

**GATES COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING MINUTES
OCTOBER 29, 2014**

The Gates County Board of Commissioners met in a Special Meeting at 10:00 a.m. September 29, 2014 in the Commissioners Board Room, 202 Court Street, Gatesville. Commissioners Jordan, Hofler and Felton were present. Also present was County Manager Natalie Rountree.

Chairman Jordan led in prayer.

Chairman Jordan called the meeting to order.

Approval of Minutes

Minutes are approved during the 1st monthly meeting; none are available at this time.

New Business

Chairman Jordan stated that the only item on the agenda to discuss is a proposed text amendment for the zoning ordinance. Gates House Assisted Living Facility had to get a special use permit in order to build the facility in Commerce Park, along with the special use permit and the approval of the building plans they were told that they need 1.2 parking spaces per bedroom. When it was calculated 70 beds were used instead of the number of bedrooms, they ended up with 101 parking spaces counting parking spaces for employees. 101 parking spaces is excessive and when additional research was conducted we found that the designation of the assisted living facility as a residential support center was incorrect as well. They were told to go ahead and present the 101 parking spaces to the Board of Adjustment and then they could apply at a later time and apply for a variance. When they did decide to come back and apply for a variance it was determined that after 30 days it would have to be appealed to the Superior Court. We recognize that we need to make a provision to represent accurate parking spaces. The School of Government recommends a text amendment to the zoning ordinance, once this is in place the Assisted Living can apply for an amendment to the special use permit. On page 16 of the Zoning Ordinance defines a Residential Support Center as a facility owned or operated by a nonprofit organization intended to be used solely for temporary occupancy by outpatients being treated at a local hospital and family members or patients being treated at a local hospital, with occupancy not to exceed twenty (20) families per acre. Obviously that does not apply to an assisted living facility, also if it was a residential support center it would have been a permitted use in a C1 zoned area but we required them to get a special use permit, there were errors made all along but the designation is incorrect.

Today we have for consideration and approval a letter to the Planning Board from the Gates County Board of Commissioners. The proposed letter reads as follows:

To: Gates County Planning Board
From: Gates County Board of Commissioners
Subject: PARKING SPACE AMENDMENT TO ZONING ORDINANCE
Ref: (a) Gates County's Planning and Zoning Ordinance
(b) Section 10.02 of reference (a), Off Street Parking Requirements for Residential Support Center – 1.2 spaces for each bedroom, plus 1 space for each employee on duty.
(c) Letter from Engineering & Environmental Science Company, dated October 13, 2014

This letter is written to request your review and comments on a proposed amendment to reference (a), in support of Gates House Assisted Living Facility's request for a parking variance of the approved building plans that specify 101 parking spaces in accordance with reference (b). The information presented to Gates House incorrectly required them to have 101 parking spaces per the requirements of reference (b), because Gates House is a 70 bed facility with only 50 bedrooms, therefore the required parking spaces should have been 60 plus the number of spaces required for each employee on duty, estimated at 17.

Consequently, the maximum number of spaces required would have been 77 per reference (b), not 101 as required by our Planning and Inspection Department. However, the definition of a Residential Support Center on page 16 of reference (a) clearly shows this requirement of 1.2 spaces per bedroom does not apply to Assisted Living Facilities; but applies to facilities “owned or operated by a nonprofit organization intended to be used solely for temporary occupancy by outpatients being treated at a local hospital and family members of patients being treated at a local hospital, with occupancy not to exceed twenty (20) families per acre.”

Gates House Assisted Living, LLC has requested a variance be issued for 42 parking spaces, in lieu of scaling back to 77 spaces that would have been required initially, if reference (b) was correctly interpreted, although it is not applicable. The reason for specifying 42 spaces is explained in reference (c), and the normal parking space requirements for similar Assisted Living Facilities built in surrounding North Carolina Counties generally allow from one quarter (1/4) to one third (1/3) parking space for each bedroom unit; plus an additional space for each employee. The following North Carolina Counties have Assisted Living Facilities that were built in recent years with approved parking requirements as follows: Macon County’s Franklin House Assisted Living Facility – 70 beds with 42 parking spaces; Currituck County’s Currituck House Assisted Living Facility – 90 beds with 54 parking spaces; Yancey County’s Yancey House Assisted Living Facility – 70 beds with 37 parking spaces, and others have similar ratios.

Considering reference (a) does not have parking space requirements applicable to Assisted Living Facilities, the Gates County Board of Commissioners propose to amend the reference (a) Zoning Ordinance by **adding and requiring Assisted Living Facilities to have: ½ parking space for each bedroom, plus 1 parking space for each employee on duty.** For a 70 bed facility with 50 bedrooms, like the one Gates House Assisted Living Facility is constructing, the new requirement would specify 42 parking spaces.

The Following letter from Engineering and Environmental Science Company was shared:

The Gates House is a proposed assisted living facility with 70 beds. The proposed facility is located at 11 Commerce Drive, just off HWY 158 in Gatesville, NC. Submitted with this letter are the most recently revised drawings/plans for the facility.

Recent Revisions to the Plans include reducing the number of parking spaces to forty-two (42). The Institute of Transportation Engineers (ITE) Parking Generation, 4th Edition, gives an 85th percentile peak period parking demand for this type of facility of .48 spaces per bed, for a total of thirty-four (34) spaces for this facility. Based on the ITE’s parking generation rates, as well as prior experience and familiarity with this type of facility, the proposed forty-two (42) spaces will provide ample parking for the facility.

With this information & the need for Gates House to move forward we ask that the Board approve the requests for the Planning Board to review a text amendment which would still require a public hearing.

Commissioner Felton asked why this special meeting was called considering there is a regular scheduled meeting next week. This special meeting puts a burden on Commissioners that have full time jobs that require their schedule to be changed. This is not an issue that has just come up. Commissioner Felton also asked who is representing Gates Health Investors in this request.

Chairman Jordan stated the request came about as a result of them requesting a variance, initially when the County Manager was talking with the consultant for Gates House, they were instructed to submit a variance but after we received the variance and consulted with the School of Government we found out that it would need to go to superior court and the time limit for that to occur has expired.

Commissioner Felton stated he tried to find information on Gates Health Investors LLC and only found one representative from Hickory, NC. Commissioner Felton asked if there is anyone local involved in the project.

Chairman Jordan stated Keller Construction builds the facility and Gates House will lease the facility. Commissioner Felton stated that the only name he can find is from Hickory, NC.

Chairman Jordan explained the variance cannot be processed, the County Manager sent the application and check back. They formally submitted a request but it was in the form of a variance.

Commissioner Hofler asked if the requested variance was for setbacks. County Manager Rountree, stated Chuck White called at the beginning of October after the permit had been issued and felt that 101 parking spaces were too many. Commissioner Hofler asked if a variance for setbacks had previously been submitted. Ms. Rountree explained that the request was back in April. They submitted a drawing that showed 1.2 parking spaces which totaled 84 parking spaces. The special use permit was to put an assisted living facility in a commercial district. A letter was sent on April 16th to Mr. Al Carey who, at that time, was the land owner. The letter read as follows:

Dear Mr. Carey:

This letter is in reference to your application for a Special Use Permit for an assisted living facility at Merchants Commerce Center. The Board of Adjustment issued a special use permit at their meeting on April 15, 2014. There are a few conditions placed on the project.

Additional parking must be added to meet the zoning requirement. One wing on the rear of the building was five feet into the rear setback. This five feet must be removed to meet the minimum 50 foot setback.

The front canopy where people get in and out of vehicles actually encroached into the front setback by 35 feet. The Board of Adjustment voted to approve a variance for this setback as long as the three outer walls remain open (no construction between supporting poles that are supported on the ground).

I discussed this project with our chief building inspector, Edgar Mitchell. After consulting with the N.C. Department of Insurance, he will not be able to issue any permits based on footing plans only. Please get with him to see what he needs.

Good luck and best wishes to you and Meridian as this project progresses.

Ms. Rountree explained when they came to have their permit issued in September they were told that they needed additional parking spaces and the only place that referenced parking spaces was the residential support center which also had the additional statement of 1 space per every employee on duty. They redrew their site plan and that is what was submitted and approved for the permits.

Commissioner Hofler stated the residential support center can not apply to this project because this is a for-profit project. In reference to the number of parking spaces at facilities that were listed in the letter, I was not able to find Franklin House. Ms. Rountree stated it has not been built, the county does not have zoning and it is being handled by the Town of Franklin. Yancy Assisted Living does not have zoning in the county and after speaking with the county manager the facility was there prior to the county manager and he is not sure how they went about determining the number of required spaces.

Commissioner Hofler stated her mother was a resident at Winslows and they have 156 parking spaces for 146 beds and during the holiday season and during shift changes the parking is problematic. She is concerned with reducing the required parking by so much.

Commissioner Felton stated that whoever is representing the organization was aware of the requirements and went ahead and signed the paperwork and started the process. We have bent over backward on this place, everything that has been done out there has been by special privileges rather than following our organized ordinances. It seems that if people are coming into the County to do something they read the ordinance and go by it instead of changing things for them.

Chairman Jordan stated we gave them incorrect information, we told them to have 1.2 parking spaces for a residential support system and they don't have a residential support system. If we tell them that is what they have to have then what other course of action do they have. It is a special privilege for Gates County to have a five million dollar investment come to the county, a 70 bed facility and we work hard to try to bring business and economic development to the county and we are going to invoke requirements that are not there and then we as a Board are not going to try to help them get through the process.

Commissioner Hofler stated in April they handed in the drawing with 84 parking spaces, Chairman Jordan said that the drawing actually only has about 50-56 parking spaces. Ms. Rountree showed where in the corner of the drawing it says required parking spaces is 1.2 per bed for 84 parking spaces and then on the right hand side it says required variances canopy located within 65 feet and reduced parking spaces to 46 spaces. Commissioner Hofler asked if the former interim county manager agreed to the 46 parking spaces. Ms. Rountree stated Mr. Al Cary is the one that submitted the special use permit from information provided by the interim county manager. Chairman Jordan stated the information provided was given by the Planning Department in an email. Commissioner Hofler asked if it is the email concerning the three lots that need to be combined, Chairman Jordan verified that is correct.

Commissioner Hofler stated it was given to them in March and the special use permit arrived in April. We have the letter given to them with the 1.2, we have a plan submitted to us with 84 spaces and was approved by the Board of Adjustment with additional parking spaces. Chairman Jordan stated the 101 was determined by the Board of Adjustment because of parking spaces required for staff parking.

Commissioner Hofler agreed that the residential support center does not meet the criteria of what the facility is. When you look at the notes on the special use permit, I would think that this would be called a nursing and personal care facility. Chairman Jordan explained there is not a classification for a nursing and personal care facility either. The minimum requirement parking chart does not identify a classification that is appropriate, which is another issue.

Commissioner Hofler asked for clarification on Article Ten of the ordinance. Ms. Rountree stated Article Ten is where the minimum parking requirement chart is listed. Many of the items mentioned throughout the ordinance are not covered in the required parking chart. Since it has been longer than 30 days, the Board of Adjustment is no longer involved.

Commissioner Hofler stated all of the places that were mentioned in relation to the number of parking spaces needed, have all been facilities that Meridian operates and the parking is based on what they consider reasonable not what is across the industry.

Chairman Jordan explained he has been to Pinewood over in Ahoskie which doesn't even have paved parking. Commissioner Hofler asked how old the facility is and Chairman Jordan said it was probably built in the last 20-30 years. Also Down East Nursing Home has 30 parking spaces and it's around a 70 bed facility.

Commissioner Hofler explained that Down East does not have enough parking. We have to remember that we are not only building this for the people that are going to make money but for service of the people here in Gates County. The family and friends of those that are being serviced need consideration also and need places to park. We have to be customer friendly too and not just owner friendly.

Chairman Jordan stated he agrees with that but we have an engineering & environmental science company out of Raleigh and they have provided a professional recommendation of 34 spaces and these are professional opinions not something that is being tossed out into the air. If we aren't going to go by professional opinions we could say 150 or even 200 parking spaces.

Commissioner Hofler feels people in the business are not going to put much more than the minimum and she feels that 42 is not nearly enough for the size of the facility.

Ms. Rountree explained Currituck was 3 spaces per 5 beds and Currituck House is built under old zoning which does not match the requirements in their new zoning. Chairman Jordan showed a copy of the Pasquotank Zoning Ordinance and their requirement for parking spaces.

Commissioner Hofler stated the Cranberry House has 1.5 per unit, is that by bedroom. Ms. Rountree stated the information was sent to her via email from the county manager so she doesn't have the full detail. For Chowan County their new ordinance does state the same standards as Pasquotank residential care facility but Edenton House is in an area that is not zoned, they have 60 spaces for 60 beds. Commissioner Hofler verified that all of those facilities were constructed by the same company that is constructing the facility here in the County. Ms. Rountree stated Currituck was constructed in 2013 before the zoning ordinance.

Ms. Rountree stated we have the map for the 101 that was permitted and then last week we received a map with 42 spaces with the variance request. We returned the check and kept the plans since we can't go the route of a variance request. We sent them a letter letting them know we would instruct them on how to proceed.

Commissioner Hofler stated her concern is customer service and 42 parking spaces is just not enough parking spaces. There are no good parking options for overflow parking. Chairman Jordan stated that at times parking might be tight but it should not be unbearable. Based on statistics that is the ratio that has been recommended.

Commissioner Hofler said that 42 spaces are not enough for daily use not even counting special events and holidays. We also have to make sure they have accounted for handicap and the required ADA parking. With what is shown I think this only leaves about 7 spaces for staff. If you think about just staff you may have 25 employees there are one time. Although we know that some would only be 8 hours and some may be 12 hours, but anyway you figure it you need more than 7 parking spaces.

Chairman Jordan if you have 50 bedroom and give 1.5 parking space for each bedroom that comes up to 75 parking spaces. Commissioner Hofler stated that you may only have 50 bedrooms but you are going to have 70 beds, it's just not enough. There is not a lot of grassy area shown on the plans to accommodate overflow parking. Ms. Rountree pointed out on the map where they have indicated some additional parking may go.

Commissioner Felton asked if they are aware that our ordinance requires a minimum of 10x20 parking space. Ms. Rountree said that she has sent them a link to the ordinance.

Ms. Rountree explained if the residential support information is used as an example it will give 77 parking spaces because it will be 1.2 and one space per employee on duty. Ms. Rountree has confirmed the number of rooms and beds with Chuck White. The School of Government recommends that the developer continue to work on building the facility until the issue is resolved.

Chairman Jordan received a call from Mr. Keller, construction contractor, who said that to make provisions for the 101 parking spaces it could hold up the job for 30 days or more. If they do not receive information soon he is going to have to pull some of his guys off the job.

Commissioner Hofler asked what plans the builder is currently working on. Ms. Rountree said that they should be working on plans for 101 parking spaces as that is what the permit was issued for.

The Board discussed the process for appeals for errors according to the County Zoning Ordinance and NC General Statues. Ms. Rountree shared a case where a county made an error in the interpretation of their ordinance and the appeal went to the court of appeals.

The Board discussed the flow of communication between Board members, the Chairman, and the County Manager. Commissioner Hofler expressed concerns about information that the interim county manager did not communicate to the Board.

Chairman Jordan explained that at today's meeting the Board can define the amount of parking spaces that are needed and present it to the Planning Board for their comments and then we can move on with a public hearing to amend the ordinance. Commissioner Hofler said that is fine and she will make a motion

Commissioner Hofler made a motion go with 86 parking spaces.

Chairman Jordan asked Commissioner Hofler to modify the motion to 56 parking spaces based on the information provided. Commissioner Hofler stated she will keep her motion as 86 spaces based on the plans. Commissioner Felton said that the information will still need to go to the Planning Board for approval. Commissioner Hofler said that she would consider to table the motion to a later date but that may delay the process.

Ms. Rountree explained that 84 was originally submitted and that would be going back to 1.2 spaces per each bedroom. If we are wanting a text amendment there would need to be a standard for the future.

Commissioner Hofler amended her motion to 1.2 parking spaces per bed which would be 84 parking spaces.

Chairman Jordan said that it needs to be 1.2 parking spaces per bedroom not bed. The Board debated continued to debate what is considered standard based on similar facilities.

Chairman Jordan stated that the meeting was called to request a review by the planning board prior to a text amendment and a letter has been presented to you. We have a motion on the floor to modify the request to 86. Commissioner Hofler said that this is not to be a solution for the future, this is a compromise at this time for this facility. This is not something to continue in the future, it is for Gates House to be a compromise. Commissioner Hofler stated she misspoke and said 86 but meant 84 parking spaces. This will allow them to go on and continue with their plans. The 84 would cover 70 beds and 14 staff. Chairman Jordan said that he would be willing to compromise on 70 spaces considering they have requested 42.

Chairman Jordan said that there is a motion on the table to request 84 parking space parking spaces to go to the Planning Board as a recommendation.

Commissioner Hofler made a motion to be 84 parking spaces based on 1.2 parking spaces per bed for the assisted living at Merchants Commerce. Commissioner Felton seconded the motion. Commissioner Felton and Commissioner Hofler voted for the motion; Commissioner Jordan voted against. The motion passed two to one.

Chairman Jordan made a motion that the letter to be presented to the Planning Board be amended to require .5 parking space per bedroom and 1 space per employee.

The motion died on the table without a second.

Commissioner Felton stated the decision to go with 84 does not slow up their process at all and he would like to have a representative from the organization come to the board to discuss the project.

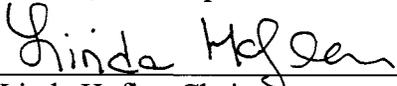
Chairman Jordan said that there is one item that needs to be discussed in closed session.

Commissioner Hofler made a motion to enter into closed session pursuant to NCGS 143-318.11 a (6) Personnel. Commissioner Felton seconded the motion, motion passed unanimously.

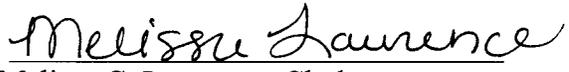
Commissioner Hofler made a motion to exit closed session. Commissioner Felton seconded the motion; motion passed without opposition.

Commissioner Hofler made a motion to authorize the County Manager to draw up a contract for the tax consultant as discussed in closed session. Commissioner Felton seconded the motion; motion passed without opposition

Commissioner Felton made a motion to adjourn. Commissioner Hofler seconded the motion; motion passed without opposition.



Linda Hofler, Chairman



Melissa C. Lawrence, Clerk

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