

**Town of Angier Board of Adjustment
November 26, 2019, 7:00 P.M.
Municipal Building
28 N. Raleigh Street
Angier, North Carolina 27501
Minutes**

The Town of Angier Board of Adjustment met in regular session on Tuesday, November 26, 2019, inside the Municipal Building Board Room, 28 N. Raleigh Street. Mayor Lew Weatherspoon presided, calling the meeting to order at 7:00 p.m.

Members Present: Mayor Lew Weatherspoon
Mayor Pro-Tem Craig Honeycutt
Commissioner Bob Smith
Commissioner Loru Boyer Hawley
Commissioner Mike Hill

Members Absent:

ETJ Members Present: Everett Blake, III
Lee Marshall

ETJ Members Absent:

Staff Members Present: Town Manager Gerry Vincent
Town Clerk Veronica Hardaway
Planning Director Sean Johnson
Town Attorney Dan Hartzog Jr.

2. Pledge of Allegiance: Mayor Lew Weatherspoon led the pledge of allegiance.

3. Invocation: Commissioner Smith offered the invocation.

4. Approval of the September 24, 2019 Meeting Minutes: With there being no changes, the September 24, 2019 Board of Adjustment Meeting Minutes were approved as presented.

Motion: Commissioner Smith
Vote: ; Unanimous; 7-0

Approval of the November 26, 2019 Agenda: With there being no changes the Board of Adjustment Meeting Agenda was approved as presented.

Motion: Commissioner Hawley
Vote: Unanimous; 7-0

Swearing In Of Witness: The following persons giving testimony were duly sworn by the Town Clerk.

Sean Johnson
Keith Vines
Steve Remchak

5. New Business

A. Evidentiary Hearing for Variance Request – Case 2019-000313 – Property owners Benchwarmer Holdings, LLC is seeking a Variance to Ordinance Section 7.3.4 Waste Container Screening Requirements (PIN#: 0673-49-9736.000).

Mayor Weatherspoon opened the Evidentiary Hearing

Planning Director Sean Johnson stated staff sent a notification letter to the property owner making them aware of the recent changes to Section 7.3.4 of the Ordinance regarding the screening of waste containers. In this letter, staff indicated that these new requirements must be met by the December 4th deadline. The property owner submitted a variance application on October 29, 2019 to request that the waste container(s) on the property be allowed to remain unscreened. Mr. Johnson reviewed part of the Ordinance that read: *All waste containers shall be screened in the form of an opaque wall or fence with a latching gate that will reasonably secure the enclosure from unauthorized entry. The screen shall exceed the height of the waste containers by a minimum of six inches and shall not interfere with the emptying, replacement or removal of waste containers. Chain link fencing with slats or other supplemental screening material shall not be used to meet the requirements of this section. All screening materials shall remain in good condition as determined by the Administrator.*

Steve Remchak, owner, explained to the Board that he owns a commercial flooring outlet that requires him to use a 15 yard dumpster to hold construction debris and trash. He stated his property would be limited if he were to build screening around the dumpster but is willing to screen the exterior property fence. Mr. Remchak stated that there is usually only one dumpster at a time on the premise. He also explained that there is a 12-14ft wide sliding gate attached to the chain link fence and alongside the power line, Duke Energy owns an easement which would prevent him from installing anything permanent.

Mayor Weatherspoon closed the Evidentiary Hearing

Findings of Fact: The Board of Adjustment evaluated the application to ensure the following provisions were fulfilled.

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.*
- B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.*
- C. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.*
- D. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.*
- E. The special circumstances are not the result of the actions of the applicant.*
- F. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.*

Board Action: The Board of Adjustment voted that all six conditions have been met but required the applicant to install opaque screening to the front chain link fence as well as a screening buffer of the sliding gate and remaining fence.

Amended Board Action: The Board of Adjustment voted that all six conditions have been met but required the applicant to install opaque screening to the front chain link fence as well as "matching" screening of the sliding gate and remaining fence.

Motion: Mayor Pro-Tem Honeycutt
Opposed: Commissioner Hill
Vote: 6-1

B. Evidentiary Hearing for Variance Request – Case 2019-000311 – Property owners Prestigious Properties of NC, LLC is seeking a Variance to Ordinance Section 15-35 Limit on Number of Waste Containers (PIN#: 0684-01-8773.000).

Mayor Weatherspoon opened the Evidentiary Hearing.

Planning Director Sean Johnson stated that staff sent a notification to the property owner making them aware of the recent changes to Section 15-35 of the Town Code regarding the limit on the number of trash and recycle containers per property. In this letter, staff indicated that properties with more than the allowed amount of waste containers must provide dumpsters and compliant dumpster screening by the December 4th deadline. The property owner submitted a variance application on October 23, 2019 to request that the waste containers on the property be allowed to remain.

Mr. Johnson reviewed part of the Ordinance that read: *Residential properties will be provided up to two refuse containers and two recycle containers. Property owners will be billed for each container requiring pickup on the monthly utility bill. Any number of refuse or recycle containers above two will require dumpster service at the owner's expense. Currently there is a concrete pad that has four trash and four recycle carts on the property.*

Keith Vines, Prestigious Properties, requested the Board to consider allowing four containers of each (trash and recycle) carts on their property since each unit has a separate tenant with four separate water/sewer/trash bills and paying for their own service. Due to the layout of the property, there is not adequate space to place a dumpster and necessary screening. Each unit has two parking spaces in front of the building leaving no place for a dumpster in front. There's also not enough space on either side of the building for a dumpster and proper screening. Mr. Vines requested to add a white vinyl decorative fence and landscape to disguise and improve the esthetics of the property on three sides of the eight containers. The receptacles will stay in the confined area and moved to the curb on day of pick up only.

Mayor Weatherspoon closed the Evidentiary Hearing.

Findings of Fact: The Board of Adjustment evaluated the application to ensure the following provisions were fulfilled.

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.*
- B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.*
- C. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.*
- D. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.*
- E. The special circumstances are not the result of the actions of the applicant.*
- F. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.*

Board Action: The Board of Adjustment voted that all six conditions have been met but required the applicant to enclose all four sides of the structure based on the requirements.

Motion: Everett Blake, III
Opposed: Mayor Weatherspoon
Vote: 6-1

C. Evidentiary Hearing for Administrative Appeal – Violation File 19-162 – Property owner Stuart Gardner of Nationwide Liquidators is seeking an Administrative Appeal to Ordinance Section 10.7 Prohibited Signs (PIN#: 0673-68-9749.000).

Mayor Weatherspoon opened the Evidentiary Hearing.

Planning Director Sean Johnson stated staff sent a violation letter to the property owner on October 16, 2019 notifying them of the prohibited signs on the property and ordering them removed. The property owner submitted an administrative appeal on October 23, 2019 to appeal the decision of the Code Enforcement Officer and allow the prohibited signs to remain.

Nature of the Violation: Prohibited Forms of Advertisement Found on Property
Code Reference: Chapter 10, Section 10.7 of the Unified Development Ordinance

Section 10.7 – Prohibited Signs

M. Wind-blown advertisement devices including flags, banners or signs

There shall be no windblown advertisement devices on the property by a date of ten days after the date of the original letter that was sent to the property owners to avoid civil fines.

Board Action: The Board of Adjustment voted to deny the Administrative Appeal submitted by Nationwide Liquidators.

Motion: Everett Blake, III
Opposed: Commissioner Hawley
Vote: 6-1

6. Adjournment: Mayor Weatherspoon entertained a motion to adjourn the meeting. Motion to adjourn was unanimous at approximately 7:49pm.

Motion: Commissioner Smith
Vote: Unanimous; 7-0

Lew Weatherspoon
Chairman / Board of Adjustment

Attest:

Veronica Hardaway, Town Clerk