December 2022.

Board Member William Hartman nominated Vice-Chairman Jeff Jaeger for Vice-Chairman.

There were no other nominations.

Motion – MOTION TO: Elect Board of Adjustment Member Jeff Jaeger to serve as Vice-Chair for the term lasting through December 2022.

MOTION: William Hartman
SECOND: Andrew Rubley
MOTION RESULT: Passed Unanimously (4-0)

Administrative Reports

Agenda Item No. 7. A: UNC School of Government On-Demand Board Training - Making Quasi-Judicial Decisions.

Purpose - The purpose of this agenda item is to conduct a training session offered by the UNC School of Government On-Demand Board Training - Making Quasi-Judicial Decisions.

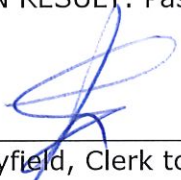
Staff Comments - Attorney James Adcock presented the training session.

Recommendation - Receive as Information - No Action Required

ADJOURN - 8:07 p.m.

MOTION: William Hartman
SECOND: Andrew Rubley

MOTION RESULT: Passed unanimously (5-0)



Eva Mayfield, Clerk to the Board



Dan Miller, Chairman



Date



Date