



Cabarrus County Government

Cabarrus County Planning and Zoning Commission
Tuesday, February 8, 2022 @ 6:30 p.m.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of January 11, 2022, PZ Meeting Minutes
3. Approval of Granting Order with Finding of Facts for SUSE2021-00045 –Amendment to approved Master Plan for Rocky River Regional Wastewater Treatment Plant. Applicant is Thomas Hahn. Owner is Water & Sewer Authority of Cabarrus County. 6400 Breezy Lane (PIN's: 5547-06-4548, 5537-98-7403, 5537-99-6094, 5547-17-5193 and 5547-17-5388).
4. New Business Board of Adjustment Function:
 - A Petition VARN2022-00001 – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Evolution Recreation & Aquatics is the applicant. Ethan & Austin Properties is the owner. Address is 11202 Harris Road (PIN: 4670-45-1661). **Request to Table**
5. Legal Update
6. Director's Report
7. Adjourn



Cabarrus County Government – Planning and Zoning Commission

Planning and Zoning Commission Minutes

February 8, 2022

Mr. Adam Dagenhart, Chair, called the meeting to order at 6:33 p.m. Members present, in addition to the Chair, were Mr. David Hudspeth, Mr. Andrew Nance, Ms. Ingrid Nurse, Mr. Charles Paxton, Mr. Chris Pinto, Mr. Brent Rockett, and Mr. Stephen Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board, Mr. Richard Koch, County Attorney and Mr. David Goldberg, Deputy County Attorney.

Roll Call

Approval of January 11, 2022, Planning and Zoning Commission Meeting Minutes

There being no corrections or additions to the minutes, Mr. Brent Rockett **MOTIONED, SECONDED** by Mr. Stephen Wise to **APPROVE** the January 11, 2022, meeting minutes. The vote was unanimous.

Approval of Granting Order with Findings of Facts for SUSE2021-00045 – Amendment to approved Master Plan for Rocky River Regional Wastewater Treatment Plant. Applicant is Thomas Hahn, and the Owner is Water & Sewer Authority of Cabarrus County (WSACC), 6400 Breezy Lane.

There being no corrections or additions to the Granting Order or Findings of Fact, Ms. Ingrid Nurse **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE** the Granting Order with Findings of Fact for SUSE2021-00045. The vote was unanimous.

The Chair introduced Petition VARN2022-00001 – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Applicant is Evolution Recreation and Aquatics is the Applicant. Ethan and Austin Properties is the owner. Address is 11202 Harris Road (PIN: 4670-45-1661) **Request to Table**.

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that the Applicant has requested to table the Variance until the March 8, 2022, meeting. She said with this project, NCDOT had some comments that the applicant will need to address and there were some other comments that came back.

Hopefully, they will be back in March. They need to get the NCDOT comments figured out before proceeding with the variance request because it all depends on driveway location. If not, we may be looking at tabling it again.

The Chair asked for a motion to table this request until the March 8, 2022, Planning and Zoning Commission meeting.

Mr. Brent Rockett **MOTIONED, SECONDED**, by Mr. Andrew Nance to **TABLE, VARN2022-00001** – Request for relief from the following: Chapter 5, impervious area maximum for non-residential districts, Chapter 7, setbacks for swim clubs, Chapter 9, landscape buffers and parking lot buffers. Applicant is Evolution Recreation and Aquatics is the Applicant. Ethan and Austin Properties is the owner until the March 8, 2022, Planning and Zoning Commission meeting. The vote was unanimous.

No Legal Update

Directors Report

Ms. Susie Morris said we need a fourth person to be on the Text Amendment Committee. If any one is interested, please let her know.

She said there will be a training session tonight after we are done with regular business.

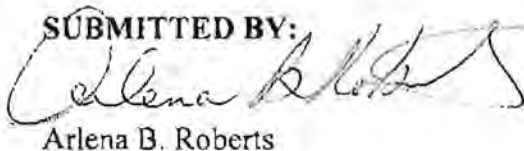
There being no further discussion, Mr. Andrew Nance **MOTIONED, SECONDED** by Mr. Stephen Wise, to adjourn the meeting at 6:36 p.m. The vote was unanimous.

APPROVED BY:



Mr. Adam Dagenhart

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

**SUGGESTED RULES OF PROCEDURE FOR
CABARRUS COUNTY PLANNING AND ZONING COMMISSION MEETING
JANUARY 11, 2022**

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15 minute time limit on the presentation if the Applicant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.
3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15 minute time limit does not include questions directed to the proponents by the Commission.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and/or present documents in support of their position. The 15 minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Prepared by:
Richard M. Koch
Cabarrus County Attorney

Application Number SUSE 2021-00045

PIN: 5547-06-4548; 5547-17-5388
5537-98-7403; 5547-17-5193
5537-99-6094

COUNTY OF CABARRUS
STATE OF NORTH CAROLINA

ORDER GRANTING A SPECIAL USE PERMIT

The Board of Adjustment for the County of Cabarrus, having held a public hearing on January 11, 2022, to consider application number SUSE 2021-00045, submitted by the Water and Sewer Authority of Cabarrus County and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. **It is the Board's CONCLUSION that the proposed use** does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("**Ordinance**"); namely, that the use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, the use does not adversely affect the adequacy or is appropriately located with respect to sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.

4. **It is the Board's CONCLUSION that the proposed use** does satisfy the third General Standard listed in the Ordinance; namely, that the use will not violate neighborhood character nor adversely affect surrounding land uses.

5. **It is the Board's CONCLUSION that the proposed use** does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical developments of the County as embodied in the Ordinance or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

6. **It is the Board's CONCLUSION** that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a SPECIAL USE PERMIT be GRANTED, subject to the conditions contained in the staff report, if any, and the Findings of Fact and Conclusions. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance. The Master Plan shall be considered the approved site plan at this time, although it is understood and agreed that the Master Plan can be modified in accordance with the conditions contained below. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

Ordered this ____ day of February, 2022, *nunc pro tunc* to January 11, 2022.

 CHAIR of the CABARRUS COUNTY
 PLANNING AND ZONING COMMISSION
 Sitting as the BOARD OF ADJUSTMENT

I Arlena B. Roberts, Notary for Cabarrus County, NC certify that Adam Dagenhart, Chair of the Cabarrus Planning and Zoning Commission appeared before me on this day and signed the foregoing document.

 Arlena B. Roberts, Notary Public
 My Commission expires : _____

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance.

EXHIBIT 1

FINDINGS OF FACT
SPECIAL USE PERMIT APPLICATION
APPLICANT: WSACC
ROCKY RIVER REGIONAL
WASTEWATER TREATMENT PLANT
SUSE 2021-00045

FINDINGS OF FACT

1. The use as proposed is not detrimental to the public health, safety or general welfare.

a) **See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.**

b) The proposed use adds no new additional burden to the property that would affect the public adversely.

2. The use as proposed is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, etc.

a) **See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.**

b) All such facilities, which are not specifically required for this additional use, are located nearby.

3. The use as proposed will not violate neighborhood character nor adversely affect surrounding land uses.

a) **See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.**

b) The proposed use adds no new additional burden to the property that would affect the public adversely.

4. The use as proposed will comply with the general plans for the physical development of the County as embodied in the Zoning Ordinance or in the area development plans that have been adopted.

a) **See Applicant's response to this requirement, which is incorporated by reference as a Finding of Fact.**

b) The proposed use adds no new additional burden to the property that would affect the public adversely.

EXHIBIT 2
CONDITIONS
APPLICATION SUSE 2021-00045

1. Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
2. The granting order, stating the restrictions and applicable conditions of the approval, shall be recorded with the deed of the property.
3. Applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project.
4. Any modification of the proposed Master Plan, or deviation therefrom, that does not qualify as a minor modification, shall be reviewed by the Board of Adjustment in the form of an amendment to the Special Use Permit.
5. Applicant must submit copies of permits and documentation as required from NCDEQ for Phase 2 Post-Construction Stormwater and Soil and Erosion Control permitting with site plan submittals to zoning for review and approval. Approved permits from NCDEQ are required prior to zoning permitting.
6. Applicant must submit and obtain Floodplain Development Permits from Cabarrus County for all development, as defined by FEMA, located in the regulated floodplain.
7. The Master Plan shows several new buildings and building expansions. Any new buildings or building expansions will require that building plans be submitted to Cabarrus County for review prior to construction.
8. The Master Plan proposed access roads are adequate as shown. If buildings/structures are moved, access roads will need to be addressed further.

Memo

To: Cabarrus County Planning and Zoning Commission

From: Phillip Collins, Senior Planner, AICP

CC: File

Date: February 8, 2022

Re: VARN2022-00001

Evolution Recreation & Aquatics submitted an application for variances from Section 7-3.59.c and Table 9-4 and Part II of Chapter 9 of the Development Ordinance to allow relief from the setback requirements for swimming clubs and the landscaping and buffering requirements for commercial facilities in the OI zoning district.

The applicant is requesting that the case be tabled until the March Board of Adjustment meeting to in order to address site plan and design issues for the proposed changes to the facility.

The case has been advertised, the sign has been posted and adjacent property owners notified.

The Board of Adjustment will need to vote to table the meeting until the March meeting, or the next available agenda due to COVID-19 regulations and guidelines.

Susie Morris
Planning and Zoning Manager
Cabarrus County
65 Church St S,
Concord, NC 28025

January 28, 2022

RE: Evolution Recreation and Aquatics Variance Application

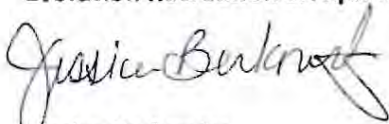
Dear Susie:

Following our discussions yesterday and the changes needed to be made on the site plan especially with recent NCDOT request we will not be able to provide these changes to your department in time for the February 7 Board meeting.

On behalf of Evolution Recreation and Aquatics we are requesting that this item be tabled for the March 8th Board meeting giving us ample time to work with NCDOT and your department for the necessary changes.

If you have questions, please contact me at (404)-822-8398 or email at berkowitz.jessica@gmail.com

Respectfully,
Evolution Recreation & Aquatics



Jessica Berkowitz
President