



# KNIGHTDALE BOARD OF ADJUSTMENT MINUTES

950 Steeple Square Court, Knightdale, North Carolina 27545

**March 14, 2016**

The Knightdale Land Use Review Board Committee met at 7:00 p.m. in the Council Chamber Room of Town Hall.

QUASI-JUDICIAL LURB MEMBERS PRESENT:	Rita Blackmon, Michael Blake, Stephen Morgan, Ben McDonald, Alice Alexander
QUASI-JUDICIAL ALTERNATE MEMBERS PRESENT:	Richard Godwin, Chuck Piratzky, Randy Jones
ABSENT:	George Hess
Town Council Members Present:	No One
Attorneys Present:	Clyde Holt, Town Attorney; John Silverstein, Board Attorney
Staff Members Present:	Chris Hills, Development Services Director; Jason Brown, Senior Planner Long Range; Matt Christian, CEO/Planner; Donna Tierney, Planning Technician

Meeting called to order by Vice Chairman Piratzky at 7:10 p.m.

**ITEM I. PUBLIC HEARINGS FOR QUASI-JUDICIAL CASES  
VAR-2-16 – 137 Towler Road**

Upon Vice Chairman Piratzky's request, all people who wished to speak on the variance were sworn in.

Senior Planner Jason Brown presented members with information regarding VAR-2-16. Property owner, Sam A. Davis, is requesting a variance to the Town of Knightdale Unified Development Ordinance (UDO) Chapter 4.6(C)1.a.i for the property located at 137 Towler Road and further identified by the Wake County PIN 1743.03-22-1638. The property is zoned Neighborhood Mixed-Use (NMX) and is approximately 4 acres.

Specifically, Mr. Davis's request is to allow for an individual accessory building larger than 800 square feet. The UDO allows for accessory buildings on residential lots that do not individually exceed a building footprint of 800 square feet, and individually do not exceed the height of the principal building. The applicant has constructed a 2,100 square feet open accessory building.

After receiving a complaint, staff investigated and discovered that the building was constructed without a building permit and did not meet the UDO standards for accessory buildings. A Notice of Violation was issued on December 4, 2015. Mr. Brown explained that in order to come into compliance, the applicant will have to receive a Zoning Compliance Permit for the home occupation and apply for building permits for the accessory building.

The applicant has proposed to condition the variance application such that the issuance of a variance is subject to the following conditions: a) applicant will seek building permits and conform the existing structure to all applicable ordinances and b) applicant will install siding or screening on sides of the existing structure such that items stored within structures are not visible from public rights-of-way or adjoining properties.

Mr. Brown opened the floor for questions after reminding members of the required findings of fact, the ability to impose relevant conditions to the motion, the requirement of the supermajority vote, and other considerations.

Mr. McDonald inquired if any changes would have to be made when a building permit is sought. It is possible that an engineering letter would be required to certify the structure's integrity.

Several questions were asked about the structure's proximity to Hodge Road. It is located roughly 300 feet from the road and is not visible.

Attorney Isabel Mattox, who was representing Mr. Davis, presented her case in support of the variance. She distributed a letter of support signed by four neighbors who reside on Towler Road.

Additionally, she explained that when Mr. Davis was looking to purchase land, he sought what he thought was a rural parcel and did not know it was zoned NMX. Ms. Mattox spoke about the basis of rezoning, handed out transect examples, and explained she does not feel his property accurately matches the designation of T5, Urban Center. She believes it is more T2, Rural Zone. Ms. Mattox explained that without actually rezoning the property, they are asking for board members to extend the provision of rural zoning which does not have maximum requirements for accessory structures. Under the current ordinance, Mr. Davis could have multiple structures less than 800 square foot each, but he is asking to allow one structure to exceed the limit.

Ms. Mattox requested Mr. Davis answer the following questions. How large is your accessory structure? 2,100 square feet. Is the structure taller than your house? No. Does it exceed 20% of the side and rear yards? No. Were you aware of the maximum allowance for accessory structures? No. Have any residents of Towler Road complained directly to you about it? No. Do you require storage of materials and vehicles for your business? Yes. How much space do you need? What the building provides.

Ms. Mattox estimated that it would cost \$25-30,000 to tear down the existing structure and build a new one. Also, altering the location would require more trees to be cut down, and the water flow through the property would be affected. If approved, Mr. Davis has agreed to enclose the structure with hardiplank. In lieu of the property being rezoned, Mr. Davis is requesting relief on the UDO's size restriction.

Ms. Alexander inquired where the original complaint originated from if all the neighbors signed the letter of support. The complaint was anonymous and neither staff nor Ms. Mattox had further knowledge.

Mr. Morgan asked how the existing green accessory structure is used. Mr. Davis explained he uses the structure for his files, bookkeeping, and materials for operation. In the past it has been used for welding, painting, and a mechanic shop. Mr. Blake inquired how the newer structure is used. Mr. Davis uses it to park work trucks and keep personal belongings.

Ms. Alexander inquired if there are any known future plans to develop the area around Mr. Davis's property. There is talk of development around the existing Cheswick subdivision which is west of Mr. Davis's property.

Mr. Winkie (Winston) Silver, who owns the land surrounding Mr. Davis's property, stated that the plan is for that area to have residential homes. After being asked his opinion on the large accessory structure, Mr. Silver replied that he thinks it will be a detriment to the residential growth.

There was discussion on the heights of the homes that may be constructed around the property, and whether one large structure would look better than multiple smaller structures.

Mark MacDonald of Arcadia Real Estate Advisors explained that his company has the Silver property under contract, and that the proposed development will be similar to Cheswick. It will surround Mr. Davis's property on three sides. Mr. MacDonald wants the parcel to be compatible with future development and does not think a 2,100 square foot structure is compatible. Mr. MacDonald projected he would be submitting plans in the next 2-3 weeks for townhouses and single family product on 60-70 foot lots.

Ms. Mattox spoke up that she thinks the residential development is speculative and the variance decision should not be based on speculation. She added that Mr. Davis would voluntarily offer to plant shrubs to screen the structure from adjacent neighbors.

Billy Myrick, who lives on Hodge Road, provided a history of lot. When James Towler purchased it, there was no zoning. It was used for transmission repair and then Mr. Towler's wife rented it when he passed away. Mr. Myrick voiced his opinion that Mr. Davis should be allowed to keep the structure and continue his business on the property.

Ms. Alexander asked if they can restrict what Mr. Davis stores in the accessory structure. Mr. Brown explained that the variance is not for the use but for the size, and placing use restrictions would not be appropriate.

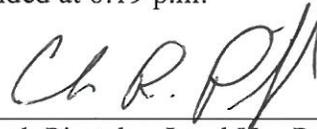
Greg Woolbright, who resides at 117 Towler Road, explained he signed the letter presented by Ms. Mattox. He stated that Mr. Davis has been a great neighbor. He grades and takes care of Towler Road and makes it drivable. Mr. Woolbright does not take issue with the current accessory structure.

When no more questions were received, Vice Chairman Piratzky closed the public hearing.

**...Motion by Mr. Morgan to approve VAR-2-16 – 137 Towler Road with the condition that the applicant obtains applicable building permits and encloses the structure. Motion seconded by Ms. Alexander and carried unanimously.**

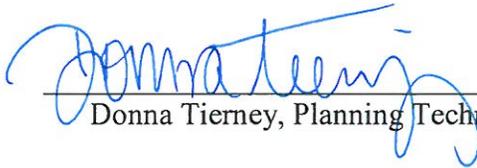
ITEM II. ORDERS FOR QUASI-JUDICIAL CASES  
None at this time.

ITEM III. ADJOURNMENT  
The Board of Adjustment session ended at 8:19 p.m.



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Chuck Piratzky, Land Use Review Board Vice Chairman



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Donna Tierney, Planning Technician