

**TOWN OF SWANSBORO
PLANNING BOARD
REGULAR MEETING MINUTES
APRIL 5, 2022**

Call to Order

The meeting was called to order at 5:30 pm. Board members in attendance were Michael Favata, Christina Ramsey, Scott Chadwick, Laurent Meilleur, Edward Binanay, Sherrie Hancock, and Ed McHale.

Minutes

On a motion by Mrs. Ramsey, seconded by Mr. Binanay, the minutes for the January 11, 2022, Special Meeting were approved unanimously.

New Business

Harnatkiewicz Special Use Permit

Planner Jennifer Ansell reviewed that Jack Harnatkiewicz had applied for a Special Use Permit to extend the existing dock at 147 Front Street to add four slips for annual rental and additional spaces for day dockage. The dock will provide eleven total slips; the Unified Development Ordinance defines a “Marina” as dockage with over ten slips. Marinas are allowed in the B-2HDO zoning district pursuant to the issuance of a special use permit. Additionally, a permit with CAMA was applied for and approved.

Chair, Scott Chadwick shared that a letter had been received from Tim and Jane Simpson regarding the matter and requested the letter be entered into the record (*attachment A*).

Mr. Chadwick permitted public comment on the matter. Those who spoke were:

Tim & Jane Simpson – owners of Lady Swan Boat Tours shared a history of their residency in Swansboro that span over 30 years. The voiced their opposition to the construction of the dock not only because it would affect his usage of the nearby dock he utilizes but he felt it would also affect the Town of Swansboro transient dock. He commented that there would also be safety concerns especially when winds and current were high for boats to safely maneuver in the area. He felt that permitting the construction of this dock would negatively affect his business and urged the Board to take that into consideration.

Bob Shuller – owner of nearby dock leased by Lady Swan Boat Tours and a Scuba & fishing company, shared that without the proposed dock that he had witness vessels having difficulty due to winds, tides and currents.

Cindy Norris-Garb – owner of a scuba & fishing company shared that she agreed with the comments shared related to safely maneuvering vessels and urged the Board to consider the affect this could have on businesses and their ability to remain in operation.

Jack Harnatkiewicz – applicant of the Special User permit shared with the Board that the decision to proceed with the project to extend his dock had been considered for over a year and in that timeframe, he observed and watched activity in the waterway, and they have no intention to harm anyone or their business. He shared that those in opposition of this extension were renters of a dock and should not hinder another property owner's rights. He also informed the Board that in the manner of safety, he wanted them to be aware that the slip rented by Mr. Simpson was 20 feet and the Lady Swan Boat was over 40 feet.

In response to inquiries from the Board Mr. Simpson clarified the following:

- The White Oak River was a Federal Turn basin which allows for large transient equipment to moor and dock in our waterway.
- His commercial captain experience consists of obtaining his Operator of Uninspected Passenger Vessels in 1990 and then his Master Captains License in 1991, which provides for the operation of a vessel up to 50 gross tons along with a Towing endorsement. In 31 years, he estimates that he has around 38,000 to 40,000 hours on the water.
- In his opinion, he feels that for safe navigation into a dock the operator needs around 2 1/2 times the boat length, but there are environmental factors that also play into safe navigation.

Dave Newsom of Crystal Coast Engineering was requested to provide his feedback on the matter. He shared that he also had the same licensing except he was able to operate vessel up to 100 gross tons. He shared that he was taught, that as a rule of thumb, it was 1 1/2 times the boat length or 1 3/4 to be conservative.

After discussion on safety, property owner rights, riparian rights, and procedures that had already been completed, Mr. Chadwick moved to recommend approval of the Special Use Permit for the extension of the dock at 147 Front Street. His motion was seconded by Mr. McHale but failed 2:5.

Ayes: Chadwick, McHale

Noes: Meilleur, Ramsey, Binanay, Favata, Hancock

Mr. Meilleur moved to recommend denial of the Special Use Permit for the extension of the dock at 147 Front Street. His motion failed for lack of a second.

It was noted, that even though the board did not make a recommendation that passed on the matter, the request would still move forward to the Board of Commissioners.

Old Business

Building Standards

Mrs. Ansell reviewed that in April 2021, the Board reviewed the Program of Work goals related to the overall appearance of commercial, industrial, and mixed-use development, and tying square footage to the use of higher quality materials and additional stormwater control measures. In May of 2021 an inventory of unmaintained commercial structures was provided as requested. *Chapter 151: Repair, Closing, and/or Demolition of Non-Residential Building or Structures* of the UDO was provided for review and further direction was requested.

In response to inquiries from the Board, Mrs. Ansell clarified the following:

- Enforcement is handled in correlation with Public Works and the Building Inspectors.
- Addressing poorly kept retention ponds would be handled by DENR as they have to determine if there is a violation

Board members were satisfied with the current ordinance, and this item would be marked complete on the Board's Program of Work.

Zoning Map and Table of Uses

Mrs. Ansell reviewed that another item on the Planning Board's Program of Work was to consider amendments to the zoning map and Table of Uses to reflect the Future Land Use designations. At a prior meeting, there was discussion on creating a commercial node at the intersection of Queens Creek Road and Highway 24, which relates to this discussion. Mrs. Ansell explained that some areas are designated in the Land Use Plan as Agriculture or Low Density Residential but were zoned B-1 Business on the Town Zoning map.

For review at the next regular meeting, Mrs. Ansell was directed to create an analysis the properties starting at the western entrance of Town up to Norris Road. The analysis would show each properties current zoning district compared to the Future Land Use Plan designation.

Adjournment

On a motion by Mr. Meilleur, seconded by Mr. Chadwick the meeting adjourned at 6:51 pm.



April 1, 2022

Dear Mr. Chadwick,

I am contacting you to express my concerns regarding the proposed 11-slip marina at the Bake, Bottle, and Brew on Front Street. It is my understanding that the CAMA Permit has been issued and now the project must be reviewed by the planning board, historical association, and town commissioners for approval of a special use permit. As a mariner and marine business owner who has worked on the local waters for the last 32 years, I believe I have a good understanding of the issues and navigation problems this dock may cause for the general public and myself.

The Swansboro basin area is notorious for its strong currents which often make it difficult for boaters to maneuver to existing dock spaces. The town referred to this problem when they applied for, and then received, the Boating Infrastructure Grant (BIG) in 2013. This grant allowed the town to build a dock specifically targeting large transient boats 26' or greater in length.

With the external forces of wind and water, the existing dock at the Bake Bottle and Brew currently makes it difficult for those larger boats to access two of the slips on one side of the town dock. If the 11-slip marina is constructed, boats 26' and larger will lose access to four of the slips at the town dock. On a paper drawing, everything is legal and looks fine for the dock's location, but in practice boats on the water don't respond like cars on the road. Larger boats will simply not be able to maneuver into those slips. Since the dock was funded and built for large boats, the placement of the new dock seems to conflict with the intent of the grant. It is my understanding that should the town not adhere to the stipulation of the grant targeting boats 26' and larger, Swansboro could possibly be responsible for paying back the \$100,000 that the town received to build it. As a taxpayer, this is a concern to me.

As a business owner operating two tour boats from the same general area of the proposed dock, my major concern is that the new structure will cut off my access to the dock where my business is located. My wife and I own and operate Lady Swan Tours, located at the Fish House Docks. We have been at that location for the last seven years and in business for ten years. As we come and go from our dock several times a day during the season, we already fight the current, tide, and winds to ensure the safe transportation of our passengers. It is necessary for us to maneuver close to the existing town dock to line our boat up for navigating into our slip and that action causes us to cross over the area of the proposed new dock. If the new structure is built, it will block navigation to our dock making it impossible for us to operate our boats. **This dock will put us out of business.** These navigation issues will also impact the ability of the owners of Fish House Dock to lease slips for boats at their commercial dock.

The CAMA Permit clearly describes other concerns that must be addressed for the structure to be built. On page two of the permit under "Additional Conditions", items 9 and 10 describe conditions regarding navigation that directly relate to what has been explained above.

Last year, Lady Swan Tours brought over 4,500 people to Swansboro to ride on our cruises. A great many of those 4500+ people then shopped in stores, ate in restaurants, attended concerts, leaned more about the history of our town, and made plans to visit again. If our business cannot operate, it impacts more than just Lady Swan Tours.

We are certainly not opposed to a business expanding its services and offerings to help grow their customers. Perhaps the length of the dock could be modified to extend to a distance that does not block access to our dock? Currently, there are pilings located a distance off the existing Bake, Bottle, and Brew dock that we can navigate around. It appears that two to four slips could be added in that location that would not interfere with boats transiting to and from Fish House Dock.

It may be difficult to understand the navigation issues I have described unless you have experienced them yourself. To that end, I would like to invite the planning board, town commissioners, and other town officials to come out with us on our boat to see the concerns we have. I hope you will be willing to fully investigate all the issues I have addressed before making your final decision regarding construction of the proposed dock project.

Respectfully,

Tim and Jane Simpson

Owners/Operators

Lady Swan Tours