

# Mount Pleasant

## North Carolina

*Founded in 1848*

**Planning & Zoning Board Meeting**  
Town Hall - 8590 Park Drive Mount Pleasant, NC  
Monday, November 22, 2021  
6:00 PM

1. **Call to Order** - Chair Whit Moose
2. **Recognition of Quorum**
3. **Conflict of Interest**  
*The Chairman and Board Members are asked at this time to reveal if they have a Conflict of Interest with any item on the Agenda in order to be recused for that item. (No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under NCGS 160A-175, NCGS 14-234, and NCGS 160D-109)*
4. **Approval of Agenda**
5. **Approval of Minutes of Previous Meetings** (September 20, 2021)
6. **Public Comment Period**
7. **Board of Adjustment Cases**  
*At this time the Planning & Zoning Board will convene as the Board of Adjustment following quasi-judicial evidentiary hearing procedures as set forth in NCGS 160D-406 and 160D-705. All those wishing to present evidence regarding Board of Adjustment cases shall be sworn in.*

#### **SUP 2021-01 Threadgill Carp Pond**

Applicant requests Special Use Permit to operate fishing pond, which is classified as an outdoor recreation use/recreational outdoor sports club. Zoning: RL Residential Low Density. Location: 9518 Foil Road (corner of NC Highway 49 and Foil Road). Cabarrus County Parcel Number: portion of 5671-80-1606.

#### **8. Planning Board Cases**

##### **TA 2021-04 Home Occupations**

Continuation of administration-initiated amendment to update home occupation regulations. Citizen has requested additional consideration to allow contractor businesses with equipment as a home occupation. Affected Sections of MPDO: 5.4.2, Appendix A.

##### **Potential Text Amendment-Flag Lots**

Discussion regarding the permissibility of flag lots. Affected Section of MPDO: 6.6.6

**TA 2021-03 Infrastructure Amendments (request to continue)**

Continue discussing amendments to infrastructure standards. Amendments regarding street frontage, adequate public facilities, plan submittal requirements, and standards & specifications. Affected Sections of the MPDO: Article 3, Table 4.6-2, Article 10, Article 14, Appendix B, Appendix C, Appendix D.

- 9. Adoption of 2022 Meeting Schedule**
- 10. Reports**  
Planning Report and Zoning Permits for October & November (to date)
- 11. Planning & Zoning Board Comment Period**
- 12. Adjourn**

# Mount Pleasant

## North Carolina

*Founded in 1848*

### TOWN OF MOUNT PLEASANT, NORTH CAROLINA Planning and Zoning Board Meeting Minutes November 22, 2021

#### **Members Present:**

Chairman - Whit Moose  
Vice Chairman - Mike Steiner  
Member - Bridget Fowler  
Member - Shirley Freeman (excused for illness at 7:50p.m.)  
Member - Rick Burleyson  
Alternate – Warren Love (Became voting member at 7:50 p.m.)  
P&Z Clerk to the Board - Jennifer Blake  
Planning & Economic Development Director - Erin Burris

**Also Attending:** Property owner, Michael Threadgill, Steve and Amanda Strickland, Mike Culler, Lisa Crews, Christopher Crews, Scotty Crews, Tim Burton, and Jonathan Smith

#### **1. Call to Order:**

Chairman Whit Moose called the Town of Mount Pleasant Planning and Zoning Board meeting to order at 6:02 p.m.

#### **2. Recognition of Quorum:**

Chairman Whit Moose stated a quorum was present with Warren Love as alternate Member for both the Board of Adjustment and Planning and Zoning Boards.

#### **3. Conflict of Interest:**

The Chairman and Board Members are asked at this time to reveal if they have a Conflict of Interest with any item on the agenda in order to be recused for that item. (No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or 160A-388(e)(2). NC State Statute 160A-75). No one had a conflict.

#### **4. Approval of Agenda:**

The Chairman asked for a motion to approve the agenda. Mike Steiner made a motion to approve the agenda with a second by Bridget Fowler. All members were in favor. (5-0)

#### **5. Approval of Minutes of Previous Meeting:**

Chairman Whit Moose entertained a motion to approve the previous minutes for September 20, 2021. A motion to approve the previous minutes was made by Bridget Fowler with a second made by Rick Burleyson. All members were in favor. (5-0)

#### **6. Public Comment:**

None

#### **7. Board of Adjustment Cases:**

*At this time the Planning & Zoning Board will convene as the Board of Adjustment following quasi-judicial evidentiary hearing procedures as set forth in NCGS 160D-406 and 160D-705. All those wishing to present evidence regarding Board of Adjustment cases shall be sworn in.*

Clerk to the Board, Jennifer Blake swore in the Town Planner, Erin Burris; the property owner, Michael Threadgill; Steve Strickland, Mike Culler, Christopher Crews, Scotty Crews, Tim Burton, And Jonathan Smith.

**At this point Quasi-Judicial hearing began. Minutes are verbatim until the end appearing.**

Ms. Burris pointed out that Mr. Love is the alternate and he can participate in the discussion but cannot vote since we have a quorum tonight.

The reason everyone was sworn in is because this is a Quasi-judicial hearing. For those of you not familiar with those, this means this board is acting like a judge in the fact that they are looking at evidence to make sure that certain findings of facts are met. When Mr. Threadgill submitted his application there were certain finding of facts that he answered to as far as whether the use was compatible with the surrounding area, whether it was safe, any impacts on the surrounding area and things like that he answered those questions. Everything that we present tonight is going to be related specifically to those findings of fact. The Board can consider what everybody has to say but what they are looking for is substantial material and competent evidence so anything that you talk about should deal with the findings of fact and those are the things they will be considering.

Erin Burris read the full staff report on the SUP 2021-01 Threadgill Carp Pond:

#### **BACKGROUND**

The subject property was purchased by Michael and Dianna Threadgill in April of 2017. In 2018, Mr. Threadgill constructed a pond without any permits from the North Carolina Department of Environmental Quality (NCDEQ) for grading more than an acre and impounding water for a pond. The Town of Mount Pleasant sent a letter of inquiry to Mr. Threadgill requesting more information on the work that was being done. The Town also notified NCDEQ of the grading via phone call. No action was taken by NCDEQ at that time.

In January 2019, the Town sent a notice of violation to Mr. Threadgill following the construction of approximately 30 fishing shelters of less than 50 square feet each. At the time, Mr. Threadgill stated that the pond would be for personal use and not commercial use.

In February 2021, Mr. Threadgill applied for a zoning permit to construct a 1,200 square foot shed on the property. Mr. Threadgill was informed by staff that accessory structures could only be placed on the same property with a principal structure. Mr. Threadgill engaged the services of a surveyor to combine the pond property with his residence property. Staff issued the zoning permit for a residential accessory structure with a note on the permit that the property could not be used for commercial purposes and that the operation of an outdoor recreational facility would require the issuance of a Special Use Permit by the Board of Adjustment.

Social media posts brought to the attention of staff that the pond was being operated as a tournament fishing pond called "Big Daddy's Carp Pond," a Facebook page that had been created in November 2020. Mr. Threadgill applied for the residential accessory structure

permit (February 2021) after the page for "Big Daddy's Carp Pond" was created (November 2020).

The Town of Mount Pleasant issued a notice of violation to Mr. Threadgill for operating an outdoor recreational facility/recreational sports club without a Special Use Permit in the RL Residential Low Density zoning district. Mr. Threadgill submitted a Special Use Permit application October 7, 2021.

#### **SPECIAL USE PERMIT REQUEST**

The applicant requests a Special Use Permit to operate a carp pond which is classified in the Mount Pleasant Development Ordinance (MPDO) as a "recreational facility, outdoor)/ "recreational facility, outdoor sports". This classification does not include public parks or amusements. The property is located within the Town's extraterritorial jurisdiction (ETJ) on the same property with the applicant's home. The property is zoned RL Residential Low Density. The intent of the RL district from Section 4.3.2.3 of the MPDO is as follows:

*"The RL district is established to provide areas for low density single family uses, with a maximum of two (2) dwelling units per acre, which may provide buffers between the agricultural and RE classifications and the higher density areas of the Town. It includes flexible density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas."*

"Recreational facility, outdoor" and "Recreational facility, outdoor sports" are classified as uses under the "Recreation & Entertainment Uses" category in the Permitted Uses Table and are permitted within the RL district with the issuance of a Special Use Permit by the Board of Adjustment.

#### **Surrounding Area/Existing Conditions**

The property surrounding the proposed use are zoned and used as follows:  
Direction

<b>Direction</b>	<b>Zoning</b>	<b>Land Use</b>
North	RL Residential Low Density	Single-family residential
East	RL Residential Low Density & Cab.Co. AO Agricultural/Open Space	Single-family residential, farming
South	RL Residential Low-Density	Forestry/Agriculture, Single-family residential
West	RL Residential Low-Density	Forestry, Single-family residential

#### **Comprehensive Plan & Other Relevant Plans**

The Future Land Use Map in the adopted Comprehensive Plan designates the subject property and surrounding area for "Low Intensity" development. This designation is intended primarily for low density single-family residential development of greater than one (1) dwelling unit per acre and no more than two (2) dwelling units per acre. The classification also includes low impact uses compatible with surrounding development in areas that have limited access to infrastructure.

### **Site Plan**

The applicant completed site work prior to the application, in violation of the Mount Pleasant Development Ordinance. This application is an attempt to bring the site into compliance with all applicable regulations. A rough Site Plan showing existing conditions is included in the packet for review by the Board of Adjustment. As is customary, staff provided the plan to relevant members of the Technical Review Committee for review and comment including the following agencies/entities: NCDOT, NCDEQ, Cabarrus County Sheriff's Office, Cabarrus County Fire Marshal, Town Fire Chief, and Town Engineer. Comments received have been included in this report. It is noted where comments are still pending and may be presented at the hearing.

Staff has requested a written report from NCDEQ regarding the compliance of the pond with state regulations. Preliminary comments from NCDEQ indicate that the impoundment of such a large area of water may be subject to review in accordance with the NC Dam Safety Act.

The Town Engineer provided comments stating more engineering information would need to be provided regarding the pond design including storm event design and measures, water flow, emergency spillways, presence of pumps, and the ability of the pond impoundment to handle the weight of passenger and emergency vehicles as an access road is constructed on top of it. If the pond is to remain in place and used as proposed in the Special Use Permit application, then the applicant will have to provide additional information during what would typically be the Construction Plan phase.

### **Utilities**

The property is not currently served by water and sewer utilities. Any development in the area is dependent upon well and septic systems. The recreational use is not proposed to be connected to well or septic and is being served by two portable toilets, as is not uncommon with rural recreational uses.

### **Structures**

Appendix A defines structure as follows:

*"Anything constructed or installed either permanently or temporarily, the use of which requires a location on a parcel of land. This includes a fixed or movable building. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction. It does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, small nonpermanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, HVAC units, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments."*

The proposed use utilizes approximately 30 small shelters, each less than 50 square feet and a 1,200 square foot shed. The applicant has not provided information on the use of the shed. In accordance with Section 11.3, the non-residential design standards would not apply to a recreational use within the RL zoning district. The shed is located more than 250 feet from both street rights-of-way. There is also currently a Recreational Vehicle on the property next to the shed. The MPDO prohibits the use of a recreational vehicle for living quarters, except for visiting guests up to 14 days per calendar year.

**Landscaping**

Section 7.4 of the MPDO requires a 20-foot perimeter buffer yard. This requirement is met with existing vegetation except at one point along the southwest boundary of the property where the pond and perimeter access road come up to the property line. The Board may consider requiring the installation of a privacy fence to improve screening at this location. Section 7.7 of the MPDO requires a 10-foot street yard. This requirement is met with existing vegetation except at the north entrance, which has been supplemented with the planting of arborvitae.

**Access & Parking**

Access to the site is provided by two controlled access driveways from Foil Road. NCDOT requires driveway permits, a paved apron, and sight distance verification for each driveway. This will be required following Special Use Permit approval. No parking is permitted along Foil Road. The Fire Marshal requires driveway entrances to meet NC Fire Code and be a minimum of 20 feet wide for emergency access.

The property has four issued E-911 address points in GIS: 9450 NC Highway 49 N., 9650 Foil Road, 9518 Foil Road, and 9822 Foil Road. The 9822 Foil Road point is the Threadgill residence. The correct address of the recreational facility is 9518 Foil Road and will have to be posted at the road. This address also needs to be corrected on the "Big Daddy Carp Pond" Facebook page to help prevent patrons from missing the driveway and turning around at the end of Foil Road.

Article 8 of the Development Ordinance does not have a specified number of parking spaces for this type of use. Similar recreation uses would require between one and two parking spaces per fishing shelter. There are a total of 30 fishing shelters with room for parking next to each one from a perimeter road around the pond. There is also a gravel parking area for overflow parking that can accommodate approximately 30 vehicles. All parking areas are shown as gravel. Gravel parking areas are permitted for sports and recreational facilities in accordance with Section 8.1.3.1.3 of the Development Ordinance, provided that the facility is used less than five times per week. Gravel shall be spread a minimum of four (4) inches deep on top of a compacted base course.

**Solid Waste Storage Areas**

Each fishing shelter has a garbage can, and there is a dumpster on site. Solid waste receptacles must be confined to an enclosed area that is screened on all sides in accordance with Section 11.1.2.2.1.

**Lighting**

The applicant has installed light poles around the perimeter of the pond. No information has been provided about hours of operation or the lighting.

**Signs**

Signs shall be permitted separately and shall meet the requirements of Article 12.

Erin Burris pulled up the site pictures of the pond to review with the Board.

*A copy of the site pictures is enclosed in the minute book.*

## **BOARD OF ADJUSTMENT ACTION**

In order to determine whether a Special Use Permit is warranted, the Board must decide that each of the findings-of-fact as set forth in the MPDO and outlined below has been met and that the additional approval criteria have been satisfactorily addressed. Staff has provided draft findings-of-fact based on the application and site analysis. If the Board concurs completely with the draft findings provided by staff, the findings may be approved by the Board. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be provided by the Board.

Each of the findings should be voted on individually. If all findings are found in the affirmative (yes), then the Board of Adjustment should vote to approve the Special Use Permit. If any of the findings are found in the negative (no), then the Board of Adjustment should vote to deny the Special Use Permit. Should a Special Use Permit be approved, the Board may impose such reasonable conditions as will ensure that the use of the property to which the Special Use Permit applies will be as compatible as practicable with the surrounding properties. Staff has also proposed conditions to be considered by the Board of Adjustment.

*1. The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.*

"Recreational facilities, outdoor" and "recreational facilities, outdoor sports clubs" are permitted with a Special Use Permit in the RL Residential Low-Density district. The surrounding area has a mixture of large-lot single-family residential, agriculture and forestry use. The compatibility of the proposed use may depend on frequency of operation, hours of operation, lighting, and screening and buffering of the use.

### **Potential conditions:**

- The facility shall operate no more than four days of the week and shall be limited to hours of operation of 8am-10pm.
- An opaque fence shall be installed where the minimum 20-foot buffer is not met along the southwestern property line.

*2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.*

Two points of ingress and egress are provided to the site. The two driveways shall meet minimum NC Fire Code and NCDOT requirements and will be subject to inspection by the Fire Marshal and the issuance of driveway permits by NCDOT.

### **Potential conditions:**

- Driveways shall meet NC Fire Code and NCDOT requirements.
- All parking shall be on-site, and no parking shall take place along Foil Road.

*3. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.*

The applicant needs to provide additional information regarding the proposed frequency, hours, lighting, and method of operation during the hearing to ascertain if this finding can be met.



**Potential conditions:**

- The facility shall operate no more than four days of the week and shall be limited to hours of operation of 8am-10pm.
- An opaque fence shall be installed where the minimum 20-foot buffer is not met along the southwestern property line.

*4. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.*

The use is located on the same property as the property owners' home. There are no other development plans for the area at present. The Future Land Use Map in the Town's Adopted Comprehensive Plan classifies this area for low intensity uses. Therefore, the proposed use does not impede orderly development.

5. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

All NC Fire Code and NCDOT regulations are required to be met. At the writing of this report, staff is awaiting comment from the Cabarrus County Sheriff's Department regarding any further recommendations for public safety. Staff is also awaiting official comment from NCDEQ. The Town Engineer stated that prior to final administrative approval of a Certificate of Compliance, information would need to be provided regarding the pond design including storm event design and measures, water flow, emergency spillways, presence of pumps, and the ability of the pond impoundment to handle the weight of passenger and emergency vehicles as an access road is obstructed on top of it.

**Potential Conditions:**

- Provide written documentation from a professional engineer (PE) that the pond meets NCDEQ and other applicable state and federal standards and that fire apparatus, subject to review by NCDEQ and the Town Engineer.

6. Compliance with any other applicable Sections of this Ordinance.

**All other applicable sections of the Mount Pleasant Development Ordinance are met.**

(Mr. Love) "Can you just run through, or this may not be the right time but if another citizen is going to do the same thing what are the steps from the very beginning to do this entire process?"

(Ms. Burris) "If someone were to do this process from scratch and they wanted to operate a commercial fishing pond or a hunting and fishing club in the Residential low-density district, what they would need to do is approach me about wanting to do that, and I would get them a Special Use Permit application. They would have to produce a site plan and bring it to this Board with that information and address each of the findings of fact in their application. After the Board found it appropriate at that location, they would get more detailed Engineer drawings done prior to construction and we would make sure all conditions placed on that use were followed during the process and then get a Certificate of Compliance to operate that use.

John Scarbrough addressed the Board by saying, "To be clear today, as Erin explained is a Quasi-Judicial Hearing. You will hear from the applicant. The applicant has the burden of production which means the burden to produce sufficient evidence to show that they are entitled to the permit going by these standards that Erin just read. Once the applicant makes their case, anyone in opposition to the applicant can then present evidence as to why they should not be entitled to the permit. Also, the applicant and anyone in opposition has the

opportunity to cross-examine witnesses. You don't go strictly by the rules of evidence, but this is a hearing that does follow due process requirements so it in sense is like a trial. But your role is to hear the evidence and then to apply it to these standards and if the applicant provides sufficient evidence that they meet these standards, then they are entitled to the permit. The permit must be issued. It is not a legislative decision. However, if either the applicant does not show entitlement or if the opposition presents competent material substantial evidence that you feel out ways what the applicant's presentation was then the permit would be denied. Erin has done a great job explaining the process and giving her report. I will be quiet."

Chairman Moose accepted the staff report into evidence and the related exhibits and asked if there are any other questions for Erin.

(Scarborough) Also have the e-mail and is that part of the staff report that you just read?

(Burris) Yes, any e-mails that came in afterwards were not in the staff report, but I did read them into evidence.

(Moose) We have covered all the information that has come in.

(Burris) Everything I have received.

Chairman Whit Moose called the applicant forward to present any evidence or testimony as to support for this case.

**Michael Threadgill**  
**9822 Foil Road**

I just need to get to these finding of facts, correct?

(Burris) You need to cover the findings, yes.

Mr. Threadgill started with the Finding of Facts on the Special Use Permit Application reading the findings A – F as follows:

A. The proposed use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.

*It's a country setting with a tree buffer along the road. Also, planted trees along the main road for more buffer. Trying to take care of that.*

B. The proposed use is so designed as to minimize traffic hazards and minimize traffic congestion on public roads.

*Main driveway to parking lot was installed as far as possible from the main road to reduce any potential traffic back up. Shouldn't have a problem there.*

*Do I need to stop at each of these or keep going?*

(Burris) You can run through it and if the Board has any questions, they can ask.

C. The proposed use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

*Driveway and parking lot has crushed asphalt and millings on the top of it with my whole lot basically being gravel underneath, very minimal noise, no smoke, or gas.*

D. The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

*The pond should not negatively affect any future development. I think it would help really.*

E. The proposed use will not be detrimental to or endanger public health, safety, or general welfare.

*The proposed use is a fishing pond and should promote public health by giving participants very relaxing and enjoyable experiences for everyone, men, women, and children.*

F. The proposed plan conforms to specific standards of the Development Ordinance (if applicable).

*The proposed plan conforms to the standard development ordinance.*

#### **Board Member Questions and Discussion:**

(Fowler) What are the hours of operation?

(Threadgill) That was one thing I did want to address because if we're going to open up this pond to the public like we are fixing to try to do now then what she suggests on here the 8 a.m. to 10 p.m. four days a week I have no problem with whatsoever in the winter time, but when it gets the summertime you can't fish in the middle of the day in the summer. So, we fish evenings; All the carp places do. That is why they installed the lighting. I have 12 very low luster LED lights that only shine down at the water. The trees that block Foil Road none of the lights can affect my neighbors.

(Chairman Moose) So what would be your proposed hours of operation then?

(Threadgill) In the summertime, what I would really like to do is the same as all carp places is 6 p.m. to 2 a.m.

(Chairman Moose) 6 p.m. to 2 a.m.

(Threadgill) I understand the noise ordinance and all this stuff, we don't plan on impacting my neighbors or affecting nothing like that with noise. We can be quiet as a church mouse if you want us to. We have to be respectful to the neighbors because I don't want to have no hard feelings with none of them.

(Chairman Moose) And then for your winter hours?

(Threadgill) The winter hours Wednesday through Saturday and probably won't be there until 10 a.m. because we fish during the day. We can fish say 9 a.m. to 5 p.m. or 10 a.m. to 6 p.m. somewhere in that neighborhood.

(Chairman Moose) Are you good with the proposal that you would be open four days a week even in the summer?

(Threadgill) Yes, sir.

(Love) Is this a presented site plan?

(Burris) This is what I had to draw up based on existing information.

(Love) This is what you had drawn up. Do we have a site plan and a stamped engineer drawing of this?

(Burris) No.

(Love) So how do we get or is there steps that were missed prior to being where we are at right now that need to be taken care of?

(Burris) Technically there was supposed to be a major site plan produced. However, since it was already on the ground, I went through what would need to be produced for a major site plan and I was able to just label and scale the existing site on behalf of Mr. Threadgill. But based on what DEQ is recommending they're going to need some reassurances of engineering of pond for the state to be okay with what was done.

So again, back to your question, the process this would have gone through from scratch after the special use permit was approved there would needed to have been some engineering drawings for an erosion control plan and things like that that would have been submitted to DEQ for them to approve. There is not going to be a need for a soil and erosion control plan at this point because the work is done but there is a large impoundment of water that DEQ noted that from the base to the top at Highway 49 was about 25 feet. They do want some

assurances regarding emergency spill ways and how the impoundment is safe. That is something that would have taken place after the special use permit as one of the conditions of approval. That can still take place, it's just that it is already there and that makes it a little more complicated.

(Love) We would have to have an engineered stamped drawing that this was compliant, so we are not even sure this is even compliant, correct?

(Burris) I am not sure the pond is compliant, no.

(Love) So, we are going through findings of fact, and we are not sure this is compliant.

(Burleyson) But we can approve it on a condition that it becomes compliant and gets approved by DEQ.

(Burris) Right and there might have to be a pause in operation until that is done. We have allowed Mr. Threadgill to continue operating regardless of the violation to bring this to the Board, but now that I have heard from DEQ and their concerns about the pond itself I will have to consult with them as whether and technically this is not supposed to be operating until this is approved. DEQ is going to need to be okay with people driving on top of it and that much water being impounded, and they are going to need some assurances from an engineer about that.

(Steiner) Do we need further clarification from DEQ?

(Burris) They cannot provide any further clarification until they have something from an engineer stating that its basically what the volume of water is, how tall the impoundment is, or whether it falls under the Dam Safety Act and an engineer is going to have to be the one to determine that. DEQ themselves cannot determine that until they have something submitted by an engineer and I cannot determine that because I am not an engineer.

(Chairman, Moose) So, it sounds like to meet that particular standard Mr. Threadgill is going to have to have an engineer. Mr. Threadgill, have you had an opportunity to speak with NCDEQ?

(Mr. Threadgill) "No, not yet. Not until I got through with this meeting. Whatever you all say. I will be straight forward with you; I got bad advice when I did this to start with. I got my advice from the wrong people, and I should have gotten it here. I found that out that day and found out some of it. I had a set of architecture drawings drawn up for a building I was going to propose on the site over here and I took it to Concord and talked to some people up there and I wasn't supposed to be there. I was supposed to be here. I got all kind of mixed information, but Ms. Burris got me straight. I am going to tell you that right now and I appreciate that. She has been a great help."

(Chairman Moose) "That can definitely be a challenge when you are in the ETJ for sure." So, I think Erin mentioned that on the southwest side there is not the 20-foot buffer in place.

(Burris) "Right here at this property line."

(Threadgill) At the corner of the dam."

(Burris) This perimeter road goes around, so you can drive all the way around the pond. The road comes right up to the property line, so the perimeter 20-foot buffer is not met there. You can have conditions that add Zen, opaque fence that can alleviate some of that. There is some wiggle room in the ordinance as far as the buffer meeting with the lower width as long as you have some screening in place. Now again if this had come to us on the front end, we would have preferred there have been the 20-foot buffer there, but it's going to be a little hard to get in there now. But additional screening on the fence, if it can be squeezed in there would help.

(Threadgill) That might be a little tight spot there on that corner, but now right off that on the Foil's property there's all big, tall trees that butts right up to the corner of the pond but it's just right there on that corner.

(Chairman Moose) How close is the water to the actual property line there?

(Burris) I can measure on GIS, but it is not accurate, GIS is probably about 5-10 feet off just because of the aerial photo and the angle it's taken from.

(Chairman Moose) If you had to guess, Mr. Threadgill, would you know approximately how far the water is from the property line?

(Threadgill) Yes, it is going to be way more than 5 feet because you see the road you drive around the pond and then on this side of it where it meets the Foil's all that is all rip-rap bank. We tore a lot of that bank off and put riprap on it. So, that roads got to be at least 20-feet wide, so I got riprap going to the pond so, it's going to take another 5-foot so, I am going to say at least 30-foot or more.

(Burris) I mean, the line measures at 15 but you also see that this looks like this riprap is coming onto Mr. Foil's property, but when it was surveyed it was determined that it did not. So, the line and the aerial photos are a few feet off.

(Burleyson) So, where in here, Erin would the opaque fence be?

(Burris) It would literally have to be right on the line. If it can be put in. It doesn't meet the buffer.

(Threadgill) Can I say something there too? Because where you have that arrow there drawn on the other side of that riprap if you put a fence down in there, I mean I will do whatever ya'll say, but if I have to put a fence down there, that thing would have to be sky high to get it up above the banks.

(Burris) It would be nice to hear from Mr. Foil if he had come to see what he felt about it, but it impacts Mr. Foil's, I know there are trees there now, but it encroaches on Mr. Foil's ability to do whatever he wants on his property without looking at something that wasn't supposed to be that close. So, it's up to the Board what you want to do as far as the fence goes. That was the only remedy I could offer in the fact that it did not meet the 20-foot buffer.

(Threadgill) It's whatever ya'll say there.

(Chairman Moose) Does anyone else have any questions regarding to the standard one there?

(Fowler) On the other side where the trees were planted, can a row of trees be planted?

(Burris) Arborvitae right there.

(Fowler) Yes!

(Threadgill) Yeah, I can put some of that down in there, they can be big enough. I can do that, and I can put that down below the riprap as long as Mr. Foil don't care.

(Burris) I mean if the conditions work out with Mr. Foil whatever buffer he finds appropriate. I don't know.

(Love) I agree with this at least give him the opportunity to provide his input on what's going to affect his property.

(Attorney, Scarbrough) I do want to remind you that it's the evidence that we get tonight, and you can always continue the hearing, but you know, it's the evidence you are presented with tonight that you base your decision on.

(Chairman Moose) I am sorry, but what Foil owns that property?

(Burris) William Foil

(Chairman Moose) Anyone else on finding number one?

(Chairman Moose) How about finding number two?

(Steiner) I just want to make sure, Mr. Threadgill, you understand the finding we are talking about the engineering report, the fire department, and transportation. So that is something that needs to be done. The fire code needs to be addressed. Those are the two points that we see there.

(Chairman Moose) On the driveway.

(Love) Again, with an engineer drawing would, a stamped engineer would most likely have addressed these items, I would think, and that way and the site could have been designed to that drawing.

(Burris) The Fire Marshal did a site visit, he said the address needs to be posted at the entrance of the drive on the building, the building address shall have numbers of not less than 6 inches, the access needs to be maintained and all weather driving capabilities able to support the imposed loads of fire apparatus 75,000 pounds, vertical clearance of not less than 13 feet 6 inches which it has, an unobstructed width that is not less than 20 feet, and the building itself would need to have at least one fire extinguisher and be subject to fire inspections, but that is something we do for all new businesses. We always make sure we have the Fire Marshal inspection prior to occupancy so that would be required prior to the issuance of a COC. In addition to that, DOT as I presented, requires paved aprons for a driveway access points and no parking along Foil Road and will have to get driveway permits from DOT. Which again is something that typically takes place after a Special Use Permit is issued but those would be conditions of approval.

(Chairman Moose) So, there would be some additional expense with the paved aprons, because I am assuming they are not there right now.

(Burris) Yes, DOT said they are part of the paved aprons and right now they are not there.

(Threadgill) Can I ask you a question on that since you talked to them? Do they want the one driveway moved or not, the first one?

(Burris) In typical DOT fashion, they said that once you submit the driveway permit application they would access if it needed to be moved. They seemed to say that it would not need to be moved but I could not get that from them until you have submitted a driveway permit application. I think it is okay, but I don't know until you submit the application.

(Burleyson) So, Erin, both of these driveways are off of Foil Road?

(Burris) Yes, both driveways are off Foil. There is no access off Highway 49, there is no way DOT would have allowed access off Highway 49.

(Burleyson) Which one of those is listed as the address?

(Burris) Here, I will turn on the address points on GIS so you can see where it is. This 9518 that is the address point for this use. It has a 9450 address point off Highway 49 which was there before the pond was there but that is not the address that would be used. It would be 9518 Foil Road, that's where a fire truck would go if it was looking for where it needed to go.

(Chairman Moose) Are there other homes at the end of Foil Road, use Foil Road?

(Burris) So, if Foil Road is a dead-end road this house directly across this house street was being built at about the same time the pond was and these other two houses followed in short order right as the pond was being built and this house was also built recently, Mr. Threadgill's property, another Barringer house, and then there's two other houses, well there's Frankie Barringer's house and then Ms. Shillinglaw which is Mr. Foil's sister and then Mr. Foil lives down here. Mr. Foil is at the dead-end of the road there and Mr. Foil also owns this property.

(Threadgill) I think there are nine (9) houses on the road total, 6 on the left side and 3 on my side (right side).

3. (Moose) Asked about questions for number 3.

(Moose) So, your lights are functioning now, is that correct?

(Threadgill) Yes.

(Moose) Is there anything in the standard about lumens or anything like that on outdoor?

(Burris) There is a section regarding lighting it does not get into the details of the number of foot candles or anything like that in Article 10.

(Steiner) This is an odd question. When you go to a sporting event and a good play is made or a touch down is made, the crowd cheers, makes a lot of noise. When somebody catches a big fish, is there a lot of noise? Do the people say wooh?

(Threadgill) They may get a yee hee out, but the fish will be weighed before you see the shed on the far side of the pond away from everybody that is where the fish will be brought to be weighed. You can get excited if you catch a big one.

(Fowler) Mr. Threadgill on a typical night, a good night, are every single one of the shelters filled?

(Threadgill) No.

(Fowler) So how many do you think, per night, do you have there on a good night?

(Threadgill) That is going to depend on, I mean, if we are going this route to open this up to the public, I have no idea. I've spoken to Ms. Burris about that, and I really don't want the public in there. I wanted my friends to come but that got blown out of proportion so that is why we are doing this. So, I am going to say probably 20 and 30 maybe in the summer. In the wintertime you are going to get very few to fish because very few people like to fish when it's that cold. In the summertime they like to fish. They only bite in the summertime. That's right they bite way better.

(Burris) There actually is no section on lighting. There is just a general statement about light spill over and no glare on adjacent property, and things like that. Nothing specific about foot candles or anything like that.

(Threadgill) These are 48-watt LEDs low luster too where they are not bright shining or nothing. It is kinda a little dark even with the lights on but that is the way we want it. We don't want no power lights.

(Love) And all that work was completed with permits and performed by licensed electricians?

(Threadgill) Everything was done by an electrician, absolutely.

(Love) Was it permitted?

(Threadgill) uh-huh (taken as a yes).

(Burris) I don't issue electrical permits so I cannot speak for that. I issue the zoning permits.

(Threadgill) We did the wiring, all the wiring was done by a local Mt. Pleasant electrician, too.

(Love) I am not sure how that works. Does there have to be a zoning permit before other permits can be pulled?

(Burris) I issued a zoning permit for the shed. I was told nothing about electricity, so I don't issue that. The building inspector would issue the electrical permit. I do not.

(Threadgill) They asked me that when I did that.

(Burris) So, they would have asked for a copy of my zoning permit before they issued any building permit or electrical permit, in theory.

(Burleyson) Mr. Threadgill will any of your customers be allowed to have fires or grills?

(Threadgill) No, now I've got an old grill out there, a rolling grill, and if I get some of my friends over, I might cook them a burger or something out there. But no, absolutely not.

That would be a once in a while thing. I have no desire to cook or that kind of stuff.

#### 4. (Moose) Any questions on number 4?

(Moose) I don't know if this is the appropriate condition, but I have a question on the structure you built. So, it's been approved for residential?

(Burris) Well it supposed to be a shed and accessory to his home. That is what it was issued for. It's not actually being used for that, so it would definitely need to have a fire inspection like the Fire Marshal said, but the actual construction of it, it doesn't really matter if it is just being used for storage. I can't speak to what is going on in there and that's probably a really good question for Mr. Threadgill. What's actually the shed being used for now.

(Moose) So that was my question, number one he can use it. It is his shed.

So, what is the purpose of the shed?

(Threadgill) I have the back stored with all kinds of stuff and chemicals that I have to use for the pond and the front of it is full of stuff that we feed the fish.

(Moose) So, it is just for storage then and it is not to be used as a store.

(Threadgill) It will be, the front part of it, I intend on using it if we do them, I will have to use it just to sell bait out of. It's for the stuff they make their bait with that they can't bring with them.

(Love) Cashier!

(Burris) Bait Sales.

(Love) Cashier, correct?

(Threadgill) Yes.

(Love) This is a tournament pond, so they probably have raffles every hour for the largest fish, things like that.

(Threadgill) Yep.

(Moose) So, would there be any kind of loudspeaker usage or anything like that the public addresses?

(Threadgill) It gets used once an hour and I have had no complaints because I have had friends fishing down there and we've used it and I haven't had no complaints out of none of my neighbors and I went and talked to them because I don't want no trouble with my neighbors. Some of them don't see eye to eye. That's a part of life, I guess.

(Moose) So, I guess you got the shed now if you are going to use it for anything that is related to the business you are good with getting it inspected and getting with the Fire Marshall and applying all that.

(Moose) Anybody else on that one?

##### 5. Questions about number 5.

(Love) Are there special insurance requirements that you will have to have to have events or have the public on your property?

(Threadgill) No, no lakes that I know of do that and everybody posts signs that you are not responsible for accidents, that is according to the law you have to do that. But as far as caring insurance, I mean, I have insurance on my properties, yeah. but as far as ensuring the pond, I never thought of that.

(Love) I wasn't thinking about of the pond, I was thinking if someone got hurt or something happened.

(Burris) Most people who have ancillary uses going on their own property I am thinking of people at least farmers and things like that have an umbrella insurance policy. I am not sure what Mr. Threadgill has but it would be to his benefit to have that, but we don't have a requirement for that.

(Burleyson) It is not a requirement, but it may be in your best interest that somebody don't get hurt and then sue you blind.

(Threadgill) That is a good idea. I can put it on my insurance through the gun shop.

(Moose) So, it sounds like in Section 5 that's where we address the NCDEQ and their request for an engineer report. Are you good with getting that report done and getting it submitted to NCDEQ?

(Threadgill) Whatever I need to do.

(Moose) And that should satisfy the engineer's request as well?

(Burris) Yes.

(Moose) Once they come back from NCDEQ if they are going to require additional upgrades are you good with performing those?

(Threadgill) Whatever I got to do. I am in too far to quit now.

(Moose) I wanted to make sure we are all on the same page.

(Moose) Anybody else on number 5?



**Finding Fact #6 Compliance with any applicable standards of the Development Ordinance**

(Burris) The only deficiencies that I know are the buffer and the 4 inches of gravel.

(Steiner) Who addresses that? NCDOT or an engineer?

(Burris) The buffer needs to be addressed by this Board one way or another. Whether it is a condition to work with Mr. Foil on a buffer that he finds appropriate or whether it's a go ahead and require that something be installed. But it does not meet the 20-foot buffer, so some level of mitigation needs to take place there to bring it close to compliance as it possibly can. The 4-inch gravel that is something we check prior to Certificate of Compliance and that would be the case with any site.

(Moose) I think Mike you were asking who would enforce that, is that correct?

(Steiner) Well yeah, who signs off?

(Burris) We would see that it is resolved, and I would take the engineer out there with me to look at it and if it appears to be installed correctly then it gets checked off and then they get the Certificate of Compliance.

(Moose) The RV that is parked on the property, do you have a plan for that, is that temporary?

(Threadgill) That is temporary, yes, sir.

(Moose) Do have thoughts on when you may be able to relocate that?

(Threadgill) I can move it in my yard behind the building now if you that is something you want me to until I get it sold.

(Fowler) It's not used for the pond; it is just sitting there?

(Threadgill) Well let me tell you one reason it is there, because if you go fall into the pond or get fish slime all over ya they can go in there and take a shower. That's the purpose of it. They can use a water hose. They can wash it off with a water hose.

(Burris) It has had someone staying in it, correct?

(Threadgill) Not all the time now. I told you for a while there, there were 2 days I had a man staying in there, for a while. You told me not to, so I haven't let nobody in.

(Moose) Does anyone have any more questions for Mr. Threadgill at this time?

(Steiner) If a Special Use Permit is approved by this Board and conditions are put on, then that is what we need to move it to the next step.

(Burris) That is correct. If you feel that is appropriate for this location with certain conditions to help further the meeting of the next would be to get the engineer's report and then the improvements that is required by DOT, NCDEQ, the Town Engineer, and the Fire Marshall and make sure those are installed according to all those regulations. That would be the next step. Then they could get a COC Certificate of Compliance to operate.

(Steiner) Mr. Threadgill, if we agree to do this issue, issue this permit and we ask you that you have an abatement on the activities until all these conditions get completed, how does that set with you?

(Threadgill) Well, I wouldn't like it to be honest with you, but if that is what I got to do. The reason I am saying that especially if I have to deal with Mr. Foil on this buffer thing and the DOT and all this, how long is that going to take?

(Moose) So are you currently operating now?

(Threadgill) Kinda, but not to the general public. It was for my friends and that is what we are trying to get away from.

(Moose) Question for Erin. If he is operating it for his own personal use, is he compliant with the exception of some of the conditions we have already brought out, in other words, could he continue operation as long as it is not for the general public?

(Burris) The Facebook page shows how it's been operating. I mean, I don't know the whole question about general public verses how it's been operating. Technically, it is not supposed

to be operating with any money being exchanged whatsoever, because that makes it commercial. If he is just having his friends come fish that is having his friends come fish which is what I was told was happening. So, I will leave it to this Board to determine what that means.

(Love) Technically we shouldn't be having this conversation because the entire facility shouldn't be built yet, right?

(Burris) That is correct.

(Love) We haven't gone through the process to have a facility built yet.

(Moose) Correct, so we are having to go around about.

(Moose) Mr. Threadgill, did you have something you want to say.

(Moose) To answer the question, as long as there is not commerce happening there, he is technically okay to use his pond.

(Burris) If he is using this pond accessory to his residential use for his friends that is what it was approved for. Money being exchanged, prizes, tournaments, things like that were not part of that initial approval, nor were they permitted without a Special Use Permit in a residential district. Technically, it takes the approval of the Special Use Permit to operate on that basis. I haven't shut them down because I was hoping to get through this process but at the same time it looks like there a few things that need to be taken care of. But I will leave that up to this Board.

(Steiner) That is what you showed us a Facebook page.

(Burris) That is the business "The Big Daddy Carp Pond" that he has been operating.

(Steiner) That opens it up to the public in my opinion.

(Threadgill) Um hum. I will say this too about that even the Facebook page, that is not my page. I did not put it up, that was but up by somebody else a friend of mine to try to get the word out to our friends that is how it started. But that is not my Facebook page.

(Moose) Unfortunately, it sounds like you got some bad information to start out with and we are trying to make the best of a bad situation right now.

(Threadgill) Um hum!

Moose) Does anyone else have any questions at this time for Mr. Threadgill? We can always call him back if something else comes up if we want to ask him.

(Moose) At this time, if there is anyone else here that has been sworn in and would like to speak in support of Mr. Threadgill's carp pond now is your time.  
And we would like to try to keep your comments to three (3) minutes.

**Steve Strickland of Cabarrus Imports Services**  
**4499 Old Airport Road**  
**Concord, NC 28025**

Do any of you carp fish? Parents, grandparents, or kids?

(Burleyson) I'll say I have.

Well, you have exactly. It is handed down from generation to generation. Really my dad carp fished a long time. He passed away about eight (8) years ago and I got his rods and stands but I would always go up to Black's Carp Lake up in China Grove that's where he fished at. When he passed away, I went the first day of the Spring that it opened up. I would go and set with him, he is 73 years old, and he doesn't need to go up there and set.

I would go up and set with him and daddy would just set there. That was the first taste of it when I took his rods, his stands, and I went fishing in his truck and all the old people would come up there and say where is Bill at? Where is William at? He passed away. Well ever since then I am hook, line, and sinker. I have been doing it traveling to Statesville, Hops,

South Davidson. We had some cabins on Lentz Harness Shop Road. So, it is an important thing, but it is a family thing: my daughter goes, my grandbaby goes. We'll go set, she'll go and set, and she will play with her friends because everybody that's there, it is a small crowd it's not a lot, it's 10 or 15, we all know each other. My grandbaby is six, she can go play with somebody else that brings their kids because he's got them that weekend. So, he will bring his two boys and they will just play but it is a family environment. There is no alcohol, you can't have no fires, you got to have your shirt on and it ain't like you are going to sit out there and hoot and holler and people running around. It is a good family environment and I have been doing it a long time and my daughter goes with me.

I will keep it short and wrap this up with this: The other night I was fishing, and I went and sat beside her, it wasn't a good spot to fish and Amanda even asked me, daddy why are you fishing here instead of down there. I said because I can sit here and spend 8 hours with ya just sitting here, no tv, no laptop, none of this stuff. I would rather do than do anything else. But I'll tell you guys this is, Ray thank you for building a fantastic pond, I have been to some ponds, this is a nice facility, it is super nice, and I know you guys know it, but I wanted to let you know this is a nice family place and maybe he can get everything in order he needs to get. I know he will but thank you for your time.

(Moose) Anybody need to ask any questions?

(Moose) You said there is no alcohol there, is that the policy of the Lake?

(Strickland) That is the policy, no alcohol. Now if people bring it in to drink, you can't stop them from doing that but no, there is no alcohol there. No have, no smoking pot, I mean when you go to carp ponds, I promise ya you got adults my age not being adults, they are still caught in that but there is none of that, shirts are on at all times, you go to scum park ponds, you know there are some crazy ones out there hooting and hollering and people being stupid. No radio, Mike got called down for playing his radio. Tim called me over there and said Steve tell Mike to turn his radio off. You got it, Tim. Because if he can hear it, he makes us shut it down. I went to Mike. It was real low but don't matter, sound on water carries. So, he told Mike to cut the radio off. It's a good place.

(Moose) I would say Steve is an expert witness on what carp ponds are.

(Strickland) Yes, I love it man. It is a family thing and you got guys that are 70 or 80 years old showing us young folks, and I am still young. It's a tradition something people love to do. It is something fun.

(Moose) Does anyone have any questions for Steve regarding the pond or activities that he has seen.

(Moose) Does anybody else want to speak in support?

**Mike Coller, Jr.**

I would just like to say thank you for the pond. Like Steve said it is about the family. Me and my oldest boy, we haven't talked in several years and he found out we could fish together a little bit. It really brought my family back together. I got my children to come down there and fish with me and my wife and grandchildren and we have a great time. He wasn't kidding you about the lights, I would like to see them brighter but you I know you have to have them you know, and I can't half hear the speaker anyway. Pretty much like Steve said and Mike said, we go down there, several of us, our friends and I have met a lot of nice people down there. Like I said it has brought my family together and I feel very fortunate to have a place that I can go and fish like that, where I don't have to have to go and spend \$20,000 to \$30,000 to have a boat to go to the lake or I can drive a mile from my house and be with good people.

(Moose) Mike, you mentioned the speaker and I didn't think to ask Mr. Threadgill but what happens every hour when that speaker goes off? What is going on with that?

(Coller, Jr.) What we will do, they'll let us kind of let us know on the speaker you know hey that Steve might have one that weighs 7 or 8 pounds or something like that. Half the time I can't hear the speaker because it's so low. But it is just to let someone know, you know, because what we do is we just go by the hours. If I beat Steve in that hour, that is my bragging rights, you know, or I tell my wife we whooped him. It has been great for my family, and I wanted to share that with ya'll.

(Moose) Thank you, Mike. Anyone else in support?

(Moose) Hearing none I am assuming there is no more testimony supporting the request, is there anybody that would like to speak opposing Mr. Threadgill's request? Now is your time.

(Moose) Hearing no opposition, does anyone have questions about what has been presented so far? Any other questions for Mr. Threadgill?

(Fowler) Erin, you did not hear back from the Sheriff's department on their recommendation for safety wise?

(Burris) I did hear back from the Sherriff's department; they did say they did not have anything other than the same comment DOT had as far as not parking on 49 and they just had questions about lighting at the entrances, but actually, I think, it would be worse for the neighbors to have more lighting at the entrances. But that was the only other comment was that having the entrances better lit and then also, the same comment that DOT had about not having any parking along 49 or Foil Road.

(Moose) Mr. Threadgill would you come back up, I had one more quick question for you.

(Threadgill) Yes, sir.

(Moose) You mentioned earlier that there were neighbors that you felt like didn't agree with you. I know there is no one here to oppose it, but do you have any comment?

(Threadgill) I only have one that I've heard through the grapevine that don't like it.

(Moose) Have you heard any complaints as to what the problem is with it?

(Threadgill) No, they just don't like it. That is all I was told and why they won't tell me. They just don't like it.

(Moose) All right.

(Steiner) Erin, I don't know who that neighbor is, but you notified the neighbors of this hearing.

(Burris) Yes, I went beyond typical notification and notified everyone on Foil Road because of it being a dead-end road and I know that there has been some people that get down there and get turned around. Everybody was notified, the signs were posted on the sight more than 10 days prior to the hearing. We received just two calls just asking about the hearing and that was it.

(Threadgill) I was going to say my one neighbor, never mind. I am just going to leave it alone because I try to love everybody. So, I am going to just leave it alone.

(Love) I have been to something similar; I actually went to the catfish pond off Lentz Harness Shop Road.

(Threadgill) Recently?

(Love) It was years ago but I know I was there until Saturday morning until about 3 or 4 o'clock in the morning. I don't know carp fishing as well as I know catfishing, but do you not anticipate that same thing going on here?

(Threadgill) Sometimes you have to go to nights, or you don't catch no fish.

(Love) So it is 3 or 4 o'clock in the morning and then in addition to that every hour there was the biggest fish that was called out over the intercom with the winnings for that hour. Is this the same format for that?

(Threadgill) Same thing.

(Love) At the end of the evening the biggest fish overall also....

(Threadgill) Yeah, but none of that's called out because that all concerns the last one the hours are over anyway, as far as the biggest fish.

(Love) Right, what time would you anticipate that ending? In the middle of summer what time do you think people really would be leaving, and it would be over?

(Threadgill) Well, most people if they're not catching fish like they are supposed to they are going to leave early but you got the die-hards and they are going to stay there but most everybody... you have to have your fish on the scale when the hour is up, if you don't, then it don't count. So, therefore the last hour they get out of there.

(Love) What do you anticipate that last hour being?

(Threadgill) Yeah, but a lot of them do.

(Love) At what hour do you anticipate that last hour being in the summer?

(Threadgill) The last hour is 2:00 a.m. when it ends. 6:00 p.m. to 2:00 a.m.

(Moose) Do we have any noise ordinance as far as when; I know they are not playing music I guess but as far as the amounts?

(Burris) There is a noise ordinance adopted in the grand old year of 1927. We have been given instruction by the Town Board to reevaluate that, not because of this use, but because of other things going on and every once in a while, more than every 80 years you should probably evaluate your noise ordinance given new technology. So, that is being evaluated and that's separate from your zoning ordinance. It is a code of ordinances; a police power and our lovely sheriff's deputies have to enforce that. There're regulations in there right now about amplified noise. It is very subjective. Basically, it says, if it causes a neighbor an issue, if you can hear it at the neighbor's house, and it's waking them up, they can call and complain and that is the way the ordinance reads. It might become a little more nailed down as they go through the noise ordinance, and they might say no sound amplification after 11 pm. That would still apply to anyone, but this isn't technically in the town limits. So, that noise ordinance only applies to the town limits; outside the town limits the county noise ordinances applies. So, I believe that is 11pm. I think it's 11 pm.

(Moose) So, more or less, if at 1 o'clock in the morning they are calling something out and the neighbor wakes up and complains.

(Burris) Then they have the noise complaint on them.

(Threadgill) Then they would have a legitimate reason but let me say this too because with having some of my friends to come this summer while it was hot this is what we done. We tried this; we fished until 2 o'clock in the morning, and we used the intercom, and my little buzzer that goes off at the end of the hour, and I've talked to my neighbors, and he hadn't even heard it. I've had no problems whatsoever. We try to keep everything low.

(Moose) So, you would just be aware though, if there were complaints, there would need to be some adjustments made as far as that goes.

(Threadgill) Yes, sir.

(Moose) So, these guys don't have to come out there all the time.

(Threadgill) Yeah, I don't want to give them something to complain about.

(Moose) Right. We appreciate that. Any other questions for Mr. Threadgill?

(Moose) Any further discussion by the Board?

(Moose) I think you guys have done a great job with the questions.

(Burris) Before you close the hearing, like I did in the training, make sure you have absolutely no other questions, you feel that the findings have been fully addressed, and that you do not need any other information to be able to vote on these findings. Once you close it, it is closed. The only other thing you could ask about would be to the applicant about specific conditions that they would be immutable to outside the hearing part of it.

(Moose) Does anyone want a summarization of the evidence presented so far?

(Love) In the Special Use Permit, does it identify the hours of operation? Does he have to identify the hours of operation for the facility?

(Burris) If you feel it is necessary to be able to address the findings then you can ask the specific hours to be identified and they can be held to that in order to be defining about the surrounding properties. And that's up to you. If you feel that it is necessary to set a condition on the specific number of hours in order to be able to meet that finding. That is your call. But he would have to agree to that condition.

(Love) The reason I ask that is the potential condition for the hours that were listed in the document are obviously at this point mute.

(Burris) That was a shot in the dark, that was just based on there being surrounding residential uses. Now that you have heard from the applicant what typical hours of operation are, if you feel those are appropriate then you can be comfortable with that finding or you can you make that a specific condition that it not go past 2:00 a.m. or whatever time is appropriate.

(Moose) If we did that and he wanted to change the hours, would he have to come back before this Board to be able do that?

(Burris) Technically, yes, I mean you could keep it more flexible but if you were to specify that in the conditions, he would have to follow that.

(Moose) So. I think maybe you were more concerned about when it shuts down as opposed to...

(Love) Well I was just going by, or we identified the hours as 8 a.m. to 10 p.m.

(Burris) Potential hours.

(Love) Okay in my experience you don't go to 10 pm at night, that is when you start fishing. And again, I am not sure about the carp side of this, but I have done some in the past and didn't even go until 10 p.m. So, I didn't know, I just know it is a late-night activity that's all.

(Burris) That was based on prevailing times and residential districts where like home occupations for instance that we have been talking a lot about, those aren't typically allowed to go past 9 p.m. so, that would be a significant difference allowing it to go to 2 a.m. But clearly that is the way carp ponds operate.

(Love) I know Mr. Steiner asked him about the hours, but I felt like there were some miscommunication or confusion on exactly what the hours were going to be based on. Because he said I will do that if you want, but I don't know how he can operate a business.

(Burris) But now that you know what the actual hours of operation are that was just a recommendation based on other commercial uses in residential districts.

(Burleyson) I would like to ask Mr. Threadgill one more question if you don't mind regarding that. So, if we were to put in there that during the summer you would close at 2 a.m.

This past summer were you operating?

(Threadgill) Um hum. Some yeah!

(Burleyson) How many days and what were your closing times during the summer?

(Threadgill) We were just fishing like usually 3 days.

(Burleyson) So, if we said 4 days you would comply with that, you'd say, I don't know Thursday, Friday, Saturday, and Sunday, I don't know.

(Threadgill) Wednesday through Saturday.

(Burleyson) Okay, Wednesday through Saturday.

(Burris) The stipulation on the 4-days had to do with the paving requirement. The paving requirement said that as long as he didn't go to the 5<sup>th</sup> day he wouldn't have to pave.

I know that seems strange but that was based on bearing surfaces. That's where that 4-day number came from. Plus, you know it being a residential district and would that be something you have operating every night of the week. That again is your call, but that would have triggered him having to pave.

(Burleyson) Okay, thank you.

(Steiner) I would like to address again these items that need to be taken care of by the NCDOT, the Fire Marshall, and NCDEQ about the installation of the road. I don't desire to shut you down while this is being done but at the same point, we have to have some sort of targeted dates and you don't know how long it is going to take, and Erin doesn't know, and we don't know. But we need to have some sort of a targeting date so that the progress continues to move forward, because if there is no targeting dates, things can get swept under the rug, and here we are a year and it's still not taken care of. I think that is something we really need to discuss and get good clarity on. I hear what your folks are saying, and I have no problem with that, but we've got to get these taken care of in some sort of a way. We need to come to some sort of an agreement, and I don't know whether it's 4 months, or whether it's 6 months, or Erin, what would you suggest based on your experience with NCDOT and NCDEQ?

(Burris) I would say probably need a plan submitted within two months, something from an engineer within in 2 – 3 months, and then you know NCDEQ and NCDOT being okay with it within 6 months; so, 6 months total. I think would be appropriate. That is not waiting until the last day from 6 months to submit it but having a plan and something from an engineer within 2-3 months to show progress would be appropriate.

(Steiner) And that part would come back to us.

(Burris) No, it would just go to the engineer, DOT, and DEQ.

(Steiner) So, we are out of it?

(Burris) You have placed a condition that it satisfies the State agencies, and it would be up to you to make sure they did. And if for some reason that was not done and some of the other conditions were not met then you would likely bring it back to you to see if you want to revoke the Special Use Permit especially if the conditions were not followed.

(Steiner) I made a note of five (5) different items here and if we set the first of July, that is seven (7) months and if everything is not done at the first of July then you will have to shut down until it is done.

(Threadgill) Um hum. I want to....

(Steiner) I am pointing that out and I am speaking for myself, I don't know how the other folks on the Board feel, but we need to have some sort of target. Erin doesn't need to have the tendency to monitor that. It is your responsibility to get this done, that is the way I see it.

(Threadgill) Yeah, and I may have to make an inquiry from you to make sure I am contacting the right people. But I am going to do whatever she tells me I am going to do. That's what I am going to do.

(Steiner) Be careful about that.

(Threadgill) I am admitting in front of everybody. I've learned my lesson.

(Moose) That is a good point, Mike.

(Steiner) If everything is not done that Erin's says at the first of July; he still hasn't got this done...

(Burris) I counted six (6) months as the first of June.

(Steiner) Well.

(Burris) You have given him seven (7) months.

(Steiner) December; things don't get done in December.

(Burris) Okay, December is not a month. All right.

(Moose) Thank you again, Mr. Threadgill. So, I think you've heard everything.

I asked a while ago, but does anyone need a summary of the evidence that was presented? Mike, you had a list of the items that needed to be completed.

(Steiner) Let me go through them again. Number 1 is a site plan, right.

(Burris) Well yes, so it would need to have some kind of engineering.

(Steiner) So, in other words, DOT won't do anything without a site plan?

(Burris) You would need to submit a driveway permit application which does tend to include a drawing, not necessarily a detailed drawing, but yes. Driveway permit application to DOT.

(Steiner) Approval by NCDOT.

(Burris) Um hum.

(Steiner) Approval by the Fire Marshall on the shed?

(Burris) Yes.

(Steiner) Approval by NCDEQ?

(Burris) Which will involve an engineer's report of some kind.

(Steiner) Agreement regarding the buffer on the Foil property?

(Burris) Yes.

(Attorney Scarbrough) If I address that.

(Burris) That is a good point.

(Moose) Sure.

(Attorney Scarbrough) As far as the buffer, and the plants or something of that nature. I think the direction if that is going to be a condition, I think the direction needs to come from this Board and not be made contingent on any discussion with any third party especially who's not here at the hearing.

(Moose) I agree with that.

(Steiner) Does the DOT take care of the approval of the road, or is that the Town engineer or who does that?

(Burris) You mean the road around the pond?

(Steiner) Well...

(Burris) So, the Fire Marshal just says that the entrance and the access road needs to be 20-feet wide. That doesn't mean that the entire road around it has to be 20-feet wide, but you do need to be able to get emergency access to at least the shed of 20-feet.

(Steiner) Was there something about the condition of the road?

(Burris) It needed to be able to hold up a fire apparatus of at least 75,000 pounds. That is what the Fire Marshal said.

(Steiner) That would all come under the approval of the Fire Marshal?

(Burris) Yes.

(Moose) Would that not be in the engineer's report?

(Burris) Yes, it would be in the engineer report and the Fire Marshal would see that as well.

(Moose) So, that was Mike's list. Does anyone have anything else from the meeting from the testimony that something that directly affected Mr. Threadgill having to get something done?

(Love) My question is, is there still things that need to be submitted by Mr. Threadgill to even request at this point a Special Use Permit? Am I correct with that?

(Burris) No, if you make it a condition that he has to submit the engineering report in order for the State agency to review it because this Board doesn't have the expertise to review that but the State and DEQ does. So, basically this Board is saying this use is appropriate at this location if we have these certain conditions met and these other agencies have their eyes on it to make sure that the pond is safe, the road is wide enough, the driveway permits are done. I go through to make sure people have given me their approval before I issue a COC. That's how that works. So, no he doesn't have to submit anything else in order for this Board to approve it, but he will have to submit other things to ensure that it is in compliance with what this Board approved and if it is not, then this Board could actually revoke that permit if he doesn't meet those conditions.

(Steiner) So if everything's not done by the first of July it would be revoked.

(Burris) Not automatically, you have to go back through the same process it was approved in. If for some reason he didn't get the stuff done, I've never seen that happen before, I've never had to do that, but in theory, he could come back to this Board, and you would all hold another hearing and revoke it if it wasn't met.



(Burleyson) Or review progress and feel satisfied that things were moving.

(Moose) So, if I am hearing what you are saying, you feel like he's recommended the design standards that would've been put in place, and I guess what we are shooting for now is trying to get those now, after the fact, and we don't want that falling through the crack.

(Love) I think that is critical. I am not trying to hinder the gentleman from running a business, but those things are critical.

(Moose) So, that brings up the question, do we operate business as usual during that 6-months while we get this built up or is there some restriction on the ability to operate since we don't technically have a business approval. Now I know he is using it for his friends, but obviously there is some money flowing. The question is do we continue to operate as a business, or do we operate with his friends until we've got these requirements fulfilled?

**Board took a recess.**

**Board resumed the meeting.**

(Moose) We will resume. We have had a Board Member that was feeling a little ill so, we are going to excuse her (Freeman) from the meeting. Mr. Love, our alternate, who has been here for the whole meeting is very capable of stepping in, thank you for taking that job on. So, we will continue now as we move forward.

(Moose) So, the last question was, was everyone comfortable with the evidence presented, does there need to be a recap, or does anyone have any questions about what has been presented so far?

(Moose) If not, this is our opportunity to discuss the case. If there is any more discussion, now is our time before we actually close the hearing.

(Steiner) I believe I have stated what I feel that we need to do to set some sort of target date on this. But I am okay with it.

(Moose) Anybody else?

(Love) Is there any risk to the Town allowing the operation to continue without having the required safety measures in place?

(Attorney, Scarbrough) So, this is a zoning decision as to the use of the property. It is not tied with any kind of regulatory, it is just zoning. Can this property be used in this manner? If that makes sense. It is divorced from people by DOT and that sort of thing. You do have the standard, the establishment maintenance for operation of the property use shall not be detrimental to or endanger the public health safety or general welfare but I think the idea of those conditions is to mitigate any concerns with that standard.

The short answer is no there is no liability in zoning in a certain way.

(Love) If there's a lot of heavy trucks going through there, traffic, and something would happen as far as the roadway because it's not built to the standards that the engineer would have designed and would have been approved, is that an issue down the road?

(Attorney Scarbrough) No, again I don't know how else to say other than it is a classification of the use of the property.

(Burris) If in the course of looking at this, say tomorrow DEQ were to look at it and say you know what this does fall under the Dam Safety Act with the accountment of water. The State Agency could say this isn't safe to drive on until we have more information, or this is certified by an engineer, but that is already one of the conditions of the use of the property from our perspective. So, that would be up to them, and they could do that but I don't know if they would but that would be under their agency.

(Steiner) Does this action go to the Town Board then?

(Burris) No, this is a Board of Adjustment Quasi-Judicial decision. This is this Boards decision based on findings.

(Burleyson) If we go through these findings and we say they are met, and we would approve a Special Use Permit and they still don't get a Certificate of Compliance (COC) until all the other things are done and then it is official.

(Burris) That is correct. As Mr. Steiner said, he was wanting some kind of timeline in order to get that done to make sure there is forward progress on it.

(Moose) And we have discussed what happens if that doesn't, we don't meet the deadline.

(Burleyson) It comes on back.

(Moose) Any further discussion?

(Moose) Hearing none, we will go ahead and CLOSE the hearing and move on to the finding of facts.

Erin, would you like to read proposed facts individually and then we can come up with a?

(Burris) Yes.

**1. FIRST FINDING**— *The proposed use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping and screening on the site.*

Recreational facilities outdoor and recreational facilities outdoor sports clubs are prohibited with a Special Use Permit in the RL district. The surrounding area has a mixture of large lot single-family residential and forestry agricultural uses. A compatibility was discussed this evening and it depends on the frequency of operation, hours of operation, lighting screening and buffering. You all received testimony regarding buffering or screen, the hours of operation, the frequency of operation being no more than 4 days a week, with the one buffer issue being along that southern property line.

**Potential Conditions:**

- The number of days of per week and the hours of operation not necessarily limited to the ones I had in there since we have now heard that during the summer they operate until 2:00 a.m. (originally had tentative hours as 8am-10pm).
- An opaque fence for landscaping. If you want to make it more flexible to install where the minimum 20-foot buffer is not met along the southwestern property line.

**2. SECOND FINDING** - Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic patterns and minimize traffic congestion on public roads. Two points of ingress and egress are provided to the site, the two driveways shall meet minimum fire code and NCDOT requirements and will be subject to inspection by the Fire Marshall and issuance of DOT driveway permits.

**Potential Conditions:**

- Driveways shall meet the NC Fire Code and NCDOT requirements
- That there shall be no parking along Foil Road, all parking should be onsite.

(Moose) Erin, excuse me for interrupting you, but would you be okay if we addressed those individually? Or do you need to run through all of them?

(Burris) No, we can you address them individually if that is what you'd like to do.

(Moose) Yes, let's do that just because my memory is not, so, let's go back to number one (1) again.

(Moose) You have heard the reading of finding fact number one (1) and now potential conditions: 4 days a week and hours of operation. Do you want to limit just by hours of operation or do you want to have a shut off of what time it needs to be shut down?

(Steiner) I think that's the main issue, the ending time, not the beginning time.

(Moose) 2 a.m. So, are we good with the facility shall operate no more than 4 days of the week and shall complete the operation of business by 2 a.m.?

(Burris) We kind of do need to have another one. Shut down by 2 a.m. Can they open back up at 3?

(Moose) Okay.

(Love) Can I ask another question? What time do you really think you'll shut down? Because I know we have had a couple of time frames here. I am just asking because I know, what times do the other fishing places close? What time does the one in China Grove close?

(Mr. Threadgill) 2:00 a.m.

(Love) In the Summer when it's hot, so everybody is off the property by 3:00 a.m.? Right?

(Mr. Threadgill) No, no.

(Strickland) We are packing our stuff up at 1:30 a.m. to 1:45 a.m. When it's 2:00 a.m. we are headed home.

(Moose) Alright, that is a good point. So, what would be a typical time to open in the Winter when you're open?

(Threadgill) We can fish 9 to 5 or 10 to 6.

(Moose) Okay

(Fowler) I would propose that you say just to cover Winter and Summer that the operation time would be from 9:00 a.m. and not to go past 2:00 a.m. and not to operate between the hours of 2:00 a.m. and 9:00 a.m.

(Moose) That is good clarification. Is everybody good with that?

Mr. Threadgill are you good with that?

(Moose) Yes, alright

(Moose) The issue with the buffer, do we want to do a more natural buffer as long as that is put into place. Let that be Mr. Threadgill's responsibility if he wants Mr. Foil's input, fine, because it is going to have to be on his property.

(Burris) Fence or landscaping.

(Moose) We can do fence or landscaping or if you feel more comfortable about having landscaping only, it's our call, right?

(Burris) He has the option

(Fowler) Fence or landscaping either one of those.

(Steiner) Does he has a 20-foot buffer from the property line to the water or?

(Burris) It is supposed to be a 20-foot buffer from the property line to any portion of the use. So, it is right up to the property line rather than having any buffer whatsoever.

(Love) And there's a notification on the Town's part that's required prior to this meeting, correct? To notify property adjacent

(Burris) Every single property owner, every adjacent property owner, Mr. Foil, everybody. Every single one got a letter and there's signs posted on the property.

(Fowler) There is a sign posted on Highway 49.

(Burris) Yes, there is a sign on Highway 49 and there's a sign on Foil Road, because we always put two when there's a corner property.

(Moose) So, am I hearing that the option of an opaque fence or a live landscape, plants, or whatever term we want to use for that as long something put in that buffer in the southwest side.

(Burris) To achieve an opaque buffer.

(Moose) Right. Is everybody good with that?

(Moose) On number 2, I think we have addressed that about the driveway meeting the NC Fire Code and NCDOT requirements and all parking will be onsite and not along Foil Road. Does anybody have an issue with the wording there or feel like something else needs to be added to that?

(Moose) All right. Erin, do you mind going over number three (3)?

**3. THIRD FINDING** - The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.  
The applicant did provide this evening information regarding the proposed frequency, hours, lighting, and method of operation.

You have already discussed the hours of operation.

(Burleyson) The same conditions as Number One (1).

(Burris) Yes, the same conditions. So, if you want to address in any fashion the loudspeaker, or the lighting this would be the place to do that. We have already addressed the hours of operation and it is up to you what the Cabarrus County Noise Ordinance prevailed there.

(Fowler) As far as the noise ordinance, they can as this gentleman was saying, there are Apps you can get and everybody can get that App on their phone, because everybody has a phone, and you can have the main person text out or whatever if there is a problem with the speaker, that is one option for you there also.

(Threadgill) We haven't had any trouble with the speaker right now. I talked to my neighbors about that, especially Sylvia that lives right across from me. She don't hear it, but she don't hear a whole lot anymore.

(Moose) I think those will be, if they become an issue, will be taken care of especially the noise. So, that looks like we met that finding.  
Now, Number Four (4).

**4. FOURTH FINDING** - The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

The use is located on the same property as the property owners' home. There are no other development plans for the area at present. The Future Land Use Map in the Town's Adopted Comprehensive Plan classifies this area for low intensity uses. Therefore, the proposed use does not impede orderly development.

(Moose) Any thoughts or comments on comments on that one?  
Alright, Number Five (5).

**5. FIFTH FINDING** - The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

All NC Fire Code and NCDOT regulations are required to be met. At the writing of this report, staff is awaiting comment from the Cabarrus County Sheriff's Department I did share those there only concerns were no parking along the street and making sure that the entrances were well lit. Staff was also awaiting official comment from NCDEQ which I also shared with you, they will need an engineer's report to be reviewed by that State Agency. Same thing for the Town Engineer stating that prior to final administrative of approval of a Certificate of Compliance, information would need to be provided regarding the pond design including storm event design and measures, water flow, emergency spillways, presence of pumps, and the ability of the pond impoundment to handle the weight of passenger and emergency vehicles as an access road is constructed

on top of it.

**Potential Conditions:**

- Provide written documentation from a professional engineer (PE) that the pond meets NCDEQ and other applicable state and federal standards and that fire apparatus, subject to review by NCDEQ and the Town Engineer.

(Moose) Alright, is that where we would want to also add that we would need by July 1<sup>st</sup>.

(Burris) Yes, do you want to put a provision on when the report is prepared or review or just say all of it be complete by July 1<sup>st</sup>?

(Moose) Anything else on that condition?

(Burleyson) I think Erin had a question do we want to separate the date that the report needs to be done and any...

(Burris) Like 3 months for the report and then another 4 months for approval.

(Moose) Okay

(Burris) And July 1<sup>st</sup> for competition, right?

**SIXTH FINDING** - Compliance with any other applicable Sections of this Ordinance.

These were addressed regarding the gravel and things like that so just the general condition that standard be met. That is all that was left, all other standards were met.

(Moose) Alright, we have our six (6) Finding of Facts there.

Does anyone have any additional comments or additions or deletions?

(Moose) Alright, Erin at this time do you feel like we've reviewed that and are ready to...?

(Burris) As long as you have no other questions or information that you need to make a decision on the findings you may close the hearing.

(Love) Normal circumstances, the COC is there a temporary Certificate of Completion that is allowed before he can have clients on the property?

(Burris) Yes, there is a provision in the Ordinance for temporary Certificates of Compliance and that's normally if paving can't be done because of weather, landscaping can't be installed because of weather, and it usually gives you up to six (6) months which is in the timeframe we are talking about. So, technically we could do a temporary while the improvements are being made but there is a provision in the ordinance for temporary Certificates of Compliance for up to 6 months.

(Love) There shouldn't be any clients on the property until he at least has a temporary Certificate of Compliance.

(Burris) Technically speaking, no, there should be something in order to say that those people are allowed to be there. Excellent point. We do have the ability to issue a temporary one while certain things are being addressed.

(Love) To get even a temporary there has to be certain things that are in place that would be designed by the engineer drawing, and we are not sure they are designed by the engineer drawing to get that temporary certificate or at least to get a final, correct?

(Burris) They would certainly not be able to get a final certificate before the engineering report was signed.

(Love) There still has to be some sort of inspections to even get the temporary.

(Burris) Yes.

(Love) Based on its compliant to the approved engineer drawing.

(Burris) That is correct. In the normal course of things there would be engineered drawings prior to the issuance of a temporary COC. Again, that is how it would typically work.

(Moose) Which we don't have.

(Burris) Which we don't have.

(Moose) I appreciate that, that is a good point to bring up. Would it be appropriate to say in lieu of those drawings that our Town Engineer could do an inspection of the property?

(Burris) No, he cannot. He has to have something from a PE, a letter submitted. I know that Mr. Threadgill is working with Concord Engineering and Surveying, and I don't know if they would be willing to do that. But our engineer would need something from his engineer to be able to say we have something to work with now, because our engineer doesn't know how the pond was constructed and doesn't know anything about it. Pause while that is being done, I don't know but fair point there should at least be a temporary COC before there's people on the site in a commercial capacity.

(Moose) The easiest direction would be for Mr. Threadgill to get with the crew he's already worked with.

(Burris) Yeah, whatever engineer he wants but I already know he has worked with them based off his survey.

(Moose) Okay, so Mr. Threadgill, are you following where this discussion is going?

(Threadgill) I was trying to.

(Moose) Erin is probably the best at summarizing what we are saying.

(Burris) So, technically you are not supposed to be operating without some type of Certificate of Compliance and the only way to at least get to a temporary Certificate of Compliance is to have at a preliminary engineering report to give to DEQ for them to start reviewing, that way we know you are working on the improvements. Basically, what they are saying is that we would need to probably issue a temporary Certificate of Compliance, or you are supposed to have people out there on a commercial basis.

(Moose) Paying customers?

(Burris) Yeah, which hopefully would only take a little while to get a report from an engineer about your pond. I don't know if he talked to Concord Engineering and Surveying about it at all.

(Mr. Threadgill) I have someone up there I can talk to.

(Moose) So you've got a relationship with the group that did the surveying for you and their engineers and what not. So, I think what the Board is proposing is that we get a preliminary report from them.

(Burris) For the Town.

(Moose) And the Town would get the preliminary report from them.

(Mr. Threadgill) Is this a report on the pond itself?

(Burris) Yes.

(Moose) We can get you the information we are looking for, but what they are saying is until we've gotten that report and you have been issued a temporary certificate to operate basically that until that time you wouldn't be able to operate as a business. It would still need to be your friends and you doing it that way. Once the temporary is in place then we are basically caught back up, so to speak, as to where we would've been had we followed everything properly from day one. I get where you are coming from on that, but I feel like that covers this Board and it covers you if something were to happen out there.

So, are you proposing then that that become another condition and have that in place?

(Love) I believe so, yes, sir.

(Moose) So, that is probably coming under item six (6) too, correct?

(Burris) It would come under item five (5) because it deals with safety.

(Moose) To summarize item five (5): the written documentation from the professional engineer is going to be required for the DEQ's evaluation is what we need to get him the temporary.

(Burris) Yeah, even just a preliminary evaluation to say that the pond is going through the process these are the improvements that need to be made even if the improvements haven't

been made, yet. Then as long as they don't come in and say, oh gosh this is the most unsafe thing ever. If they say that we have a bigger problem but if they say it is stable, then you just need to do A, B, and C then at least that process is started.

(Mr. Threadgill) There is nothing with the pond, I promise.

(Moose) Okay, well great. So, then that based on Mr. Threadgill to get that report to the Town.

(Burris) And to DEQ which I've got that contact for that

(Moose) We will assist him with that process. We will add that into the fifth (5) finding of fact there.

(Burris) Anything else?

(Moose) Okay, so, if there is nothing else then we will move on to the vote:

To approve, to deny, to approve with conditions, or table.

(Burris) So, this just means to vote on each finding and then have a list of conditions for the end after you figure out if each finding is met.

(Moose) So as Erin just stated we are going through each condition one by one; we'll vote to approve or not approve.

(Burleyson) Mr. Chair, so all the conditions come at the end?

(Burris) Yes, we will list the conditions at the end and just know that you are basing your vote on those conditions helping to meet those findings but call for a vote on each one, simple majority vote for each one passes that finding.

(Moose) And we've discussed the conditions already and we will summarize those at the end. Okay. Alright, Condition one (1) The proposed special use conforms to the character of the neighborhood, considering the location, type, and height of buildings or structures and the type and extent of landscaping and screening on the site.

As a vote, do you want us to do all in favor or not?

(Burris) A show of hands.

(Moose) Everyone that is in favor that Condition one (1) is acceptable, please just signal by raising your right hand. Anyone that is opposed?

(Moose) **Condition one (1) passes unanimously (All hands were raised).**

(Moose) Condition two (2) Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

Everyone that agrees that that condition has been met, please raise your right hand and anyone opposed.

(Moose) **Condition two (2) passes unanimously (All hands were raised).**

(Moose) Condition three (3) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas. Anyone that agrees that that has been met, please raise your right hand, and anyone opposed.

(Moose) **Condition three (3) passes unanimously (All hands were raised).**

(Moose) Condition four (4) - The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district. Everyone that agrees that that condition has been met, please raise your right hand and anyone opposed.

(Moose) **Condition four (4) passes unanimously (All hands were raised).**

(Moose) Condition Five (5) - The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare. Everyone who agrees with that one please raise your right hand, anyone opposed.

(Moose) **Condition five (5) passes by 4 yes and 1 no (Warren Love).**

(Moose) Last, is Condition six (6) - Compliance with any other applicable Sections of this Ordinance. Everyone that agrees with that one raise your right hand, any one opposed.

(Moose) **Condition six (6) passes unanimously (All hands were raised).**

(Moose) By majority vote, all of the conditions have passed, now we do have the conditions we want to add, and I guess after we list the conditions, we need to make sure that Mr. Threadgill is good with all those conditions?

(Burris) Yes, so I will list the conditions and we will double check everything is good with those, and I will you need you to just do a final vote to approve the special use permit with the conditions listed. I will run through the conditions.

(Moose) Okay.

(Burris)

- The facility shall operate no more than 4-days a week and shall be limited to the hours of operation no later than 2 a.m. and no earlier than 9 am.
  - Either an opaque fence or landscaping buffer shall be installed where the minimum 20-foot buffer is not met along the southwestern property line.
  - Driveways shall meet NC Fire Code and NCDOT requirements.
- There shall be no parking along Foil Road or Highway 49, and all parking shall be on-site.
- Provide written documentation from a professional engineer that the pond meets NCDEQ and other political state and federal standards and that a temporary COC can only be issued upon preliminary review by DEQ of the engineering report and that the appropriate 4 inches of gravel be installed on the parking areas. Oh, and also, it was mentioned in the report, but the dumpster is supposed to be screened.

(Moose) But that is a requirement that is already in the ordinance, right?

(Burris) Right, that is a requirement in the ordinance, so basically the requirement of the all the minimum standards of the ordinance are met in that regard, and that is it.

(Burleyson) How about the timeline?

(Burris) We mentioned the hours of operation at the timeline for bringing the site into compliance is 7 months by July 1<sup>st</sup>.

(Moose) For the temporary COC, do we need to include anything in there that it cannot be operated as a business until that?

(Burris) It is implied by what I said but yes. So, temporary COC is necessary for the operation of the use.

(Moose) As a commercial use?

(Burris) Yes, for a commercial basis.

(Moose) Alright, questions on that, discussion on conditions.

(Steiner) Do you need to define commercial versus friends?

(Burris) No, I thought I already had. The ordinance defines it.

(Steiner) Are you fine with that, Mr. Threadgill?

(Threadgill) Yes.

(Moose) Alright, any further discussion before we vote to approve all the conditions?

(Steiner) So, we are approving the conditions to issue a temporary?



(Burris) No. you are voting to approve the Special Use Permit with the conditions listed because you have already approved the finding of facts.

(Moose) All in favor of the conditions we have placed on the Special Use, signify by raising your right hand, alright any opposed? **(All hands were raised).**

(Moose) We have voted by majority that all the conditions have been met.

We voted that the conditions that we are going to add, the conditions that were stated to the Special Use Permit. Now do we need another vote that we accept the whole thing.

(Burris) Well you were supposed to do that with the last one, to be approval with conditions. Yes, go ahead.

(Moose) Just to make sure we have done it. We are good on our conditions, so now we are going to vote to approve the Special Use with Conditions that have been presented.

So, all in favor of that please signify by your right hand raised, any opposed?

(Moose) **So, a majority we passed, and it is approved.**

(Moose) I am assuming we have no new business.

(Steiner) Can we take a two-minute adjournment so they can leave?

(Moose) Sure, so at this time we will adjourn the Mount Pleasant Board of Adjustments.

And thank you all for coming out tonight.

(Burris) Mr. Threadgill, I will get you a letter with all of the conditions listed and I will get you in touch with the proper person at DEQ, okay?

(Mr. Threadgill) I hope to see you after that, thank you.

## **8. Planning and Zoning Board Begins**

### **TA 2021-04 Home Occupations**

Continuation of administration-initiated amendment to update home occupation regulations. Citizen has requested additional consideration to allow contractor businesses with equipment as a home occupation. Affected Sections of MPDO: 5.4.2, Appendix A.

Erin Burris suggested that the Board think on that some more. She asked the Board if we wanted to have a December meeting and if we were to meet in December it would have to be December 6, 2021, and that is the only option.

The Board agreed to skip the December meeting and have a meeting at the end of January 2022.

Warren Love shared that he found a handout for our January meeting on the American Equipment Manufacturers, and they identify a NC Standard on different sizes and types of equipment, and they are all categorized: a mini-size, mid-size, and a standard size. He asked that we make copies or e-mail and pass out for the January meeting.

Erin Burris shared that what we went on was the weight of our loaded garbage trucks, because she wasn't going to pay \$4,000 to have the roads core tested. That was the other option to see how bad the road was. Just think about the text amendment and what that means.

### **Potential Text Amendment – Flag Lots**

Erin shared about flag lots; a lot with a narrow strip of land to it that looks like a flag pole. The Town of Mount Pleasant currently allows them, and some jurisdictions do not allow them. Some people have raised the question if we should allow them because some people don't like them.

Would you like to pursue a text amendment to prohibit flag lots?

Chairman Moose stated that it is something that we can take up in discussion and to look at certain areas that we may want to restrict that or across the board.

Member Love asked if the lot would be land locked.

Erin shared that it would not be land locked, it has road frontage. It allows for more use of the land when you have a really deep lot that don't quite have enough to get the frontage for two, but it does meet the minimum lot width once you get back to the back and your front setback is based is where it meets the lot width. They have their place and make sense but sometimes places just don't want to allow it.

**TA 2021-03 Infrastructure Amendments (request to continue)**

Continue discussing amendments to infrastructure standards. Amendments regarding street frontage, adequate public facilities, plan submittal requirements, and standards & specifications.

Affected Sections of the MPDO: Article 3, Table 4.6-2, Article 10, Article 14, Appendix B, Appendix C, Appendix D.

**9. Adoption of 2022 Meeting Schedule**

Bridget Fowler made a motion to adopt the 2022 Meeting schedule and a second was made by Mike Steiner. All were in favor. (5-0).

**10. Reports**

Erin asked if she could answer any questions about the reports.

**11. Planning and Zoning Board Comment Period**

No further discussion

**12. Adjourn**

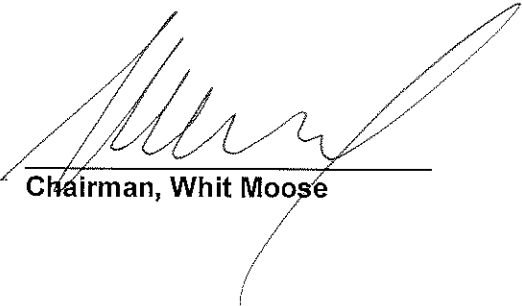
Chairman Moose entertained a motion to adjourn. A motion was made by Rick Burleyson with a second by Warren Love. All were in favor (5-0).

**Planning & Zoning Board Comment Period:**

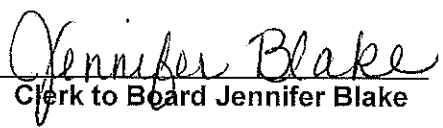
None

**11. Adjournment:**

With no further discussion, Chairman Whit Moose entertained a motion to adjourn. A motion was made by Rick Burleyson with a second by Warren Love. All were in favor (4-0).



Chairman, Whit Moose



Clerk to Board Jennifer Blake