



MINUTES
Board of Adjustment Meeting
Wednesday, January 27, 2021 Pender County Public Assembly Room 9:00
AM

MEMBERS PRESENT: Max Kipfer
Kyle Breuer
Andrew Olsen
Douglas Scott Rivenbark

MEMBERS ABSENT: Samantha Nelson
Jeffrey Snider

OTHERS PRESENT: Travis Henley, Planning Director
Trey Thurman, County Attorney
Tera Cline, Administrative Assistant
Other Staff and Members of the Public.

1 CALL TO ORDER

a) Meeting called to order at 9:03 AM

2 ROLL CALL

3 INVOCATION

4 PLEDGE OF ALLEGIANCE

5 ELECTION OF OFFICERS

a) County Attorney Trey Thurman opened the floor for officer nominations.

Kyle Breuer nominated Max Kipfer for Chairman.

Moved by Kyle Breuer, seconded by Andrew Olsen

Approved

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			

Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider				x
	4	0	0	2

CARRIED.

- b) County Attorney Trey Thurman opened the floor for nominations for Vice Chairman.

Max Kipfer nominated Kyle Breuer for Vice Chairman.

Moved by Max Kipfer, seconded by Andrew Olsen

Approved

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider				x
	4	0	0	2

CARRIED.

6 ADOPTION OF AGENDA

- a) Motion to adopt the agenda.

Moved by Kyle Breuer, seconded by Andrew Olsen

Agenda adopted

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott	x			

Rivenbark				
Jeffrey Snider				x
	4	0	0	2

CARRIED.

7 PUBLIC COMMENT

8 APPEAL

a) APPEAL 2020-05

Jirah Investments, LLC, applicant, on behalf of Jack Broadbridge, owner, is requesting an Appeal of an Administrative Decision. The appeal is of a decision to deny a subdivision request on the subject parcel, as well as a determination that the subject parcel is not a buildable lot, due to staff's determination that the subject parcel was not part of the platted Master Development Plan for Phase 1 of Belvedere Plantation and is part of an open space area per Map Book 16, Page 20 and Map Book 23, Page 143 of the Pender County Register of Deeds. The subject property is zoned PD, Planned Development zoning district and contains approximately ± 1.05 acres. The property is located at the intersection of S. Belvedere Drive (SR 1679) and Lakeview Drive (SR 1680). The property may be further identified by Pender County PIN 4203-84-2690-0000.

Travis Henley, Director presented the appeal and offered details that included the subject parcel location, background and the description of the appeal request. Mr. Henley explained to the board that the proposed subdivision of the subject parcel was received by Pender County Planning and Community Development in early September 2020. Based on the subject parcel's presence within the open space area of the Belvedere Plantation Master Plan staff communicated a refusal to accept the proposed subdivision. He also explained that the applicant was told that even with approval of the proposed subdivision, the subject property was still shown as open space and zoning permits would not be issued for development of the parcel. In addition, The Pender County Board of Adjustments voted at the November 13, 2019 meeting to uphold staff's denial of a zoning permit on another parcel of land.

The Board asked Mr. Henley if the well site on the plat map shown in the attachments was actually a well. Mr. Henley stated he was not aware of a well there. The board asked staff if there was any other reason besides the fact that it was not a numbered lot on the original Belvedere

Plantation Master Development Plan and was there a certain percentage of open space required at the time the Master Plan was development. Staff explained that when Belvedere Plantation was originally platted Pender County did not have zoning. It was not adopted until 1988 therefore the original Belvedere Plantation Master Development Plan was done to the standards that the developer wanted it to be.

County Attorney, Trey Thurman added that since zoning was not established when a lot of these developments were designed and built that they were simply listed as planned development under zoning guidelines.

The board asked staff what the procedure is if someone wants to subdivide a parcel in an established Master Plan. Would they have to present it and get approved by the planning board and adhere to current zoning laws? To include establishment of lot size, that is not being presented with this subdivision. Travis Henley, stated yes. The board stated that the Planning Board sets the parameters of density that is driven by lot size and unit number so an application like the case in question does not present any of those standards that should be approved by the appropriate governing body making it difficult for staff to accept a subdivision of this manner because staff does not have the authority to establish parameters such as lot size etc. Mr. Henley noted to the board that the appeal property is not shown on the Master Development Plan as buildable area.

Trey Thurman, County Attorney, administered the oath for all parties that desired to speak.

Mr. Thurman redirected to Mr. Henley that all that was in the application and presented thus far was accurate and true to the best of his knowledge.

Tyler Sugden, the applicant gave a brief background on his personal life and ambitions. He stated that his biggest concern is that the open space will become another development in the area. Mr. Sugden noted that Ironclad was brought in to save the open space (golf course) right before the owner was declaring bankruptcy. He then gave an overview of the deeds found associated with the parcel and noted his current surveyors observations. He also answered the earlier question in regards to a well being on the property. He stated that there was four pieces broken off for well sites and that a single well was built on Hole three. He shared in addition to the deeds a letter from Jack Broadbridge written to Patrick Davenport the Planning Director for Pender County at that time requesting clarification on zoning of the three parcels at that

time. On June 26, 2008 Mr. Davenport did confirm with Mr. Broadbridge that per zoning ordinances the parcels were permitted for single family dwellings. Mr. Sugden explain to the board that one of the three lots was denied appeal last year, the other was donated to Kiwanas Park. He referenced the appeal packet section 3.16.6 B. stating that a motion to reverse shall include a statement of specific reasons or findings that support the motion. He stated that in addition to the two general warranty deeds associated with the property which offer the highest protection to a buyer to convey the rights of the property based on his wife's real estate education. He states that according to the GIS system it is zoned residential as well as the tax records being paid as residential. Tyler stated there is president that you are able to modify the Master Plan using the exact same master plat plan that was shown in the presentation and that example is the .33 acres not shown on the original plat map and was broken off at some point. He states there is a house on this .33 acres and the board asked where the access is for that house. Mr. Sugden stated that he obtained a perk test and had the property surveyed.

The board confirmed with Mr. Sugden that he is currently not the land owner and Jack Broadbridge is and also confirmed that this property was not sold with the additional open space (golf course) that was recently sold. They also asked if he would ultimately purchase the land if the appeal is approved and Mr. Sugden stated yes and he would build two houses on the parcels. The board discussed what was done on the .33 acres that was used as an example by Mr. Sugden and the possible history of the parcel.

The board asked Trey Thurman how the determination letter from Patrick Davenport for example will effect future applications in regards to ordinances being changed after the determination is done. Mr. Thurman stated that if no action is taken in alliance of the determination then at that point the determination is not binding. The board confirmed that surrounding neighbors were notified of this request as well.

Mr. Sugden brought up to the board that if the appeal is not approved then this would most likely become a tax sale and North Carolina is a buy or beware state so if no one buys it this would be a liability to the county and maintenance cost. The board asked the attorney to address and Mr. Thurman stated that what happens after a tax sale is not in the ordinance to consider in an appeal proceeding.

Joyce Owens, President of the Belvedere Home Owners Association sections one and two, she presented on behalf of several immediate neighbors of the appeal parcel and state they were all in favor of staff's

decision to deny the subdivision and determining the lot as buildable. Ms. Owens appealed to the board on behalf of the Belvedere HOA to leave the parcel as is. She stated she had reviewed some maps and stated she did not see a well but saw a lot of irrigation going into that area and there had been flooding issues in Belvedere so having as much open space as possible would only help. The board asks Ms. Owens if the association has thought about purchasing it or maintaining the property themselves. She stated that no one has brought that to her attention.

The board asked staff if the parcel numbers listed on the determination letter from Mr. Davenport have been included in any other appeal processes. Staff verified that the first parcel listed in the determination letter was appealed by the applicant before and was denied and they are all zoned Planned Development.

Public Comment was closed at this time by the Chairman and the floor was opened for discussion.

Moved by Andrew Olsen, seconded by Douglas Scott Rivenbark

Motion for denial of Appeal

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			
Samantha Nelson				x
Andrew Olsen	x			
Douglas Scott Rivenbark	x			
Jeffrey Snider				x
	4	0	0	2

CARRIED.

9 DISCUSSION ITEMS

- a) Travis Henley recommended to the board the possibility of meeting at least quarterly regardless if there is a case or not. Board agreed to meet quarterly unless a case is brought forward.

10 NEXT MEETING DATE

February 17, 2021 9:00 AM

11 ADJOURNMENT

Chairman adjourned meeting at 10:17 AM