



Planning & Zoning Board Meeting
Town Hall - 8590 Park Drive Mount Pleasant, NC
Monday, November 27, 2023
6:00 PM

1. **Call to Order** - Chair Whit Moose

2. **Recognition of Quorum**

3. **Conflict of Interest**

The Chairman and Board Members are asked at this time to reveal if they have a Conflict of Interest with any item on the Agenda in order to be recused for that item. (No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under NCGS 160A-175, NCGS 14-234, and NCGS 160D-109)

4. **Approval of Agenda**

5. **Approval of Minutes of Previous Meetings** (October 23, 2023)

6. **Public Comment Period**

7. **Planning Board Cases**

None

8. **Board of Adjustment Cases**

SUP 2023-01 Kady's Cottage Vacation/Short-term Rental Home

Special Use Permit request to operate a vacation/short-term rental in an existing home located on 0.48 acres at 8130 Fisher Road. Cabarrus County Parcel Number: 5671-00-6495. Zoning: RL Residential Low Density.

9. **Reports**

Planning Report and Zoning Permits for October & November (to date)

10. **Planning & Zoning Board Comment Period**

11. **Adjourn**



MOUNT PLEASANT

EST. 1859

NORTH CAROLINA

Planning and Zoning Board Meeting Minutes Monday, November 27, 2023

Members Present: Chairman - Whit Moose
Member – Rick Burleyson
Member - Bridget Fowler
Member – Liz Poole
Member – Jonathan Helms
Alternate – Kiesha Garrido
P&Z Clerk to the Board – Jennifer Blake
Planning & Economic Development Director - Erin Burris

Also Present: Terry and Stephanie Burleson, Amanda Miller, Michelle and Viktor Kummer, Lindy Dums, and Johnette Gordan Preddy

1. Call to Order:

Chairman Whit Moose called the Town of Mount Pleasant Planning and Zoning Board meeting to order at 6:00 p.m.

2. Recognition of Quorum:

Chairman Whit Moose stated a quorum was present with Kiesha Garrido as the Alternate member.

3. Conflict of Interest:

The Chairman and Board Members are asked at this time to reveal if they have a Conflict of Interest with any item on the agenda in order to be recused for that item. (No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). NC State Statute 160A-75)

No one had a conflict.

4. Approval of Agenda:

A motion to approve the agenda was made by Liz Poole with a second by Bridget Fowler. All members were in favor. (5-0)

5. Approval of Minutes of Previous Meeting:

A motion to approve the previous minutes for August 28, 2023, was made by Rick Burleyson with a second made by Jonathan Helms. All members were in favor. (5-0)

6.. Public Comment:

None

7. Planning Board Cases

None

Chairman Whit Moose closed the Planning and Zoning Board and opened the Board of Adjustment Board. A motion was made by Jonathan Helms and a second by Bridget Fowler. All were in favor. (5-0)

8. Board of Adjustment Cases

SUP 2023-01 Kady's Cottage Vacation/Short-term Rental Home

Special Use Permit request to operate a vacation/short-term rental in an existing home located on 0.48 acres at 8130 Fisher Road. Cabarrus County Parcel Number: 5671-00-6495. Zoning: RL Residential Low Density.

Attorney John Scarbrough shared with everyone about Quasi-Judicial Hearings.

(John Scarbrough) So, tonight you will be deciding on whether to issue a Special Use Permit for a short-term vacation rental and a decision on whether to grant or deny a Special Use Permit. It is a Quasi-Judicial decision you are sitting as the Board of Adjustment. The main thing to keep in mind is that this is an evidentiary hearing. You will base your decision tonight on the evidence, the documents that are in the record, the testimony that you might hear from witnesses, and that will be the basis for your decision on whether or not to issue a Special Use Permit.

The UNC School Of Government reads as follows:

In order to make a quasi-judicial decision the Board must hold an evidentiary hearing. As the names imply quasi-judicial and evidentiary, this is a court-like matter. Witnesses are sworn in, testimony must be focused on relevant facts, and parties must have legal standing to take certain actions. Expert witnesses may be required for certain matters. The Board may not rely on lay witness opinions for technical matters, like traffic, projection, and property value impacts. While there is some room for judgement and discretion, the Board's discretion is limited. The Board must base its decision on the evidence on the record and the standards as required in the ordinance. So, if an applicant has provided facts to show that they meet the applicable standard and if the opponents have only provided only general opinions and fears without factual support then the Board is obligated to approve the applicant's request. Unlike a legislative hearing such as a rezoning, your decision tonight is not based on your opinion or your feelings about the proposed use before you, it is just based on that evidence and how you apply it to these standards. And the standards to keep in mind while you listen to testimony and

review documents are in the agenda packet under "See Board of Adjustment Action" and so those are the six standards but keep those in mind when you hear the evidence. Normally the Town Planner will go first with the presentation, then the applicant will make their comments answering any questions from the Board and then if anyone is here in opposition then they can proceed with their case. If anyone does wish to testify or speak it does have to be under oath.

Erin Burris invited anyone who wanted to speak on this matter to come to the front of the podium to be sworn in or affirmed.

Clerk to the Board, Jennifer Blake had those wanting to speak or ask questions, Erin Burris, Viktor Kummer, Michelle Kummer, Terry Burleson, Stephanie Burleson, Lindy Dums, and Johnette Preddy place their left hand on the Bible and raise their right hand to be sworn in or affirmed.
All acknowledged the oath.

Erin Burris read the Staff Analysis for the record and clarified that the driveway is gravel and not paved.

Chairman Whit Moose opened for questions from the Board.
No members had questions at this point.

Chairman opened the meeting to the Applicants to speak.

Michelle Kummer
7651 Mt. Olive Road
Concord, NC 28025

(Michelle Kummer) My husband and I will be managing the property for my mom when she plans to use it on her own but would like to be able to rent out when she is not using it and that we want to do everything we can to be good neighbors and not harm the neighborhood at all.

(Bridget Fowler) So, your mom who owns the house, she currently lives in California?

(Michelle Kummer) Yes.

(Fowler) How often does she come back here that she would be coming back to stay?

(Kummer) Well it varies, usually a couple of times a year and she would like to be able to stay for longer in her own space and eventually move here permanently.

(Whit Moose) Is she planning on it being like a Verbo or Airbnb?

(Kummer) Sort of an Airbnb type thing.

(Moose) Do we have any pictures of the front of the house?

(Burris) Yes, and I pulled up a front view of the house from Google Maps. One-story with a porch, the carport, and the gravel driveway. Also, showed the surrounding neighbors.

(Kummer) One thing, the fence that was mentioned has now been installed. So, there is a fence now (not on Google Maps view).

(Rick Burleyson) Where is the fence located?

(Kummer) It goes on both sides of the house on the other side of the carport, back about three fourths of the way into the back yard and then across the back.

(Burris) It looks like there is an existing fence here on this property line, is that correct?

(Kummer) Yes

(Moose) What style fence is it?

(Kummer) It is a white vinyl on the fence on the front and sides of it and in the back yard there is black chain link, and she hopes to some point extend the vinyl, but a little later.

(Moose) Erin, I don't know if this is a question for you but under the supplemental requirements number 6 it says the property owner has a responsibility to demonstrate compliance with this requirement. Is there a policy or something that they have to submit to us to do that or how does that actually work?

(Burris) That can be a little tricky on that one. Because of the Wilmington case, it cannot be a registration. Basically, if they were to be called into question, for example, if there would be like 15 people staying there at any one time and that is on a repeated basis then they would need to demonstrate that many people would not actually staying there.

(Attorney John Scarbrough) Erin alluded to this but there was a recent case at the court of appeals where Schroder and the City of Wilmington and Wilmington was making folks who were wanting to run short term rentals making them register or enroll into whatever Wilmington's program was. That was held to be unlawful, so in other words, anything in here that would imply that the Town is requiring the applicant to enroll or register we would not be able to do that. So, in other words the applicant would not have to tell the Town okay we are going to have this many people here for this month.

(Jonathan Helms) I don't know if this question is for Erin or John. The Board issues the Special Use Permit. Is there a time stamp for that?

(Burris) It runs with the property.

(Liz Poole) So, if they sell it, whoever buys it would still have the Special Use Permit?

(Burris) That is correct. So, if the use is appropriate for one person, then it is appropriate for the other person.

(Poole) I got you. I wanted to clarify that.

(Burleyson) I see that you can't have more than 5 different occupants within 30 days. Are there provisions that it can't be rented to the same person more than 30 days, or a week, or 2 weeks so if someone wanted to rent it for a year and you wanted to rent it to them for a year?

(Burris) A lot of these short-term rentals, I am not saying this one would be, but you will often see a traveling nurse or something like that who may need it for three (3) months and then moves on. That happens a lot but there is no provision that says if they want it for six (6) months they could not have it for six (6) months.

(Moose) So, at this point do you have an idea of how frequently you think it would be rented? Is your goal to have somebody in there all the time?

(Kummer) All the time, no, and I don't imagine, I mean as lovely as Mount Pleasant is, it is not a hub really. I really have no idea how often it might be rented. I imagine not too frequently.

Whit Moose asked for anyone else to speak for the Special Use Permit.
No one else spoke.

Whit Moose opened the floor for those who would like to speak in opposition or have questions to come forward.

Jhnette Preddy
8450 Fisher Road

(Jhnette Preddy) First a comment. A comment was made that there was not a lot of traffic on Fisher Road. I would differ and ask you to please have that checked by the DOT because there is a lot of traffic on Fisher Road. I no longer walk out there because of all the traffic. There is a lot. Second, the question that I have is will they be required to pay an occupancy tax for the people that are renting this property?

(Burriss) To my knowledge the Town does not currently have an Occupancy Tax and it is not in the Town limits therefore, it would not pay a Town of Mount Pleasant Occupancy Tax and I am not aware of there being a Cabarrus County Occupancy Tax either.

(Scarborough) No, I don't think that type of tax would be authorized by law.

(Poole) So, I think what you are asking is like a hotel. You stay in a hotel; you pay an occupancy tax. Is that what you are thinking about?

(Preddy) I own property at the Coast of North Carolina and if I rent that property, I have to pay an Occupancy Tax and I just wanted to know if that would apply here as well.

(Burriss) Again, it is not in the Town limits and the Town of Mount Pleasant does not have an Occupancy Tax currently.

(Preddy) So, we need to check with the County?

(Burriss) I don't know if there is a county wide Occupancy Tax that would be applicable. That would have to be checked.

(Preddy) That might be a follow up on that. And then just a comment that I am sure the Board is well aware of because you have the maps and you have seen, but all the other homes along Fisher Road are individually owned homes, private homes that are the family residence and I think to change that zoning in this particular area would be considered a Spot Zone and that just isn't something good for the Town to get started with that.

(John) I can address that if I might. So, Spot Zoning would be if you have a legislative rezoning. The underlying zoning is not changing in this case. This is a Special Use Permit. So, it is a little confusing because it does run with the land, but it does not change the underlying zoning, it is just an additional entitlement. So, it is not Spot Zoning.

(Preddy) It seems somewhat contradictory to have low density but yet with this Special Use Permit there can be up to fifteen (15) people in the home.

(Burriss) No, that was an example.

(Preddy) Thank you.

(Burriss) They can only have two (2) people per bedroom. There are 3 bedrooms so the maximum occupancy would be six (6). No more than a typical single-family home and they are not adding anymore buildings or anything like that.

As far as the statement about low volume, the only reason it is classified as low volume is because DOT has not done a traffic count and they only do traffic counts on higher volume roads. They have not done one for Fisher Road, so I had to classify it as low volume. That is not my classification; it is theirs.

(Preddy) Thank you.

Chairman Whit Moose asked if anyone else wanted to speak in opposition or had a question.

Terry Burleson
8170 Fisher Road

(Terry Burleson) If there would be a consistency of six (6) people staying in the house will that affect the water and sewer in that area, because usually if it is 1 bedroom or 2 bedroom it is supposed to have a certain amount. That is the only question I had.

(Burris) So, it is on a septic system and Cabarrus Health Alliance bases septic sizing on the number of bedrooms, not on the number of bathrooms. So, if you consider that no more than two (2) people are in each bedroom that is consistent with what they would permit for that septic system. You are not adding any bedrooms; you are not changing any of that.

(Burleson) I just wanted to make sure it would not affect the water and sewer around there.

(Burris) Yes, it would be no different than a family of six (6) and it would be used more sporadically than a family being there all the time. So, it would not affect the septic.

Chairman Whit Moose closed the Public Hearing portion of the Meeting and moved on to Board discussion.

(Rick Burleyson) When we were talking about the permit goes with the house, if the house was sold and a new owner came in and a new owner wanted to continue this, they would be subject the violation so if they started having fifteen (15) people there or whatever then we would have a public hearing and we could revoke the permit at that time.

(Burris) It would have to be subject to all of the same conditions, the same permit, everything and if they were to violate it then it could come back to this board to be revoked.

(Kiesha Garrido) Who checks on that? Would it be just reported by neighbors that there seems to be too many people there?

(Burris) They would need to file a complaint to our office and the Code Enforcement Officer would investigate.

(Fowler) What is the difference between a short-term rental and a long-term rental? So, if they decided they wanted to rent it out to somebody for 5 years, do they have to get a Special Use Permit for that also?

(Scarborough) The statutory definition for short-term rentals is, the rental or president of the property for vacation leisure or recreation purposes for fewer than 90 days by a person who has a place of permanent residence to which he/she intends to return. So, basically fewer than 90 days.

(Fowler) So, anyone who wanted to make the residence a long-term rental, would they have to have a Special Use Permit?

(Burris) No, they would not. It would be no different than somebody signing a six (6) month lease or one (1) year lease for someone to live there like any other residence. What makes it short-term is that it is less than a ninety (90) day period.

(Moose) That does not exclude them from being able to do a long-term rental with the property?

(Burris) No, it would not. They would still be able to use a single-family residence, but they would have the option to also do a short-term rental. A lot of jurisdictions do not require Special Use Permits for short-term rentals. This jurisdiction decided they wanted a little more oversight on that, hence, the Special Use Permit process.

(Poole) So, is this property in the ETJ (Extra-Territorial Jurisdiction)?

(Burris) It is in the ETJ. That is correct. It is not in the Town limits. So, if this were out in Cabarrus County actually, they would probably not have to get any permit.

(Scarborough) Actually, I checked with Concord, and they do not regulate short-term rentals.

Chairman Whit Moose asked Erin Burris to go through the Findings

(Burris) These are all the findings and if you agree with them you can choose to adopt them as proposed. If you do not or there have been other evidence presented and you need to change them, please do so.

1. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.

2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
Mrs. Burris stated that the minimum number of parking spaces is three (3) and this location has eight (8) parking spaces.
3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
4. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
5. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
6. Compliance with any other applicable Sections of the Mount Pleasant Development Ordinance.

(Moose) It was also recommended somewhere in there about the Fire Marshal.

(Burris) The applicant did speak with the Fire Marshal. The Fire Marshal will do a courtesy inspection on residential, but they cannot do a formal inspection because it is not a commercial use under that definition. So, they make recommendations but cannot do a formal inspection.

Whit Moose shared that the Board would go through each of the findings on an individual basis, have discussion, and vote on each one.

(Burris) I would just make sure that you have all the information you need. You will need to close the hearing and then you can vote on the findings individually. So, make sure you have as much information from the property manager or any of the adjacent property owners that you would need to make these findings and then close the hearing.

Whit Moose opened for questions for anyone in the room.

(Fowler) So, are the adjacent property owners here?

(Burris) There were a few folks, not immediately adjacent but one across the street.

(Fowler) Did the two (2) immediate adjacent property owners contact you?

(Burris) Jennifer, did you get any phone calls?

(Clerk, Jennifer Blake) I did get a couple of people to call just inquiring about the signs, but I don't believe it was the adjacent property owners.

(Burris) I did not receive any direct calls.

(Burleyson) Property Managers, do you intend to impose any of your own regulations like for pets, for fires in the yard, or for grilling?

(Kummer) We definitely have a "No Party" policy and we have no outside amplification. I don't know if she does as far as outside grilling and that type of thing. I don't know. We don't have a grill outside, so they would have to bring their own.

(Scarborough) Just so the Board knows, there is a statute that actually governs vacation rentals and has its own kind of safety requirements and what can and cannot go into a rental agreement. It is a regulated use outside of what we do tonight.

(Burris) 42A is in the packet.

(Burleyson) I saw that, but I didn't read all of it. It is long.

(Keisha) Have there been other permits pulled for this type of thing?

(Burris) This is the first application we have received. Now whether there are other ones out there that nobody has told us about. Every once in a while, I'll do a search to see if there is one in our jurisdiction, but I have not received any applications and have not noticed any.

(Scarborough) Just remember the decision tonight is just based on what is in your packet, what you have heard. Other properties cannot take that into consideration, it is just whether you think the evidence you have seen tonight meets these six (6) standards.

Whit Moose closed the question portion and moved on to the Findings. Remember if you will restate if it meets the standard, it meets the standard.

(Scarborough) So, there is discretion in the sense that you can weigh the evidence and you can consider what you find believable and not believable, but if there is supporting evidence for each of these standards then you have to approve both in the affirmative.

(Moose) And likewise if there is a no in any of them, we would not.

Ms. Burris reviewed each finding and the Board voted on each one.

1. A **motion** was made by Jonathan Helms with a second by Rick Burleyson that the proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.

“Vacation Rentals”, also known as “Short-term Rentals,” are permitted with a Special Use Permit in the RL Residential Low Density zoning district. The proposed use is located within an existing single-family residential structure, similar to surrounding structures with landscaping that is typical for a single-family residential use.

All were in favor. (5-0)

2. A **motion** was made by Rick Burleyson with a second by Bridget Fowler that adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

Ingress and egress to the site are via an existing driveway with no proposed changes and no increase in the number of trips that the site would experience a regular single-family residential use with a large family. The equivalent of 8 parking spaces is provided within an existing carport and gravel driveway, which exceeds the minimum of 3 spaces for a single-family residential use.

All were in favor. (5-0)

3. A **motion** was made by Whit Moose with a second by Jonathan Helms that the proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

As a residential category land use, the proposed shall be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. No exterior sound amplification is permitted, and the use shall comply with the Noise Ordinance in Part 8, Chapter 7 of the Town of Mount Pleasant Code of Ordinances.

All were in favor. (5-0)

4. A **motion** was made by Rick Burleyson with a second by Jonathan Helms that the establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

The proposed use is located in an existing building on a similarly sized and situated lot as other residential uses along Fisher Road. It is across the street from an agricultural use and to the north of the Town’s Public Works Facility property. The Future Land Use Map in the Town’s adopted Comprehensive Plan classifies this property for

“Medium Intensity”. Therefore, the proposed use does not impede orderly development.

All were in favor. (5-0)

5. A **motion** was made by Whit Moose with a second by Bridget Fowler that the establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

The proposed use shall not be detrimental to the public health, safety or general welfare. Additionally, the property owner has provided smoke detectors, a fire extinguisher, and first aid kit on site.

All were in favor. (5-0)

6. A **motion** was made by Liz Poole with a second by Jonathan Helms that Compliance with any other applicable Sections of the Mount Pleasant Development Ordinance.

All other applicable sections of the Mount Pleasant Development Ordinance are met.

All were in favor. (5-0)

Whit Moose called for a final vote for issuing the permit.

A **motion** was made by Jonathan Helms to permit a Special Use Permit with a second made by Rick Burleyson. All were in favor. (5-0)

(Scarborough) Since we have to have written findings, I will prepare an order that you will review at your next meeting.

Whit Moose Closed the Board of Adjustment Meeting and opened the Planning and Zoning Board.

A **motion** was made to close the Board of Adjustment Meeting was made by Liz Poole with a second by Jonathan Helms. All were in favor. (5-0)

9. Reports

SITE 2022-07 Virginia Foil Park/Library/Senior Center

This is under construction on Washington Street with anticipated completion in the Fall of next year. We are working very hard to get the water line to it in a timely manner so that it can have adequate fire flow. We have provisions in place to ensure that it is covered.

SITE 2023-01 Propel Church

The grading only permit has been issued and have received their Soil and Erosion Control approval from NCDEQ. They are still working through some of their issues trying to figure out sewer for that site.

Erin Burriss reviewed the Code of Ordinances, Utilities, and Comprehensive Plan Implementation.

(A copy of the Reports is enclosed in the Minute Book)

Permits

Another food truck has been added, the Simply Smoked Food Truck located at the Community Church of Mount Pleasant. They have a Facebook page to let you know when they will be there. Liz Poole asked if the Simply Smoked Food Truck is 90 calendar days like the Sweet Sippers on N. Main Street and if so, how is that tracked. Erin Burriss shared that the Simply Smoked Food Truck is 90 calendar days, and she tracks them to the best of her ability. Basically, they let her know what days of the week they plan to be there and if she sees them seven (7) days a week she knows she has a problem. If they do exceed the 90 days at that site, then they can go to a different site for another 90 days. But they cannot stay at this site, and they can come back to this site after 3 months. Liz Poole also asked where the Food Truck was located on their site. Erin Burriss shared that the food truck was located near the field house and the parking lot area between the old field house and the auditorium is where they are.

Rick Burleyson asked what the update of the comprehensive plan looks like. Are we involved in that?

Erin Burriss shared that the Town Board will decide who they want to serve as the steering committee. It is looking like right now maybe two people from the Town Board, two people from the Planning Board, two regular citizens or a similar make-up. You all as the Planning Board will need to vote and make a recommendation on the plan and will be heavily involved.

10.. Planning and Zoning Board Comment Period

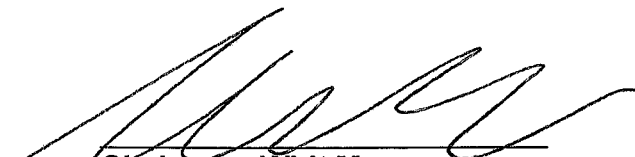
- Whit Moose shared he heard we had a new mayor.

The new mayor, Tony Lapish will be sworn in at the December 11, 2023, Town Board Meeting.


- Rick Burleyson said that there is construction starting at the flag lot at 840 N. Main Street which is the last Main Street flag lot.

11. Adjournment:

With no further discussion, Chairman Whit Moose entertained a motion to adjourn. Liz Poole made the **motion** and a second was made by Bridget Fowler. All were in favor. (5-0)



Chairman, Whit Moose



Clerk to the Board, Jennifer Blake