

BOARD OF ADJUSTMENT MEETING MINUTES

October 2, 2017

7:30 pm

Members Present: Buddy Boggs, Jeff Fogleman, Kelly Allen, and Lee Lovette
Members Absent: Steve Lineberry
Also, Present: Manager Jeff Earp, Clerk Melanie Eveker, Attorney Ralph Hill

Call to Order

Chairman Boggs called the meeting to order at 7:45 pm.

Approval of the October 2, 2017 Agenda

Board Member Allen made a motion to approve the 10/2/17 agenda Board Member Fogleman seconded. The motion was approved 4-0.

Minutes from April 3, 2017 Meeting

Board Member Lovette made a motion to approve the minutes from the April 3, 2017 meeting. Board Member Allen seconded. The motion was approved 4-0.

Swearing In

Mayor Boggs asked if any members of the public would like to participate in the public hearing and be sworn in for testimony. Clerk Eveker swore in Manager Earp to receive testimony related to the special use permit request.

Public Hearing

7:48 pm

Chairman Boggs started the hearing on a special use permit request. Manager Earp presented the Board with a request from Ed Powers representing Powers and Thomas Midway Entertainment for a special use permit to hold a carnival at the Village Marketplace Property in Haw River in October 2017. The Carnival would like to operate from 10/12/17 - 10/22/17 and has operated at this location before. No complaints have been received by the Town as a result of this operation. This request was taken before the Planning and Zoning Board and they recommended approval of the special use permit request and noted that the carnival has been historically good for Haw River residents, Haw River tourism, Haw River businesses, and HRPD (in the form of additional secondary employment). The property owner of the Village Market Place has approved Powers and Thomas Midway Entertainment to use their property in this capacity. Council Member Allen discussed if arrangements have been made with HRPD for security. Mr. Earp stated he had received the appropriate application, plan for setup, and special use permit request fee. Manager Earp informed the Board that all necessary notifications and advertisement of the special use permit request have been completed. With no other comment Mayor Boggs closed public hearing,

7:49

New Business:

The Board will consider a request from Ed Powers for Special Use Permit for a Carnival Operation on property located off of West Main Street. The property, Village Marketplace of Haw River, is located on West Main Street, Haw River, Tax Map # 13-10-44. The request is for carnival operations for October 12th thru October 22, 2017.

Chairman Boggs then asked Manager Earp for the following findings of fact.

QUESTIONS ON THE SIX REQUIRED SPECIAL USE PERMIT APPLICATION FINDINGS
PURSUANT TO SECTION 155.083 (Carnival)

1. In what zoning district is the proposed special use to be located? - **B2**
2. What activities will be carried out on the premises? - **Carnival**
3. Are the proposed activities allowed in this zoning district? - **Yes, with Special Use Permit**
4. Is there adequate off street parking and restroom facilities? - **Yes, according to plan presented**
5. What are the proposed dates for the carnival activity (cannot exceed thirty days)? - **10/12 - 10/22**
6. What is the lot size for the property on which the proposed special use will be located? - **Approximately 3/10 of an acre**
7. Is the proposed special use going to be located at least two hundred feet away from any junkyard, outdoor storage facility, scrapyards or salvage yard? *(NOTE TO BOARD: The Zoning Code at 155.086 does not per se require day care centers to observe this distance requirement, but it does require junkyards, outdoor storage facilities, scrapyards and salvage yards to be located at least 200feet away from daycare centers.)* - **Yes**
8. What buildings/structures are or will be located on the real property upon which the special use will be located? - **Mobile rides, concessions, gaming, and portable restrooms - no permanent**
9. What is/will be the size of those buildings/structures in square feet? - **Various depending on the size of the ride. Will range from 30 ft in diameter to 60 ft. in diameter. - no permanent**
10. What type of structures will these be? (Accessory buildings? Multi-family, single family homes? Mobile homes?) - **Accessory mobile entertainment - no permanent**
11. Will this building be capable of passing a fire inspection? - **Yes- no permanent**
12. Out of the total project area, how much is going to be open space? - **Approximately 50% according to the presented plan.**
13. How much of that open space is covered by water? - **None**
14. What materials, if any, will be stored on the premises? - **Rides, concessions, games, portable restrooms, and worker's RV's.**
15. Where is the proposed location of any parking/loading areas? - **Existing lot and open area.**
16. Where are the proposed points of vehicle ingress and egress? - **Hwy 70 and Stone Quarry Road.**
17. What is the proposed pattern of internal circulation, including all drives and walkways? - **Circular**
18. What provisions have been made or will be made for utilities? - **Generator power, Haw River water, and portable restrooms**
19. What provisions have been made or will be made for refuse disposal? - **Dumpsters**
20. What provisions have been or will be made for lighting the property? - **Existing lights and portable lighting**
21. What are the names, addresses and telephone numbers of the owners of the subject parcel? - **David Morton, DM Morton Enterprises LLC, PO Box 12242 Elon, NC 27244, 336-584-1233**
22. Will there be any planting on the property? What plants will be planted and when? - **No planting**
23. Will any site grading be necessary? What provisions have been made or will be made for site grading? - **No grading**
24. Is there a possibility of soil erosion in conjunction with the proposed use? What provisions have

- been made or will be made to control soil erosion on the site? – **No erosion**
25. If the proposed special use is a home occupation what is the total floor area to be used for the proposed special use? – **N/A**
26. What signage, if any, will accompany the proposed special use? How big will the signs be? Where will they be located? – **No special signs will be put up, just the signs that are on the rides.**
27. What are the potential hazards to public health and/or safety that accompany the proposed special use? – **Behavior of attendees.**
28. What specific provisions have been made to alleviate those hazards? – **Security has been hired.**
29. What use is being made of each adjoining parcel of land? – **Commercial and retail.**
30. How can this proposed special use, if allowed, be expected to affect the value of each adjoining parcel of land? – **No anticipated effect.**
31. What public necessity, if any, will be fulfilled or served by the proposed special use? – **Entertainment and commerce.**
32. What is the general character of the area in which the special use will be located? – **Commercial and retail area.**

Following discussion, Board Member Allen made the following motion:

BASED UPON THE EVIDENCE PRESENTED, and pursuant to the Town of Haw River Code of Ordinances Section 155.083, I move that the Board of Adjustment make the following **FINDINGS OF FACT** with regard to the special use permit application made by Ed Powers regarding the property located at 1003 West Main Street Tax Map 13-10-44 in Haw River, North Carolina:

1. That all applicable regulations of the zoning district in which the use is proposed are complied with;
2. That all applicable conditions specified in Section 155.086, Town of Haw River Code of Ordinances, are met for this proposed special use;
3. That the proposed special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted or as modified under the conditions required by the Board of Adjustment;
4. That the proposed use is located, designed and proposed to be operated so as to maintain or enhance the value of adjoining property or that the use is a public necessity;
5. That the location and character of the use if developed according to the plan as submitted or as modified under the conditions required by the Board of Adjustment will be in

harmony with the area in which it is to be located and in general conformity with the plan of development for the Town Planning Area; and

6. That satisfactory provision has been made for all of the following that apply in this case: vehicle circulation, parking and loading, service and loading entrances and areas, screening, utilities, signs, lighting, open spaces, site grading, soil erosion and sedimentation control and site damage.

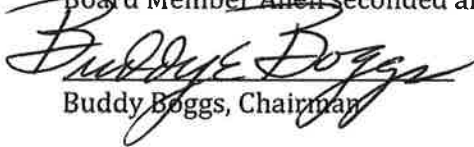
AND, BASED UPON THE FOREGOING FINDINGS OF FACT, I move that the special use permit application made by Ed Powers regarding the property located at 1003 West Main Street Tax Map 13-10-44 in Haw River, NC be **APPROVED**. Motion was seconded by Board Member Fogleman. Motion carried 4-0.

7:58 pm

Council Member Lovette asked for an update on the Carolina Flea Market and Manager Earp stated that they had applied for a Special Use Request that would be on the October Planning Board agenda and come to the BOA in November.

8:00pm

With no further business to be discussed, Board Member Fogleman made a motion to adjourn. Board Member Allen seconded and motion carried 4-0.


Buddy Boggs, Chairman

Date: 6 November 2017