

**TOWN OF SWANSBORO
PLANNING BOARD
SPECIAL MEETING AGENDA**

**May 24, 2022
5:30PM**

**Town Hall Community Room
601 W. Corbett Avenue**

1. Call to Order

2. New Business

A. Barnes Special Use Permit- 522 W. Corbett Ave

The property at 522 W. Corbett Ave is zoned B-2, General Business. Single-family Dwellings are allowed in the B-2 zone with a Special Use Permit. The dwelling at this location was constructed in 1948 and had been used as such until July 2020, when the water was disconnected do to a leak.

Ms. Barnes is applying for a Special Use permit to allow the reinstatement of the dwelling use at this location.

Action Needed: Motion to recommend approval, denial or to table the Special Use request. Pursuant to Section 152.033 of the Unified Development Ordinance, the Planning Board is charged with the preliminary review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board. A recommendation including review of the application in accordance with Section 152.210 which addresses plan consistency and any other items deemed appropriate

3. Chairman/Board Thoughts/Staff Comments

4. Public Comments

5. Adjournment



Planning Board Meeting Agenda Item Submittal

Item To Be Considered: **Barnes Special Use Permit- 522 W. Corbett Ave**

Board Meeting Date: **May 24, 2022**

Prepared By: **Jennifer Ansell, Planner**

Overview: The property at 522 W. Corbett Ave is zoned B-2, General Business. Single-family Dwellings are allowed in the B-2 zone with a Special Use Permit. The dwelling at this location was constructed in 1948 and had been used as such until July 2020, when the water was disconnected do to a leak.

Ms. Barnes is applying for a Special Use permit to allow the reinstatement of the dwelling use at this location.

Pursuant to Sections 152.086 and 152.090 of the Town's Unified Development Ordinance (UDO), when a nonconforming use is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention to reinstate the nonconforming use (maintaining minimum services, water, sewer, electricity), the property involved may thereafter be used only for conforming purposes, except that the Board of Commissioners may issue a special use permit to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated.

Additionally, Section (E) explains that when a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this subsection begins to run at the effective date of this chapter unless services are maintained (water, sewer, electricity).

Action Needed: Motion to recommend approval, denial or to table the Special Use request.

Pursuant to Section 152.033 of the Unified Development Ordinance, the Planning Board is charged with the preliminary review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.

A recommendation including review of the application in accordance with Section 152.210 which addresses plan consistency and any other items deemed appropriate.

Attachments

Applicable Ordinance Sections
Special Use Application

Staff comments in blue.

NONCONFORMITIES

152.086 NONCONFORMING USES.

- (F) *Cessation of use.* If a nonconforming use is discontinued for 180 consecutive days or more, then the property shall thereafter be occupied and used only for a conforming use. If a nonconforming use of property is discontinued, but reestablished within 180 days, then the nonconforming use may continue, provided that the nature and degree of the nonconformity will not be changed or increased from that which existed before the nonconforming use was discontinued.

152.090 ABANDONMENT OR DISCONTINUANCE OF A NONCONFORMITY.

- (A) When a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use (maintaining minimum services, water, sewer, electricity), the property involved may thereafter be used only for conforming purposes, except as provided in division (B) of this section.
- (B) The Board of Commissioners may issue a special use permit to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that (1) the nonconforming use has been discontinued for less than two years, and (2) the discontinuance resulted from factors that, for all practical purposes, were beyond the control of the person maintaining the nonconforming use.
- (E) When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this subsection begins to run at the effective date of this chapter unless services are maintained (water, sewer, electricity).

SPECIAL USES

§ 152.210 PROCEDURE FOR SPECIAL USE PERMITS.

- A) Special use permits may be issued by the Administrator, after approval by the Board of Commissioners, for the uses as designated in the table of regulations for special uses. Applications shall include all of the requirements pertaining to it as specified in this section. A hearing shall be held, and all interested persons shall be permitted to offer relevant comments. The Town Board of Commissioners shall consider the application and may approve or deny the requested special use permit.
- B) In granting a special use permit, the Board of Commissioners shall give due regard to the nature and state of all adjacent structures and uses, and the districts within which the proposed use is to be located, and shall make written findings of fact concerning the existence or absence of the following criteria:
- 1) The special use is allowed pursuant to § [152.210](#) and meets all the required conditions and specifications, including without limitation, those set out in § [152.211](#). The special use, “Dwelling, single-family”, is allowed by the Table of Uses in the B-2 zoning district. There are no specific conditions required under Section 152.211.

- 2) The special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. The property has traditionally been used as a dwelling, since at least 1948 based on the tax record.
- 3) The special use will not substantially injure the value of adjoining or abutting property, OR the special use is a public necessity. The request is to reinstate the residential use, therefore there will be no effect on adjacent property values.
- 4) The location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by G.S. §160A-382(b). The CAMA Land Use Plan Update (2019) identifies the property as Coastal Traditional Neighborhood (CTN):



The Coastal Traditional Neighborhood designation is defined as primarily single family residential, but with multi-family structures sprinkled throughout, this high-density district is walkable and its residents primarily support the businesses in the Traditional Town Center (TTC).

This community type is based on historical and existing densities found in the oldest residential sections of Swansboro. It is not uncommon to have a variety of residential products, including accessory dwellings or garage apartments, duplexes, quadplexes, patio or garden apartments, and small or context sensitive apartments.

This walkable district is the “old town” residential neighborhood that surrounds the historic central business district. It is walkable and dense, with small lots clustered on regular blocks that create a cozy and neighborly feel. While it is not uncommon for a non-residential use to occupy a previously residential structure, most non-residential uses occur in the nearby mixed use activity node, which is within a short walk. The historic development pattern has narrow streets and rights-of-way, with sidewalks generally only on one side of the street. Lots are narrow, but porches are wide.

- 5) Upon the issuance of any special use permit, the Board of Commissioners shall consider whether it is necessary or appropriate to affix conditions thereto for the purposes of protecting neighboring properties and/or the public interest assuring that the use is harmonious with the area, and ensuring that the use is consistent with the spirit of the ordinance, and shall affix to such permit such reasonable and appropriate conditions as it finds are necessary for any of those purposes. If any conditions affixed to any special use permit or any part thereof is held invalid by any competent authority, then said special use permit shall be void.
- C) *Orders of Board of Commissioners.* Upon its determination that all of the criteria set out in this section are met, the Board of Commissioners shall enter a written order with findings of fact and conclusions of law and shall issue the special use permit as requested or with such conditions as it finds necessary and appropriate pursuant to this section.
- D) Upon its determination that one or more of the criteria set out in this section are not met, the Board of Commissioners shall issue its written order with findings of fact and conclusions of law and shall deny the requested special use permit.
- E) Any special use permit approved or approved with conditions shall be recorded in the office of the Register of Deeds of Onslow County, North Carolina.
- F) All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted and also on the special use permit approval, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each special use permit will be fulfilled, the petitioner for the special use permit may be required to enter into a contract with the Town of Swansboro providing for the installation of the physical improvements required as a basis for the issuance of the special use permit. Performance of said contract shall be secured by cash or surety bond which will cover the total estimated cost of the improvements as determined by the Town of Swansboro; provided, however, that said bond may be waived by the Town Board of Commissioners within its discretion.
- G) In addition to the conditions specifically imposed by the Town Board of Commissioners, special uses shall comply with the height, area, and parking regulations of the zone in which they are located (no variances from requirements within zoning ordinance are allowed).
- H) In the event of failure to comply with the plans approved by the Board of Commissioners or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of compliance under this special use permit shall be issued, and the use of all completed structures shall immediately cease and such completed structures not

thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

- I) Where plans are required to be submitted and approved as part of the application for a special use permit, modifications of the original plans may be authorized by the Town Board of Commissioners.

TOWN OF SWANSBORO
Special Use Application

APPLICANT'S NAME Kristi T. Barnes + Jaffey L. Barnes III
MAILING ADDRESS 224 Club Point DR Cape Carteret NC 28584 Phone # 919-418-9025
OWNER'S NAME BAGGS, Elizabeth Heins, James R. BAGGS, Administrator
OWNER'S ADDRESS 1811 Blizzard Ct, Fuquay-Varina, NC 27526 Phone # 910-890-8906

TAKE NOTICE THAT THE UNDERSIGNED HEREBY PETITIONS THE BOARD OF COMMISSIONERS OF THE TOWN OF SWANSBORO FOR A SPECIAL USE AS DESCRIBED BELOW AND AS ALLOWED BY ARTICLE 10 OF THE UNIFIED DEVELOPMENT ORDINANCE:

to remain used as residential

ON THE PREMISES LOCATED AT: 522 W. Corbett Ave. Swansboro, NC 28584
LOT (meets + bounds description) BLOCK 1404-178 MAP 32

THE PROPERTY IS ZONED: 32

THIS 9 DAY OF May, 2022.

APPLICANT'S SIGNATURE Kristi T. Barnes + Jaffey L. Barnes III

DATE FILED 5/9/22

RECIPIENT SIGNATURE [Signature]

ZONING ADMINISTRATOR [Signature]

APPLICANT OR APPLICANT REPRESENTATIVE MUST BE PRESENT FOR AN APPLICATION TO BE HEARD. IF SOMEONE OTHER THAN THE APPLICANT WILL BE THE REPRESENTATIVE, THE FOLLOWING MUST BE COMPLETED.

I /We Heins of Elizabeth Baggs, James R. Baggs Administrator am /are the owner(s) of the property located at 522 W. Corbett Ave. Swansboro NC. I /We hereby authorize Kristi T. Barnes + Jaffey L. Barnes III to appear my behalf in order to ask for a special use permit at this location. I /We understand that the special use permit, if granted, is permanent and runs with the land unless otherwise conditioned.

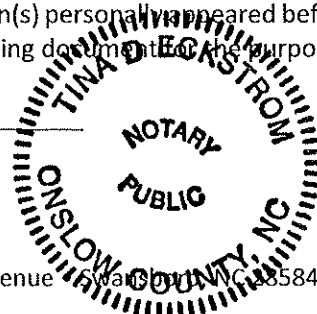
James R. Baggs 05-09-2022
Owner Date

Owner Onslow County, North Carolina

I certify that the above person(s) personally appeared before me this day, each acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated herein.

Date: May 9, 2022

(Official Seal)



Tina D. Ekstrom
Notary Public

My commission expires: May 20, 2022

Special Use Permit

522 W Corbett Ave.
Swansboro, Nc 28584

May 9, 2022

Town of Swansboro:

We are applying for Special Use for Non Conforming Residential Use to be reinstated .
The property has been in residential use since 1948.
It has been maintained as residential use with all utilities .
Due to a leak in July 2020 the water had to be disconnected. Due to Covid, death of a parent,
and out of county heirs the leak was not addressed and repaired until May 6, 2022.

Keeping as a residence as it has for the last 70 years will not change the use, nor harm or
endanger the public, nor injure the value of adjoining properties and is in the Coastal Traditional
Neighborhood which allows single family homes.

Please consider our request,

The image shows two handwritten signatures in black ink. The first signature, on the left, is 'Kristi Barnes' written in a cursive script. The second signature, on the right, is 'Jaffrey Barnes' also in a cursive script, with a large, sweeping flourish at the end.

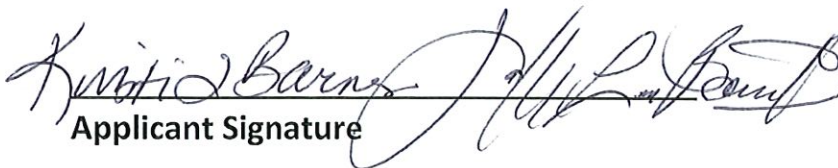
Jaffrey and Kristi Barnes
224 Club Point Drive
Cape Carteret, NC 28584
919-418-9025

must be included. A private appraisal may be provided in lieu of the documented tax value

- N/A
- ☐ The [Parking](#) standards will apply whenever there is new construction, when any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or when there is a conversion from one type of use or occupancy to another. The number of spaces, dimensions, proposed layout, and circulation pattern need to be depicted on the site plan
 - N/A
☐ The [Landscaping Regulations](#) will apply to all new or changed uses of land, buildings, and structures and to any use of building or structure which sits idle more than 180 consecutive days or is abandoned, except for those uses exempted in sections (C)(1) through (C)(3) under [Section 152.525](#). A landscaping plan must be included with the application when required
 - N/A
☐ The [Lighting](#) standards of the UDO apply to any fixtures proposed to be installed. A lighting plan should be included to demonstrate compliance with the ordinance standards
 - N/A
☐ [Sidewalks](#) are required for property located in Town Limits when the development of vacant property occurs, the redevelopment of property occurs, or when there are substantial additions to property.

Additionally, sidewalks are required in the Extraterritorial Jurisdiction (ETJ) when the development or redevelopment of vacant commercial property occurs; provided that the development involves the razing, dismantling, or removal of all principal structures existing on a tract of land substantially to ground level. See [Section 152.180](#), Note 5

Proposed sidewalks must be shown on the site plan


Applicant Signature

5/9/22
Date

R. L. CARNEY & WIFE
TO
J. B. BAGGS & WIFE
NORTH CAROLINA;
ONCLOW COUNTY;

WARRANTY DEED.

THIS DEED, Made this 22nd day of January, 1948 by R. L. Carney and wife Lillian Carney of Onslow County and State of North Carolina of the first part, to Elizabeth Baggs and husband James B. Baggs of Onslow County and State of North Carolina of the second part;

WITNESSETH, that said R. L. Carney and wife Lillian Carney in consideration of Ten Dollars (\$10.00) and no/100 and other valuable considerations to them paid by Elizabeth Baggs and husband James B. Baggs the receipt of which is hereby acknowledged, have bargained and sold, and by these presents does grant, bargain sell and convey to said Elizabeth Baggs and husband, heirs and assigns a certain tract or parcel of land in Onslow County, State of North Carolina, adjoining the lands of R. L. Carney, J. D. Heath, and G. T. Russell and others, and bounded as follows, viz:

Beginning in J. D. Heath's line at North Carolina Highway No. 24, which is also the line of the incorporated limits of the Town of Swansboro; and running thence North 51 degrees and 45 minutes East to old Highway Number 24; thence with old Highway Number 24 Southeastwardly to the present hard surfaced highway number 24; thence with the present hard surfaced Highway Westwardly to the beginning and being the triangular tract of land lying between the present hard surfaced highway the town limits and old highway number 24 or Church Street.

It is the intention for this description to include one half of Highway Number 24 in so far as it lies adjacent to the tract of land described if and when said highway is abandoned, said reference being to the old dirt highway.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging, to the said Elizabeth Baggs and husband James B. Baggs their heirs and assigns, to their only use and behoof forever.

And the said R. L. Carney and wife Lillian Carney for themselves and their heirs, executors and administrators, covenant with said Elizabeth Baggs and husband James B. Baggs their heirs and assigns, that they are seized of said premises in fee and have right to convey in fee simple; that the same are free and clear from all encumbrances, and that they do hereby forever warrant and will forever defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said R. L. Carney and wife Lillian Carney have hereunto set their hands and seals, the day and year first above written.

R. L. Carney (Seal)
Lillian Carney (Seal)

STATE OF NORTH CAROLINA;
ONCLOW COUNTY;

I, W. E. Baggs, Notary Public, do hereby certify that R. L. Carney and Lillian Carney his wife, personally appeared before me this day and acknowledged the due execution of the annexed Deed of Conveyance.

Witness my hand and Notarial seal, this 22nd day of January, A.D. 1948.

W. E. Baggs, Notary Public (Seal)

N. P. Seal
My Comm. Ex. Dec. 7, 1949.

STATE OF NORTH CAROLINA;
ONCLOW COUNTY;

The foregoing certificate of W. E. Baggs, a Notary Public of Onslow County State of North Carolina, is adjudged to be correct. Let the instrument, with the certificates, be registered.

Witness my hand and official seal, this 23 day of January, A. D. 1948.

Nora E. Phillips, Asst. Clerk Sup. Court.

Filed for registration at 11 o'clock A. M. January 23, 1948 and duly recorded January 23, 1948.

J. B. Murrill, Register of Deeds.

D.H.Solutions
123 Bayshore Drive
Cape Carteret, NC 28584
Phone:9105813571
Contact:Caleb Toler
Email:d.h_solutions@yahoo.com



INVOICE

Customer Address
Jim Bags
502 Hilltop Drive
Swansboro , NC 28584
9108908906
jbaggs502@icloud.com

Invoice #:

657

Date:

May 6, 2022

Terms:

Due Upon Receipt

Description	Total
Repair in ground leak (under sidewalk, galvanized pipe)	
Replace toilet fill valve	
Materials (\$45.00)	
Labor (\$335.00)	
Subtotal	\$380.00
7.0% Tax	\$0.00
Total	\$380.00
Amount Paid	\$380.00
Amount Due	\$0.00