

**TOWN OF HOLLY RIDGE
BOARD OF ADJUSTMENT MEETING MINUTES
September 22nd, 2020
6:00 P.M.**

Call to Order

The meeting was called to order at 6:00 p.m. Members present were Toni Hardin; Dave Mosey; Vern Jones and Olivia Chaban. Also present were Planner Nathan Rhue and Tracy Martin Deputy Clerk.

Pledge of Allegiance (Additions and/or Deletions)

Chairwoman Toni Hardin led the Pledge of Allegiance.

Adoption of Agenda

A motion was made by *Olivia Chaban* and seconded by *Dave Mosey* to adopt the agenda as amended. *All Agreed.*

Approval of June 23rd, 2020 Minutes

A motion was made by *Vern Jones* and seconded by *Dave Mosey* to approve the June 23rd, 2020 minutes. *All Agreed.*

New Business

A. Variance Request

Atlantic Seafood Company – Section 7-3-16 40' Height Limit

Chairwoman Toni Hardin said the hearing on this matter is judicial in nature and will be conducted in accordance with special due process safeguards.

All persons who wish to testify in the case should have signed up on the special sheet for this hearing.

Planner Nathan Rhue administered the swearing in of Alena and Joseph Smith.

Chairwoman Hardin asked if anyone has any possible conflicts and would like to withdraw from this proceeding if necessary. Board of Adjustment Member Olivia Chaban disclosed she and Mrs. Hardin represent Camp Davis Park as their attorneys, but they do not represent Atlantic Seafood.

Chairwoman Hardin asked if any Board members have any information or special knowledge or any prior communication about the case that may not come out at the hearing. There was no one.

Chairwoman Hardin said in this hearing, we will hear from the Staff and other Town witnesses, then from the applicant and their witnesses, and then from opponents to the request. Parties may cross-examine witnesses after the witness testifies when questions are called for. If you want the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. We cannot accept reports from person who are not here to testify. Attorneys who speak who speak should not give factual testimony but may summarize their client's case.

Chairwoman Hardin opened the hearing and asked for testimony from the Town staff.

Planner Nathan Rhue handed out to everyone an amended staff report to be entered in as exhibit A. Mr. Rhue said the reason he needs to include this is because in the information he submitted, he included street photos from the concrete company Crete Solutions. Mr. Rhue said the information related to the case itself remains intact.

Mr. Rhue said Atlantic Seafood Company located at 600 Betty Taylor Wood Drive identified as Parcel # 167921 is requesting a variance from Section 7-3-16 related to the building height limits of 40 feet. The request is for an additional five feet to be added for their refrigerated warehouse.

Mr. Rhue said when necessary hardships would result from carrying out the strict letter of this Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

There is inadequate width to negotiate the loading docks with a full-size tractor trailer. The owner needs to exceed the height requirement by no more than 5 feet to accommodate the roof of the refrigerated warehouse in order to maximize the ability to negotiate loading bays.

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.

There is inadequate width to comfortably operate the intended use with the encumbrance of drainage ditches on either side. The additional 5 feet of height for the freezer will enable the elevation of the loading docks.

The hardship did not result from actions taken by the applicant or the 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.

The owner purchased the widest lot in Camp Davis Industrial Park.

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.

The owner is only requesting a 12.5% breach of the height maximum. Other structures in the area are of similar height. Owner has 50+ years experience operating storage facility, 150 feet is preferred to safely access loading dock with a tractor trailer.

Mr. Rhue said in order to grant a variance, the board must find that unless a variance is granted, the property owner will undergo unnecessary hardships.

Mr. Rhue stated the Board must conclude the following:

- If the property owner complies with ordinance provisions, the owner will undergo unnecessary hardship
- The hardship affecting the property results from the application of the ordinance (not from market conditions or the existence of private restrictive covenants).
- The hardship is suffered by the applicant's property. (The applicant's personal, social, or economic circumstances are irrelevant).
- The hardship does not result from the applicant's own actions. (Purchasing a site with knowledge that development plans may necessitate a variance does not qualify as a "self-imposed" hardship).
- The hardship is peculiar to the applicant's property and does not affect other properties in the same neighborhood. (If a number of properties suffer the same problem, the governing board should consider amending the zoning ordinance).
- The variance is in harmony with the general purpose and intent of the zoning ordinance and preserves its spirit. Use variances, which purport to authorize land uses not otherwise authorized in the district, are prohibited by statute.
- By granting the variance, the board will ensure the public safety and welfare and promote substantial justice.

Vern Jones asked about the width. Joseph Smith said from the dock to the drainage ditches, the tractor trailer is 65 feet long and we are 145 feet on the north side. This is where the tractor trailers will park and on the south side we are at 132 feet and hopefully we will continue to grow.

Mr. Smith said he feels like 150 feet would suffice for now.

Chairwoman Hardin stated we will now hear from the applicant and other proponents of the request. If there are any attorneys or other representatives who will give a general summary of the client's position we will hear them first.

Alena Smith stated ground elevation is where the loading docks would start and we have a four foot elevation where the tractor trailers will back up. Mrs. Smith said with the height of the refrigerator units inside with the vacuum system that go with that we are about six pallets high inside the refrigerated unit, we are at 44feet and three inches at the ridge line of the refrigerated area. Mrs. Smith said it is not the whole building it is only the small portion of the ridge line that needs to exceed the 40 feet.

Mrs. Smith said they could go wider but the wider we go, we are too shorter than we would like to be on the right and left side as far as backing up into the refrigerated facility. Mrs. Smith said if we can go up we can shrink as far as the refrigerated unit we can accommodate the extra width needed on the

right and the left. Mrs. Smith said there is a 10 foot setback where the fence will go and we got another survey done to see where the drainage ditches are so we don't disturb what is already there.

Mrs. Smith said the shop is in the back which is phase one. The refrigerated unit is phase two and phase three is the office space will be.

Mr. Smith said there is 31 bays total in the building. All of the compressors, refrigerated units will also be in the back of the building. Mrs. Smith said they put all of this in the rear of the building in case they decide to expand down the road. This is why there is no loading dock at the rear of the building.

Mr. Jones said he could see a potential problem with the heavy duty trucks going in and out of there. Mr. Jones asked if there would be a stoplight there. Mr. Rhue stated that is the Department of Transportation and he is not sure if there will be a light installed or not.

Chairperson Hardin asked how many feet were on both sides of the building. Mr. Smith said on the north side the height is 145 and on the south it is 132. Mrs. Smith said they have already cut back 10 feet on the right and the left.

There was no discussion from the Board of Adjustment.

Chairperson Hardin said we heard from staff which indicates due to the size and width of the property it would create a hardship. The hardship is due to the size of the lot and not due to anything in which the applicants has caused themselves.

Chairperson Hardin stated the applicant testified themselves it was going to be hard to go any wider because there is a 10 foot setback and drainage ditches which would impede that. The applicants have cut 10 feet off from each side of the plans in order to try to comply with the variance. The optical width is 150 and the applicants have 145 on the north and 132 on the south.

The applicants purchased the widest lot in the Camp Davis Industrial Park but it is not wide enough to meet the needs of their storage facility.

Chairperson Hardin said the applicants are requesting a 12 ½ % breach of the height maximum which is five feet or less and that request is consistent with the spirit purpose and intent of our ordinance and public safety will be secured as well as substantial justice of the chief. Therefore, the hearing will be closed.

A motion was made by *Vern Jones* and seconded by *Dave Mosey* to close the Board and the variance be granted. *All Agreed.*

A motion was made by *Olivia Chaban* and seconded by *Vern Jones* that we find the unnecessary hardship would result from the strict applications that the ordinance, the hardship results from conditions that are peculiar to the property such as location, size or topography. A hardship did not result from actions taken by the applicants or the property owner and the request for the variance is

consistent with the spirit purpose and the intent of the ordinance such as public safety, secured and substantial justice achieved. *All Agreed.*

A motion was made by *Dave Mosey* and seconded by *Vern Jones* to grant the variance. *All Agreed.*

A motion was made by *Olivia Chaban* and seconded by *Vern Jones* to direct the Planner to grant and approve the variance. *All Agreed.*

Board Questions/Comments

Mr. Rhue said the Town of Holly Ridge is glad that Atlantic Seafood is coming to Holly Ridge. Mr. Rhue said Crete Solutions is moving right along with their building and we just had a ribbon cutting for Onslow Bay Boat works and Blue Candy Lures will be coming soon to the Industrial Park.

Adjournment

A motion was made by *Dave Mosey* and seconded by *Vern Jones* to adjourn at 6:35 p.m. *All Agreed.*

ATTEST:


Toni Hardin


Tracy Martin, Deputy Clerk