

**BOARD OF COMMISSIONERS**

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Assistant to the Manager

**Record of Proceedings**  
**BOARD OF ADJUSTMENT**  
Camden County  
May 6, 2002

Chairman Roger Lambertson called to order a meeting of the Camden County Board of Adjustment at 7:00 p.m. on May 6, 2002 in the Commissioners Meeting Room of the Senior Citizens Center in the Courthouse Complex, Camden with the following members present: William McPherson, Robert Johnson, Roger Lambertson, and Willie Gallop, Morris Kight, and Emory Upton. Also present were Dave Parks, Permit Technician and Melissa Gray, Clerk to the Board. The following member was absent: Clayton Riggs

Chairman Lambertson called for consideration of the March 18, 2002 minutes. Johnson made a motion to approve the minutes as read. Kight seconded the motion. The motion passed 5-0.

Chairman Lambertson called for consideration of the April 1, 2002 minutes. Kight made a motion to approve the minutes as read. Lambertson seconded the motion. The motion passed 5-0.

Chairman Lambertson called for consideration of the agenda. McPherson made a motion to approve the agenda. Johnson seconded the motion. The motion passed 5-0.

Chairman Lambertson called for comments from the public. Lynn Needham, a teacher at Camden County High School thanked the Board for allowing her students to sit in on the meeting for an assignment. Hearing no more comments Chairman Lambertson continued with the agenda.

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**New Business**

**Item # 1 Conditional Use Permit Application (UDO2002-04-16) from David A. Burgess, Sr. to install a Class B singlewide mobile home at 190 Lamb's Road, Courthouse Township - attachments**

Chairman Lambertson called for a motion to open the public hearing. McPherson made a motion to open the public hearing. Gallop seconded the motion. The motion passed 5-0.

David Burgess, of 126 Run Swamp Road was sworn in as the applicant and stated he wished to install a Class B singlewide mobile home at 190 Lamb's Road.

Chairman Lambertson called upon staff, who reviewed the application, findings of fact, and the staff recommendation.

Patricia Harriss, of 191 Lamb's Road, stated that she was opposed to the singlewide mobile home being installed across the road from her home. Mrs. Harriss stated she was not notified of the adjacent singlewide being installed.

Hearing no more comments from the applicants, Chairman Lambertson called for the public hearing to be closed. McPherson made a motion that the public hearing be closed. Johnson seconded the motion. The motion passed 5-0.

1. Is the requested permit within its jurisdiction, according to the table of uses?
  - **Lambertson made a motion that it is within jurisdiction.**
  - **Kight seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  
2. Is the application complete?
  - **Lambertson made a motion that the application is complete.**
  - **Johnson seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  
3. Is the application a Nonconforming Use?
  - **Lambertson made a motion the application is not a nonconforming use.**
  - **Gallop seconded the motion**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  
4. Will the proposed use comply with all of the requirements of this ordinance?
  - **Lambertson made a motion that the proposal will comply with all requirements.**
  - **McPherson seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  
- A. Will the use applied for meet all the requirements of the zoning district where it is proposed to be located?
  - **Lambertson made a motion that the use will meet all requirements of the zoning district.**
  - **Kight seconded the motion.**
  - **The motion passed 4-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  
- B. Will the proposed use meet all of the special requirements (if any) for that particular type of use?
  - **Lambertson made a motion that it will.**
  - **McPherson seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**

5. If the proposed use meets all requirements of the ordinance, is it appropriate for the area where it is intended to be located?
  - **Lambertson made a motion that the use is appropriate for the area.**
  - **Kight seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  - A. Does the evidence show that it will not endanger the public health or safety?
    - **Lambertson made a motion that the evidence shows that it will not endanger the public health or safety.**
    - **McPherson seconded the motion.**
    - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  - B. Does the evidence show that it will not substantially injure the value of adjoining or abutting property?
    - **Johnson made a motion that the evidence shows that it will not injure the value of adjoining or abutting property.**
    - **Gallop seconded the motion.**
    - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  - C. Does the evidence show that it will be in harmony with the particular neighborhood or area where it is proposed to go?
    - **Lambertson made a motion that the evidence shows that it will be in harmony with the area.**
    - **Kight seconded the motion.**
    - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  - D. Does the evidence show that it will be in general conformity with the County's adopted land use plan?
    - **Lambertson made a motion that the evidence shows that it will be in conformity with the county's land use plan.**
    - **Gallop seconded the motion.**
    - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
  - E. Does the evidence show that it will not exceed the County's ability to provide adequate public facilities, such as schools, fire protection, law enforcement coverage, water supply, sewage or drainage facilities?
    - **Lambertson made a motion that the evidence shows that it will not exceed the county's ability to provide adequate fire, water and rescue.**
    - **McPherson seconded the motion.**
    - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
6. Chairman Lambertson called for consideration for approval or disapproval of the findings of facts:

- **McPherson made a motion to approve the Finding of Facts as submitted by staff.**
  - **Kight seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**
7. Chairman Lambertson called for consideration for granting or denying the Conditional Use Permit for UDO 2002-04-16:
- **Lambertson made a motion to approve the Conditional Use Permit with conditions as recommended by staff with the modified conditions.**
  - **McPherson seconded the motion.**
  - **The motion passed 5-0 with Gallop, Lambertson, McPherson, Kight and Johnson voting aye.**

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**Item #2 Variance Application (UDO 2002-04-21) from South Mills Landing, LLC to submit Preliminary Plat application without all required permits, UDO Section 908 – attachments**

Chairman Lambertson called for a motion to open the public hearing. McPherson made a motion to open the public hearing. Kight seconded the motion. The motion passed 5-0.

James Mazingo, of McKim & Creed, was sworn in and stated he was representing the South Mills Landing, LLC owners. He stated the variance application was pertaining to the sewer permit which needed to be obtained to proceed with preliminary plat.

Chairman Lambertson called upon staff, who reviewed the application, findings of fact, and the staff recommendation. Staff recommended denial of the variance.

Chairman Lambertson called for comments from the public.

Dennis Morse, of South Mills, was sworn in and stated he was opposed to the variance.

Kenneth Cartwright, of 701 Main Street, was sworn in and stated he was opposed to the variance.

Kimberly Cartwright, of 701 Main Street, was sworn in and stated she was opposed to the variance.

Joe Jackson, Jr., of 468 Horseshoe Road, was sworn in and stated he was opposed to the variance.

Hershey Barber, of 214 Horseshoe Road, was sworn in and stated he was opposed to the variance.

Brenda Prime, of 401 McBride Street, was sworn in and stated she was opposed to the variance.

Leroy Powell, of South Mills, was sworn in and stated he was opposed to the variance.

Hearing no more comments from the applicants or the public, Chairman Lambertson called for the public hearing to be closed. McPherson made a motion that the public hearing be closed. Johnson seconded the motion. The motion passed 5-0.

Chairman Lambertson made a motion to accept the findings of fact. McPherson seconded the motion. The motion passed 5-0.

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

Applicant Response: No. All construction permits and approvals must be obtained by the subdivider/developer for all local, state and federal agencies requiring said approval of the development prior to submission of the preliminary plat for review by the Planning Board.

Staff Response: The applicant may make reasonable use of his property at its current use until all required permits are secured and preliminary plat approval is received.

**Board Response:** Lambertson made a motion that the applicant may make reasonable use of his property at its current use until all required permits are secured and preliminary plat approval is received. McPherson seconded the motion. The motion passed 5-0.

**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 applicant suffers the hardship.

Staff Response: The alleged hardship under Section 908 is the same faced by all applicants for preliminary plat approval. The county could bear hardship if this variance application was approved since this would allow the developer to begin building without the County knowing what type of waste water system configuration will be utilized. With vested rights accruing at preliminary plat approval, this could cause problems if the waste water system is finally approved, doesn't serve all the lots/uses approved at the time of preliminary plat.

**Board Response:** McPherson made a motion that the alleged hardship under Section 908 is the same faced by all applicants for preliminary plat approval. The county could bear hardship if this variance application was approved since this would allow the developer to begin building without the County knowing what type of waste water system configuration will be utilized. With vested rights accruing at preliminary plat approval, this could cause problems if the waste water system is finally approved, doesn't serve all the lots/uses approved at the time of preliminary plat. Kight seconded the motion. The motion passed 5-0.

**3. The hardship relates to the applicant's land, rather than personal circumstances.**

Applicant Response: The hardship relates to the applicant's property, or rather to the ability to pursue construction permits in a reasonable time for development of the property.

Staff Response: The hardship relates to his personal circumstances and not to the land as the current sketch plan approval does not expire until June 3, 2003.

**Board Response: McPherson made a motion that the hardship relates to his personal circumstances and not to the land as the current sketch plan approval does not expire until June 3, 2003. Johnson seconded the motion. The motion passed 5-0.**

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

Applicant Response: The hardship is unique in that sanitary sewer disposal will be to Elizabeth City rather than subsurface disposal locally. Discharge of sanitary sewer to the Elizabeth City Wastewater Treatment Plant involves participation from Camden County to form a special district and development and execution of a tri-party agreement between Camden County, Pasquotank County, and Elizabeth City.

Staff Response: The hardship is not unique. Other subdividers/developers run into the same situation waiting for permits, but never been granted a variance from the county.

**Board Response: Lambertson made a motion that the hardship is not unique. Other subdividers/developers run into the same situation waiting for permits, but never granted a variance from the county. Kight seconded the motion. The motion passed 5-0.**

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

Applicant Response: The hardship is not a result of the applicant's own actions. The Camden County Board of Commissioners approved an amendment to the sketch plan for South Mills Landing on October 16, 2001 outlining two options for wastewater disposal. The preferred option was to pursue a temporary pump and haul permit until Camden County could construct its own wastewater collection and disposal system (see attached letter from Carl Classen dated October 16, 2001). The second option was to discharge wastewater to Elizabeth City for treatment and disposal in their existing wastewater treatment facility. This option would require Camden County to form a special district and development and execution of a tri-party agreement between Camden County, Pasquotank County, and Elizabeth City.

*The request for the temporary pump and haul permit was turned down by the Division of Water Quality (see attached letter from Al Hodge dated March 15, 2002). We are currently working with Camden County on the second option.*

Staff Response: The applicant, if he so chooses can wait for the necessary permits. Sketch plan approval can be extended for an additional year, if requested by the applicant.

**Board Response: McPherson made a motion that the applicant, if he so chooses can wait for the necessary permits. Sketch plan approval can be extended for an additional year, if requested by the applicant. Kight seconded the motion. The motion passed 5-0.**

**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: No. We understand that final approval from the Camden County Board of Commissioners cannot be granted until we have a construction permit for the wastewater collection and disposal system from the Division of Water Quality. However, we would ask the Board for consideration of conditional approval.

Staff Response: There is no current or proposed nonconforming use involved at this time.

**Board Response: Lambertson made a motion that there is no current or proposed nonconforming use involved at this time. Kight seconded the motion. The motion passed 5-0.**

Chairman Lambertson called for a motion to accept the findings of fact as completed. McPherson made a motion to accept the findings of fact as completed. Kight seconded the motion. The motion passed 5-0.

Chairman Lambertson called for a motion for granting or denying the variance application. Kight made a motion to deny the variance. Johnson seconded the motion. The motion passed 5-0.

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**Information**

Board of Commissioners Minutes – March 4, 2002

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**Consideration for date of next meeting – June 3, 2002**

The next meeting of the Camden County Board of Adjustment will be held on Monday, June 3, 2002.

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**Adjournment**

Chairman Lambertson called for a motion that the meeting of the Camden County Board of Adjustment be adjourned. McPherson made a motion that the meeting of the Camden County Board of Adjustment be adjourned. Kight seconded the motion. The motion passed 5-0. The meeting adjourned at 8:40 p.m.

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

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Chairman

ATTEST:

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Melissa Gray, Clerk to the Board