

**Town of Angier Board of Adjustment
March 24, 2020, 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, March 24, 2020, inside the Municipal Building Board Room, 28 N. Raleigh Street. Mayor Bob Smith presided, calling the meeting to order at 7:00 p.m.

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

Members Absent:

ETJ Members Present: *Newly appointed ETJ Members Awaiting
Harnett County Commissioners' Confirmation*

ETJ Members Absent:

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

2. Pledge of Allegiance: Mayor Bob Smith led the pledge of allegiance.

3. Invocation: Mayor Smith offered the invocation.

4. Approval of the December 16, 2019 Meeting Minutes: With there being no changes, the December 16, 2019 Board of Adjustment Meeting Minutes were approved as presented.

Motion: Commissioner Hawley
Vote: Unanimous; 5-0

Approval of the March 24, 2020 Agenda: With there being no changes the Board of Adjustment Meeting Agenda was approved as presented.

Motion: Commissioner Hawley
Vote: Unanimous; 5-0

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

Sean Johnson
Debra Higgins
Chris Hughes
Chief Arthur Yarbrough

5. New Business

A. Evidentiary Hearing for Variance Request – Property owner Linderman Properties, LLC is seeking a Variance to Ordinance Section 7.3.4 Waste Container Screening Requirements located at 1501 N. Raleigh Street (PIN#: 0674-57-5493).

Mayor Smith opened the Evidentiary Hearing

Planning Director Sean Johnson stated the Planning Department received an application for a variance request related to Ordinance Section 7.3.4 - Waste Container Screening Requirements by Linderman Properties, LLC. The property in question currently has two Waste Management dumpsters inside a chain link screening with supplemental slats. Last summer the Board of Commissioners adopted an amendment to the Ordinance to require screening of all waste containers existing in the Town's jurisdiction in the form of an opaque wall or fence with a latching gate. In addition, the Town Board added language that states chain link fencing with slats or other supplemental screening shall not be used to meet the requirements of this section. Due to the amended ordinance adoption on June 4, 2019; code enforcement staff notified the property owner of the changes and requested it be corrected by the end of the six month deadline. The owner submitted an application requesting a variance of the rules established that requires an opaque wall or fence screening around his dumpsters.

Mr. Johnson reviewed Ordinance Section 15.3.2.2 that outlines variance approval criteria.

Ordinance Section 15.3.2.2

Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after a public hearing that the following conditions exist:

- A. Unnecessary hardship would result from the strict application of the ordinance.*
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

- C. *The hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*
- D. *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

Mr. Johnson stated the applicant was not present and was notified of the Public Hearing via email.

Mayor Smith closed the Evidentiary Hearing

Board Action: The Board of Adjustment unanimously voted to deny the request submitted by Linderman Properties seeking a variance to Ordinance Section 7.3.4 Waste Container Screening Requirements.

Motion: Commissioner Hill

Vote: 5-0; unanimous

B. Evidentiary Hearing for Special Use Permit – Applicant Luis Chavez is seeking a Special Use Permit to operate an Electronic Gaming Center located at 764 S. Raleigh Street.

Mayor Smith opened the Evidentiary Hearing

Planning Director Sean Johnson stated that a Special Use Permit was submitted by Luis Chavez for the property located at 764 S. Raleigh Street which is zoned General Commercial; surrounding uses of the property in question are RA-30, R-15, and R-10. The applicant has submitted a floor plan to staff. Last year the Board of Commissioners adopted amendments to the Ordinance Section 4.8.4 – Internet gaming, sweepstakes, or other gaming establishments and are as follows:

Ordinance Definition:

Game Center: A business enterprise, whether principal or accessory, where persons utilize electronic machines or devices, including but not limited to computers and gaming terminals or other amusement devices, where case, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played.

Ordinance Requirements:

4.8.4 Internet gaming, sweepstakes, or other gambling establishments.

- A. *The following standards shall apply to game centers, as defined in section A.4, which comply with NCGS 14-306(b).*
- B. *Game centers shall be permitted in the General Commercial district and require a special use permit issued by the board of adjustment regardless of the number of machines proposed.*

- C. *The use shall not be located within a one-half-mile radius of any other game centers, or within 1,000 feet of any school, religious institution or day care center.*

Mr. Johnson reviewed Ordinance Section 15.3.2.3, which outlines the Special Use Permit approval criteria.

Debra Higgins, 117 Graven Lane, Willow Springs, stated that she will manage the gaming center and assured the Board they will comply with all necessary requirements and guidelines. She explained that the proposed business will be a game room sweepstakes center set up with fish tables and computers to play and be able to cash out for money. Fish tables are computer games consisting of 6-8 people playing against each other. Participants must be 18 years old or older to play. Payouts vary from \$0.50 to \$3.00 depending on bets made. A security guard will be stationed at the front door as well as a metal detector for safety. Business hours will be from 8pm to 2am and will not allow alcohol on premises.

There was discussion amongst the Board regarding concern for residential homes being in close proximity to proposed gaming center.

Chief Yarbrough asked the applicant if she has familiarized herself completely with the on-going litigation concerning these types of businesses and also asked if she was aware that she could open for business and could potentially be shut down.

Ms. Higgins stated she understood what Chief Yarbrough explained.

Chief Yarbrough stated that he does not recall any disturbances in other similar businesses in Town other than one recent robbery at the sweepstakes on Logan Court. Chief explained that the Harnett County Sheriff is opposed to internet gaming centers and the State Legislature is also looking at these businesses.

Chris Hughes, 65 Golden Lane, stated he had concerns of a nonconforming sign on the property that needs to be removed and also stated that past business owners at the location in question have had issues with ingress and egress as well as a lack of parking.

The Board had discussion regarding potential traffic issues that may occur on Hwy 55.

The Board of Adjustment shall approve, modify, or deny the application for Special Use Permit. In granting a Special Use Permit, the Board of Adjustment shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the district within which it is located and official plans for future development, the Board of Adjustment shall also make written findings that the following provisions are fulfilled:

- A. *The requested use will/will not impair the integrity or character of the surrounding or adjoining districts; **unanimously voted conditions are not met***
- B. *The requested use will/will not be detrimental to the health, morals or welfare; **unanimously voted conditions are not met***

- C. Adequate utilities, access streets, drainage, sanitation and/or other necessary facilities have/have not been made or are being provided; **unanimously voted conditions are not met**
- D. That adequate measures have/have not been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and **unanimously voted conditions are not met**
- E. That the Special Use shall/shall not, in all other aspects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment. **unanimously voted conditions are not met**

Mayor Smith closed the Evidentiary Hearing

Board Action: The Board of Adjustment unanimously voted concluding all findings of fact have not been met and denied the Special Use Permit submitted by Luis Chavez to operate a Gaming Center located at 764 S. Raleigh Street.

Motion: Commissioner Hill
Vote: 5-0; unanimous

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

Motion: Commissioner Hawley
Vote: Unanimous; 5-0

Robert K Smith

Robert K. Smith
Chairman / Board of Adjustment

Attest:

Veronica Hardaway
Veronica Hardaway, Town Clerk

