

**BOARD OF COMMISSIONERS**

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**Camden County Board of Adjustment**  
Record of Proceedings  
December 6, 2004  
7:00 PM  
Senior Center Conference Room  
Courthouse Complex

Chairman Roger Lambertson called to order a meeting of the Camden County Board of Adjustment with the following members present:

Chairman Roger Lambertson  
Vice Chairman Morris Kight  
Members Emory Upton and Douglas Lane

The following members were absent: William McPherson, Tony Royle, and Patrick Duckwall

Also present were Dave Parks, Permit Officer, Dan Porter, Planning Director and Melissa Joines, Clerk to the Board.

Chairman Lambertson called for consideration of the agenda. Chairman Lambertson stated there were only four members present. If an application was heard the vote would have to be unanimous. Chairman Lambertson asked all the applicants if they wanted to continue with their application. Mr. Lee stated he wished to table his application. CPM Development stated they wished to have their application heard. Mr. Moore stated he wished to table his application.

At this time staff asked for a five minute recess. Chairman Lambertson resumed the meeting.

Chairman Lambertson called for consideration of the November 15, 2004 minutes. Kight made a motion to approve the minutes. Upton seconded the motion. The motion passed 4-0.

Chairman Lambertson called for comments from the public. Dan Porter stated there would be a Parks and Recreation Meeting on Wednesday, December 8, 2004 at 7:00pm located in the Courthouse.

**New Business**

**Item #1** Variance Application (UDO 2004-11-16) to install a Class A doublewide mobile home in a General Use District located at 185 Lake Road, South Mills Township

This item was tabled until the next meeting could be scheduled.

Item #2 Variance Application (UDO 2004-11-04) to Article 151.232 of the Camden County Code of Ordinances - Design Standards and Criteria located on South Highway 343, Shiloh Township

Allen Pyle, of Pyle Realty was sworn in and introduced Scott Hutchens and Scott Mac as partners in the subdivision. Both Mr. Cutchins and Mr. Mac were sworn in. Scott Mac will be the Project Manager of the subdivision.

Mr. Pyle stated that the subdivision would be an American Country Theme. Mr. Pyle, Mr. Cutchins and Mr. Mac will develop and build the entire subdivision. The developer would like to bond the roads and start construction without paving the roads. According to current ordinance, construction cannot begin until all the roads are paved. Mr. Pyle stated he felt if he were to put the asphalt down there could possibly be potholes in the road. In past experience, Mr. Pyle stated he felt it would be better to let the roads settle to create a better quality street.

Chairman Lambertson called upon staff. Staff recommends approval of the request due to prior subdivisions and the current road problems. Staff has discussed updating the current ordinance but is waiting for the Land Use Plan to come into effect.

Chairman Lambertson asked the reason behind the current ordinance. Dan Porter stated the intent was most likely that the roads were required to be paved so that property owners are not driving on unpaved street. With the land being farmed prior to the subdivision, the developer cannot obtain the needed compaction in the roads. Other counties do allow developers to bond the roads. If you do not get the proper compaction needed and the time comes for DOT to take over the roads, DOT will require repairs before they will accept the roads.

Mr. Pyle stated it was his intent to pave the roads as quickly as possible.

Staff stated that a condition of the variance would be that all improvements must be completed within one year of Final Plat approval. Staff stated one recommendation could be to not allow a certificate of occupancy to be issued without the roads being paved.

Kight questioned had there been any prior meetings of this subdivision. Staff stated there had been a meeting with the Commissioners but the meeting did not pertain to this variance. The prior request was to phase the subdivision but the Commissioners had denied the request. Mr. Pyle stated he felt the development phasing was denied due to the Commissioners feeling that the subdivision would not be completed. Mr. Pyle stated it was his intent to complete the subdivision. Staff stated the all the improvements would be completed except for the roads which with the bond they would be completed within twelve months.

Chairman Lambertson questioned what a bond is. Mr. Pyle stated the bond would be an insurance policy. Even with the bonding of the roads, it would still be required to put in the water lines and drainage. Upton questioned the size of the homes in the subdivision. Mr. Pyle stated the homes would be 2200 to 2700 square feet in size. The homes will be built with a crawl space.

Chairman Lambertson questioned why hadn't other developers requested to bond the roads. Staff stated this is the first development that has requested to bond the roads. But other subdivisions have had problems with the roads. There have been complaints from the schools because road problems in some subdivisions.

Chairman Lambertson questioned the soil type of the area of the subdivision. Staff stated when you are dealing with land that has been farmed for years there is a certain amount of compaction that is required for the roads to be paved. Bonding the roads would allow them to settle and to compact and prevent future problems with the roads.

Hearing no more comments or questions, Chairman Lambertson continued with the variance questions:

**1. If the applicant complies strictly with provisions of the Ordinance, he can make no reasonable use of his property.**

Applicant response: By strictly following the provisions of the UDO, the potential of a less than optimal road surface is more likely, both structurally and aesthetically. The problems created by paving prior to the roadbed being time-tested can surface long after the project has been built out.

Staff response: If the applicant complies strictly with the provisions of the Ordinance, he can make reasonable use of his property.

**Lambertson made a motion that if the applicant complies strictly with the provisions of the Ordinance, he can make reasonable use of his property. Kight seconded the motion. The motion passed 4-0.**

**2. The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.**

Applicant response: The unsatisfactory conditions that result by following the UDO are evident in several of the recent development projects in Camden County.

Staff response: In past experience with developments and road conditions, the developers have experienced problems with road conditions after paving. Most subdivisions were built on land that was farmed and tilled every year, and the surface soils did not have sufficient time to compact to provide stability for the paving. Currently dealing with two subdivisions that the roads have deteriorated and causing poor driving conditions.

**Lane made a motion that the hardship is determined by the unsafe driving conditions of the roads and the additional expense to the developer for the paving of the roads as modified by staff. Lambertson seconded the motion. The motion passed 4-0.**

**3. Does the hardship relate to the applicant's land, rather than personal circumstances?**

Applicant response: Because the UDO requires the developer to have the final road surface in place at time of final plat approval, there is a potential of a hardship being inherited by the homeowners long after the developer is gone.

Staff response: The hardship relates to the land and stability of the soil for road construction and to personal circumstances as the developer will be required to repair any damages until state acceptance.

**Lane made a motion that the hardship relates to the land and stability of**

the soil for road construction and to personal circumstances as the developer will be required to repair any damages until state acceptance. Lambertson seconded the motion. The motion passed 4-0.

4. **The hardship is unique, or nearly so, rather than one shared by many surrounding properties.**

Applicant response: The hardship is common to all developments in which major construction activities will take place prior to the roadbed being "time-tested".

Staff response: The hardship is not unique as previous developments are experiencing faulty roads and the cost for upkeep is placed on the developer until NCDOT accepts them under the State system. In talking with other counties, they have in their ordinance that the developer can bond the paving portion for up to one year and have stated that the finished product lasts longer.

**Chairman Lambertson made a motion that the hardship is not unique as previous developments are experiencing faulty roads and the cost for upkeep is placed on the developer until NCDOT accepts them under the State system. In talking with other counties, they have in their ordinance that the developer can bond the paving portion for up to one year and have stated that the finished product lasts longer. Lane seconded the motion. The motion passed 4-0.**

5. **The hardship is not the result of the applicant's own actions.**

Applicant response: The hardship is created by the UDO by not providing a means for the developer to bond certain improvements. The hardship is not isolated to this particular project, since it is a hindrance to common construction practices.

Staff response: The hardship is not the result of the applicant's own actions.

**Lane made a motion that the hardship is not the result of the applicant's own actions. Lambertson seconded the motion. The motion passed 4-0.**

6. **The Variance will neither result in the extension of a nonconforming situation in violation of Article 14 nor authorize the initiation of a nonconforming use of land.**

Applicant response: By allowing a construction bond to be issued, neither is a non-conforming situation created or extended. By granting this variance, the spirit of the UDO is maintained, public safety and welfare is secured and quite possibly enhanced.

Staff response: The variance will not result in a nonconforming situation nor would it be in violation of a nonconforming use of land.

**Lane made a motion that the variance will result in a temporary nonconforming situation nor would it be in violation of a nonconforming use of land. Lambertson seconded the motion. The motion passed 4-0.**

Lane made a motion to approve the variance with the conditions as recommended by staff and amended by the board.

Conditions:

- A. The applicant must strictly abide by all requirements of the Unified Development Ordinance of Camden County, North Carolina, and must also strictly comply with all other local, state, and federal ordinances, laws, rules and regulations as one or more ordinances, laws, rules and regulations may apply to this development.

- B. The applicant shall complete the development strictly in accordance with the approved Preliminary Plat and contained in the file titled UDO2004-11-04.
- C. The Developer shall obtain a performance bond from a surety bonding company authorized to do business in the State of North Carolina. The bond shall be payable to the County of Camden and shall be in the amount of 1.25 times the entire cost, as estimated by the subdivider and approved by the Administrator of installing the asphalt street paving and completion of final shoulder/ditch grading and seeding. The duration of the bond shall be until such time the North Carolina Department of Transportation accepts roads under state road system. All improvements must be made within (12) months of Final Plat Approval.
- D. After paving is completed, County will require letter from NCDOT stating that roads have been constructed to meet state standards.
- E. Developer to provide a temporary school bus stop sign and shelter along the buffer strip east of lot 1 for the pick up/drop off of school children.
- F. The applicant must sign before a notary public the Variance agreeing to the conditions by January 14, 2005 or the Variance shall become null and void.
- G. No Certificate of Occupancy will be issued prior to completion of the paving of the project.
- H. This variance is for this project only and should not be considered as a blanket variance for any other subdivision.

Kight seconded the motion. The variance was denied with Chairman Lambertson voting no, Kight voting no, Upton voting yes and Lane voting yes. The motion was denied with a 2-2 vote.

**Item #3 Variance Application (UDO 2004-11-20) to Article 151.230 of the Camden County Code of Ordinances – Subdivision Regulations located at 100 Sandpiper Lane, Courthouse Township**

This item was tabled until the next meeting could be scheduled.

### **Items for Board members and staff**

Chairman Lambertson stated the Commissioners have voted to have both of their meetings at night which would conflict with the Board of Adjustments meeting time. Therefore the Board directed staff to talk with each board member to establish a new meeting day for the January meeting.

### **Information**

Board of Commissioners Minutes – November 1, 2004

### **Consideration for date of next meeting – January 3, 2005**

The board directed staff to get in touch with all board members to establish a new meeting day for each month.

### **Adjournment**

Chairman Lambertson made motion that the meeting of the Camden County Board of Adjustment be adjourned. Upton seconded the motion. The motion passed 4-0. The meeting adjourned at 8:45 p.m.

Approved: \_\_\_\_\_

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Melissa Joines, Clerk to the Board