

Kitty Hawk Planning Board Meeting
March 17, 2022 – 6:00pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. January 20, 2022
4. Administrative Report:
 - a. Town Council Action – February 7, March 7, 2022
5. Public Comment
6. Special Use Permit:
 - a. 3839 Moor Shore Road – Commercial crabbing operation in VR-1 District.
7. Comments:
 - a. Chairman Richeson
 - b. Planning Board Members
 - c. Town Attorney
 - d. Planning Director
8. Adjourn

1. Call to Order/Attendance:

Chairman Richeson called the March 17, 2022 Kitty Hawk Planning Board Meeting to order at approximately 6:00pm.

Board Members Present:

John Richeson, Chairman; Jim Geraghty, Member; Dusty Rhoads, Member; Chuck Heath, Member; Matt Spencer, Alternate; Casey Varnell, Town Attorney; Rob Testerman, Planning Director

Absent:

Bryan Parker, Vice-Chairman; Blair Meades, Alternate

Voting:

Due to the absence of Bryan Parker, Vice-Chairman and Blair Meades, Matt Spencer, Alternate will vote at the meeting.

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2. Approval of Agenda:

Hearing no objections/corrections/additions to the March 17, 2022 Agenda, the Agenda was passed unanimously.

3. Approval of Minutes:

Hearing no objections/corrections/additions to the January 20, 2022 Minutes, Mr. Richeson asked for a motion to approve the Minutes and Mr. Spencer made the motion to approve, Mr. Richeson seconded and the Minutes were approved unanimously.

4. Administrative Report:

- a. Town Council Action: February 7 and March 7, 2022
- b. February 7, 2022 Meeting: Public Hearings were held on two (2) Text Amendments: 1) reduction of buffer between residential and commercial zones where there is recreational use was approved; 2) Text Amendment exempting the 500 sf pool surface from the lot coverage calculations was also approved.
- c. March 7, 2022 Meeting: Council approved the 'special use permit' for the medical office on Welch Street and the Text Amendment for the 'accessory dwelling units' resulted in a 2-2 tie and therefore this will be re-reviewed at the April Council meeting.

5. Public Comment:

There were no members in audience to come forward; therefore, Mr. Richeson closed the "Public Comment" section of the meeting.

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6. Special Use Permit:

- a. 3839 Moor Shore Road – Commercial crabbing operation in the VR-1 District.**
- Mr. Testerman stated that commercial crabbing and fishing operations are permitted in the VR-1 District as a ‘special use’ per 42-273(c)5 per the following conditions being met:
 - Seafood shall not be sold, processed or distributed on the premises.
 - The cleaning of fish or other seafood for commercial purposes is prohibited.
 - Any exterior or outside lighting used in the commercial crabbing and fishing operation shall be low profile, shielded and directed toward the operations and to the extent practical, away from adjoining neighbors.
 - The maximum number of crab shedding boxes permitted on the premises shall be 36 and the shedding boxes shall not exceed a size of 4’x8’.
 - While engaging in the ‘special use’ authorized by this Subsection, no radio, musical, loudspeaker or other such sound shall be audible beyond the property line of the Landowner engaging in the authorized ‘special use.’
 - No more than four (4) people shall be involved in or conducting the authorized ‘special use’ on the property at any one time.
 - Only boats owned and operated by the Landowner or his family may be loaded and unloaded at the property site and not more than four (4) boats shall be docked at the property or loaded or unloaded as authorized by this section.
 - The equipment and machinery used for commercial crabbing or fishing purposes as authorized herein shall be screened as the Town Council, in its discretion, may require, in order to minimize the commercial impact upon adjoining residential property owners.

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- Storage of crab pots and crab shedding boxes shall be screened from adjacent residential properties.
- A CAMA permit shall be obtained if applicable. (**NOTE: CAMA application is ready and awaiting the Applicant's signature.**)

Background:

The subject property is located in the VR-1 Zoning District and is 4.69 acres in size and houses an existing single-family residence.

The abutting properties to the north are zoned VR-1 and VC-1 and both contain single-family residences; the abutting property to the south is zoned VR-1 and also contains a single-family residence; to the east across the water, are four (4) lots zoned BR-1 made up of one vacant lot and three (3) single-family residences.

Specific Conditions:

The Applicant proposes a total of 36 shedding boxes each measuring 4'x8' and are consistent with the conditions listed. No information has been provided regarding any proposed lighting but any that may be installed must be consistent with (c)5c which is listed above.

No information has been provided regarding the location of stored crab pots and boxes, but as a condition of approval, the Applicant acknowledges that they must be screened from adjacent residential properties. Other specific conditions are of a type that ongoing compliance must be adhered to and any violation of those conditions would be deemed a violation of the Zoning Ordinance and be subject to enforcement action by the Town Council.

Special Use Findings:

Per the Standards of Sec. 42-99(b)(7), in order to approve this Application, the Town Council must make findings that the proposed 'special use':

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- a. Does not materially endanger the public health or safety,
 - There is no evidence to suggest that allowing the proposed use would endanger the public health or safety;
 - b. Does meet all required conditions and specifications,
 - As noted in the Staff Report, the number and sizes of the shedding boxes meets the required conditions; the additional conditions are subject to continued compliance.
 - c. Will not substantially injure the value of any adjoining property or be a public nuisance, and,
 - Conditions applied to the operation are intended to reduce the commercial impact of the use and reduce the likelihood of becoming a public nuisance.
 - d. Will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.
 - The proposed use appears to be in harmony with the area which it is located and is in general conformity with the comprehensive plan.
- Mr. Testerman referred to the overhead screen indicating where the property is located in blue and highlighted where the proposed sheds would be located.
 - Mr. Richeson asked if any member of the Board had any questions and Mr. Spencer asked whether the policy limits this to the family of the property owner and their employees and can any of their spaces be leased out to non-family/employee members and Mr. Richeson then added as to this being a 'commercial' operation why is this limited to 'family'?
 - Mr. Testerman stated that his interpretation is that it's not limited to just the property owners' family and their employees and he stated that 'no more than four (4) people shall be involved in or in conducting the 'special use' and that only boats owned and operated by the landowner or his family and Mr. Geraghty then asked for confirmation 'that only the family's personal boats would be used and they cannot bring in other unauthorized boats?

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- Mr. Testerman stated that the intent is that the 'special use permit' is taking place on a residential property and they would not be able to allow any other boats to come in and also, that this is considered 'small scale' because it is a 'residential zone'.
- **NOTE:** Mr. Testerman stated that a 'public hearing' has been scheduled due to the season for crab shedding; the adjacent property owners have been notified and he has not received any objections to date and the only possible property that would be affected would be at 3829 where that resident received the CAMA notice permit and to date there has been no objection.
- He also stated that from a CAMA perspective, one condition is that the shedding boxes would not be placed in any of the wetlands or marsh areas and he indicated the blue area on the map.
- Mr. Richeson asked for any further questions/comments and hearing none, asked for a motion to be made and Mr. Geraghty made the following: ***"I recommend approval of the 'special use permit' for the establishment of a commercial crabbing operation to be located at 3839 Moor Shore Road; subject to those conditions listed in Section 42-273©5 The Board has found that this Proposal does not materially endanger the public health or safety; does meet all required conditions and specifications, will not substantially injure the value of the adjoining property or be a public nuisance, will be in harmony with the area in which it is located and be in general conformity and consistent with the comprehensive plan."*** Mr. Richeson seconded and the motion was approved unanimously.

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7. Comments:

- a. Chairman Richeson – none
- b. Planning Board Members – none
- c. Town Attorney – none
- d. Planning Director – none

8. Adjourn:

Hearing no further questions/objections/comments, Mr. Richeson adjourned the March 17, 2022 Kitty Hawk Planning Board at approximately 6:17pm.

Respectfully submitted by Patricia Merski, Recording Secretary