

Minutes of the Yadkin County Board of Adjustment

March 17, 2014

Board Members Present:

Richard Foster- Chair
Jeff Smith –Vice chair
Tim Swain
Gray Gentry
Landon Wagoner
Dale Holcomb- Alternate
Charles Collins- Alternate

Board Members Absent:

Staff Present:

Mike Poston, Director of Planning and Development
Dawn Vallieres, County Planner
Ed Powell, County Attorney

Call to Order

Chairman Foster called the March 17, 2014 meeting of the Yadkin County Board of Adjustment to order at approximately 6:00 PM. Attendance and quorum were noted. Landon Wagoner was not present but arrived about 15 minutes later. No alternates were made voting members for this meeting.

Board Meeting

Chairman Foster – After our last meeting, we were approached and there was a question that there was a conflict of interest on the board. I asked the gentleman to send me that information in writing, which he did. Since then I have gotten quite a wealth of information regarding what does and does not amount to a conflict of interest and how that conflict of interest occurs.

I requested notification of both parties; the party for the solar farm and those against it.

We cannot conduct business regarding specific items. This meeting is just to address this issue of conflict of interest and how it is handled. I have been in contact with Ed Powell, County attorney. We have been in contact with a professor at Chapel Hill with the School of Government.

The allegation of a conflict of interest disturbed me. That is not how I do business nor how this Board does business.

Chairman Foster asked if Board member Landon Wagoner would be coming. Staff replied that he had said he was going to be. Chairman Foster wanted to ensure that all of us and the entire board understand the make-up of the board.

We have five board members and in order to do certain things we have to have a four fifths majority, when we have four that means that four have to vote to approve it. We often have multiple actions. A board member may feel the need to recuse himself and not vote on an item which is why we have the alternates. If there is an allegation from someone, either pro or con, then that allegation be voted on by the board or that board member may decide to recuse himself from that particular vote.

Quote from the professor at the School of Government “ the Board of Adjustment functions as a jury” Anyone serving has to have an open mind about the outcome. We will all know people on most items who are either for or against an item that comes before the board. What would constitute a conflict of interest is a pre-conceived vote, if you determined how you would vote before you come to the meeting; if you have a financial interest in the outcome; or an immediate familial relationship to the outcome.

Chairman Richard Foster reviewed two state statutes: §160A-388 Board of Adjustment; and §160A-393 Appeals in the nature of certiorari.

I have examined the information that I received in the letter and I am satisfied with the appointment at this time. There was an application made by Dale (Holcomb) to the County Commissioners. The County Commissioners appointed him and he showed up. When I investigated through, including the appointment process, I found no pre-determined decision to influence the board meeting.

The makeup of the board was discussed.

County attorney Ed Powell summarized. They have had detailed discussions with the School of Government. He mentioned School of Government staff’s qualifications. We will be glad to share any of that with anyone. The Board of Adjustment functions in a quasi-judicial manner which in layman’s terms is like a jury in that you can’t discuss anything . We wanted to have a good informational session because a point had been raised by a citizen, but the law is clear that the issue of a conflict of interest has to be raised during the meeting. It has to be recognized. If the person doesn’t feel like they have a conflict, Board members can vote to decide whether that person should remain on the board for that particular case. The board cannot go back and revisit the vote on a measure that has already been decided. There is an appeals process. We are going to give you a copy of that process.

Board member Tim Swain spoke about being on the Board.

Chairman Foster and county attorney Ed Powell answered questions from the audience.

If anyone wishes to have a copy of either of the statutes on the board or the appeal process they are available.

Adjournment

With no other business to discuss, the meeting was adjourned at approximately 6:30 p.m.

Respectfully Submitted,

Dawn Vallieres, Secretary to the Board

Approved on _____

Chairman