

## MINUTES

The Town of Manteo Planning and Zoning Board met in Regular Session on Tuesday, June 10, 2003 at 6:30 p.m. at the Manteo Town Hall, 407 Budleigh Street

The following members were present: Chairman Bill Parker  
Member Jamie Daniels (Vice Chair)  
Member Phil Scarborough  
Member Christine Walker

The following members were absent: Member Bebe Woody

Also present at the meeting: Fred Featherstone, Planner  
Becky Breiholz, Town Clerk

Chairman Parker called the meeting to order at 6:35 p.m.

**SUBJECT:** Adoption of Agenda-Move Item 6A to Old Business-7A and move Mr. Burrus's site plan up.

**MOTION:** Member Daniels seconded by Member Walker to approve the agenda as amended was approved by the following vote: Ayes: Members Parker, Walker, Scarborough and Daniels. Noes: None. Absent: Member Woody

**SUBJECT:** Approval of Minutes Regular Meeting May 13, 2002-Page 2 second paragraph add after the word land "access through purchase or easement....."

**MOTION:** Member Daniels seconded by Member Walker to approve the minutes as amended was approved by the following vote: Ayes: Members Parker, Walker, Scarborough and Daniels. Noes: None. Absent: Woody

### PUBLIC COMMENTS-

Mr. Featherstone introduced to the Board Andrew Barnett who is the summer intern for the Planning Department and working on grant applications.

**SUBJECT:** Review and consideration of Amendment to site plan for Jack Burrus. Staff has received an amended site plan from Mr. Burrus; the original was approved in July 2000 and at that time the second and third floor were approved as storage. Since then B2 requirements have been amended to allow mixed use of commercial with residential units above, the amended site plans shows 6 overnight and 3 apartments on the second and third floor. After review staff does not agree with the parking calculation in reference to the overnight units the standard hotel, tourist home, motor court, rooming or boarding house was applied which requires 1.25 spaces for each room to be rented and one space for each 3 employees, the calculation provided did not include space for employees. Staff feels the heading of multifamily residences, group housing projects and

condominiums is correct and this would require 1.5 spaces on the same lot for each unit calculated this way there would be a minimum of 22 spaces required with 20 provided and with the exception of parking staff recommends approval with the addition of 2 more parking spaces. Chairman Parker commented about the lot coverage at the time the site plan was approved it was 75% coverage but the ordinance has been changed and since the maximum is no longer 75% Chairman Parker asked that under note #10 remove 75% maximum lot coverage. Member Daniels asked if they were over the lot coverage and Chairman Parker commented a little bit but the Board would not quibble over that amount since the plan was approved when lot coverage was 75% and is now 65%. Ray Meekins, Surveyor-commented on the parking and stated the applicant is willing to work with the Town, "if we can keep them on site it would be nice," and suggested perhaps they could put a couple of spaces off the easement where lot 1 is written on the site plan adjacent to the dumpster site and that should solve the problem. Member Daniels commented that it would put them over the lot coverage. Mr. Meekins commented that at the time it was 75% and Mr. Featherstone commented it was 75% with 85% with an engineered storm-water plan at the time this plan was approved and it would be up to the P&Z Board to grandfather this or hold them to the new ordinance. Mr. Meekins commented he is not asking for 75% just to put the two spaces on it which would roughly put the lot coverage at 66%. Chairman Parker asked if there is a difference in the spaces between the apartments and the overnight rentals. Ben Cahoon, architect commented the overnights are one bedroom units the apartments are all two bedroom units, so there is a physical difference but they are full one bedrooms with cooking facilities. Chairman Parker commented that if they shifted in use the parking calculations would change. If it is overnight they need 1.25 parking spaces and if longer than they need 1.5 parking spaces. Chairman Parker asked where would a overnight renter go to rent and Mr. Meekins commented he supposed in the retail area or the complex of lot 2. Chairman Parker asked as far as our use categories what would it be called? Mr. Meekins commented he thinks that if you look at the ordinance there are lists of possible uses. Chairman Parker commented that it looks more like apartments than an overnight place. Mr. Cahoon commented he was the primary designer of the building and worked with the client on how these units would be laid out and used; and it is an unusual condition because the applicant owns the adjacent property on which they will operate a bed and breakfast so they have some flexibility that may not be available to a future owner, what was envisioned here is that the one bedroom would be very short term rental units and would be facing the water, they have the advantage of the view and separation from the street and because of Mr. Burrus's position he would be able to operate those from his bed and breakfast on lot 2 and the balance of the units being conventional apartments and the retail on the ground floor. Mr. Cahoon also stated they recognize a future contract purchaser may not have the same advantages if they chose not to operate these units as transient units then they would have to make some kind of parking adjustment. Member Daniels commented that he would be willing to go along with Mr. Featherstone's recommendation for 2 additional parking spaces and leave the lot coverage maximum at 75%. Chairman Parker also noticed on one of the drawings it shows ceiling joists at 17 ½ feet and he guess that is 35 feet and Mr. Cahoon commented that what the computer does if you scale it down it does an automatic change of the dimensions but on the original drawings submitted it was 35'. Chairman Parker also commented that if the use

changes the applicant will need to come back to the Town for approval. Mr. Featherstone commented that a change of use could require additional parking.

**MOTION:** Member Daniels seconded by Member Walker to recommend approval to the BOC with the following conditions: 1) remove 75% maximum be from note#10; 2) add 2 parking spaces by dumpster for a total of 22 parking spaces 3) Fix computer error of 17.6 feet to 35 feet on the elevation 4) change of use could require additional parking was approved by the following vote: Ayes: Members Parker, Walker, Scarborough and Daniels. Noes: None. Absent: Member Woody

**SUBJECT:** Discussion and report on BOC amendments passed at their June 4, 2003 workshop. The BOC passed an amendment to Section 7.05 B2 general business district to add C-15 boats building as long as the building facility does not exceed 3000 gross square feet as a conditional use. Chairman Parker gave a brief overview of how the boat building issue came about and that Sybil Ross and Luther Daniels spoke at the BOC meeting and so did Billy Maxwell the potential applicant, and what came out of the discussion was the fact that Mr. Maxwell talked about how it was going to be boat building in the off season. Chairman Parker commented it seems that one of the conditions could be that they be built in the winter months so it did not affect the neighbors. Ms. Ross asked if she could address the Planning Board, before the project came before the P&Z so that they might discuss some of the conditions that could be placed on site. The other amendment is to Section 9.04 application for building permit for permitted uses which changes the site plan expiration limitation from 24 months to 12 months.

Sybil Ross-lives at 102 Grenville Street. Ms. Ross stated “that a couple of things came to light was that she did not find out about the Public Hearing until the last minute;” and “somewhere along the line you think you will be able to control the size of the boat by the size of the building, and that is not exactly true, depends on how much boat you want to build inside the building and I can’t help feel like this Board and the Board of Commissioners has been hoodwinked,” and by that “I mean it does not take that big a building to just build a hull and their operandi is to build the hull, put the hull in the water and then get in the water and build it from the hull up which puts it right underneath my bedrooms windows, and once it goes in that water the Town of Manteo has no ordinance whatsoever to control anything.” “We are not looking at someone building a few shad boats in their yard, honest to god I do not have a problem with something like that, and if it is inside the building you can do a certain amount of control for the noise, but once it gets outside that building and in the water what are you going to do then?” “At my house now the way water amplifies noise, I can hear every bit of building they do down here on the lighthouse and have listened to Shallowbag Bay for months.” “I actually went down there on day during a holiday and asked them to not drive pilings so my guests could sleep in the morning.” “All things considered, I think the idea that you are going to control the size of the boat by the size of the building is not going to exactly do it.” Chairman Parker commented that the Commissioners gave the P&Z some leeway by making it conditional and asked Ms. Ross what she thought were some reasonable conditions. Ms. Ross commented you could control the height of the

building, “I don’t know, but I do know this, first he was talking about 3 months and then he said during hurricane season I might want to do this.” “The tourist bureau is doing everything they can to make it a 12 month tourist season so what are you going to do take 3 months 6 months away from me, without compensating me, you arbitrarily going to make a decision that you are going to give him 3 months and take 3 months away from me,” and “unlike Billy Maxwell I did know what the zoning was on my property and knew what I could do with it, and the law says in the state of NC buyer beware.” “The fact that he did not know is no excuse to change the zoning to accommodate him to do something that is going to take business away from me.” “If Billy wants to build a little boat inside a building where the noise can be controlled I don’t have a problem with that, I do have a problem with someone building a 65 foot hull and dropping it in the water and building it in the water from the hull up underneath my bedroom windows.” “I don’t think this is what the Commissioners intended or understood when they started doing this.” Chairman Parker commented that our challenge is going to be when and if it comes before the Planning Board to make conditions. Ms. Ross “what is to say that maybe there is some new information that has come to light and maybe suggesting that the Commissioners reconsider their action.” Ms. Ross “the legal issue is that this constitutes the taking of my business.” Member Daniels asked what it meant if the boat was placed in public trust waters and Chairman Parker commented that it is beyond our zoning. Ms. Ross “he has a crane in his yard right now that he intends to use to put the hull in the water with.” Ms. Ross-“So all those trees they talk about putting across the back of the building for the noise will come for nothing and they will sit there and work there merry way all the way to the bank.” Chairman Parker commented that it was his understanding they were going to come up with conditions and go with that. Ms. Ross-“I thought Wanchese was the industrial boat building harbor, the state spent millions down there to provide places to build boats, and now all of a sudden we have to have that type of operation underneath my bed and breakfast.” Member Scarborough commented that boat repair is a permitted use in B2, so they could bring a ninety foot boat up the creek and hammer and hammer and the only thing you could stand on would be the noise ordinance. Ms. Ross “I am asking that some type of measure be designed to put the burden on him instead of me having to call the police every time the noise is too loud.” Mr. Featherstone made a suggestion that Ms. Ross or a group of homeowners in that area have the right to request it be rezoned to residential. Ms. Ross asked if that would interfere with the businesses already there like the upholstery shop and Mr. Featherstone commented that it could probably qualify as a home occupation, in B1 we now allow for water related activities and R5 could easily have that addition so that crab shedding and home occupations would still be allowed. Some conditions Ms. Ross suggested would be height limits on the building; noise requirement, monthly time limits. Ms. Ross commented that she might could work with Billy Maxwell on this but what happens if he sells his property and someone else comes, but the point is who might come after that. “I abide by the zoning, put a business in that is within the limits of the zoning and think I’m doing alright and then someone comes along and wants the zoning changed to suit them and all of a sudden he has devalued my business and property.” Member Daniels asked if they could put the condition that it be owned and operated by Billy Maxwell, Mr. Featherstone commented that you might could put the condition that the conditional use would expire with the change of owner. Jennifer Frost-“surprised to hear that the canal in

question is public trust waters, I do know that other towns like Nags Head have territorial jurisdiction, Southern Shores has control of its canals.” “This to me is extraordinary we need to get at the real basic of this thing, I don’t think anyone is objecting to a shad boat being built, I think when a boat 55 feet is dumped overboard, you got pollution, you got gasoline, fiberglass shavings so anyone who is interested in the canals can face a really big pollution question, I think the water is much more valuable to us than the land.” “I think it would be good for this planning board to have a symposium with Nags Head, Kitty Hawk, Southern Shores and what they do with their canals.” Chairman Parker commented that we had investigated this before for the waterfront and the uses and every community said we are unable to do it, if you find out let us know. Chairman Parker suggested having our intern Andrew research how Southern Shores regulates its canals and Nags Head controls the sound. Chairman Parker commented if we can establish control over the water what one of the conditions might be that within x number of feet within a residence. Ms. Ross also suggested contacting Coastal Resources.

**SUBJECT:** Town Master Plan report-Update by Chairman Parker on the NC School of Design plans which are located in the Town Hall. The professors are going to take the plans with everyone’s input to make it a little more accurate.

**SUBJECT:** Review To Do List: Chairman Parker went over the to do list of projects still pending- Waterfront dock commercial usage we will see if we can get a little more input from the Commissioners. We are still waiting to see if there is going to be a meeting with the other Towns on the political signs. The Paving of Parking lots is to be included in the master plan and incorporated if not at the level of the drawings but in the rewrite of the zoning ordinance as well as the storm-water runoff. Policy Deadline for information submitted for re-submittals and Chairman Parker commented he thought we said 72 hours. Member Daniels commented we should have a decision before school starts and the problem of school traffic congestion. Chairman Parker and Fred waterfront uses to speak to BOC

## BOARD CONCERNS

Member Daniels-commented that he noticed in the minutes he made a motion to table waterfront commercial uses and Chairman Parker commented that he has tried to solicit some feedback from the Commissioners and did not receive any so he and Fred would try and do it again, and Chairman Parker commented he would get the Board the memo he wrote to the BOC.

Member Walker and Daniels asked what was about the water smell and that it had been tested and was unsafe. Mr. Featherstone commented when they were making some connections bacteria got in and they had to do some disinfecting.

**MOTION:** Member Daniels seconded by Member Walker to adjourn at 7:50p.m. was approved by the following vote: Ayes: Members Parker, and Walker, Scarborough and Daniels. Noes: None. Absent: Member Woody

