

# Minutes of the Yadkin County Board of Adjustment

## April 14, 2014

### **Board Members Present:**

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

### **Board Members Absent:**

Charles Collins- Alternate  
Landon Wagoner

### **Staff Present:**

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

### **Guests Present:**

Dolan Cheek

### **Call to Order**

Chairman Foster called the April 14, 2014 meeting of the Yadkin County Board of Adjustment to order at approximately 6:00 PM. Attendance and quorum were noted. Alternate Dale Holcomb was made a voting member for this meeting.

### **Approval of Minutes**

Chairman Foster called for a vote to approve the minutes of the March 10, 2014 meeting. Jeff Smith made a motion to approve; Tim Swain seconded. The Board voted to approve the minutes 5-0.

Chairman Foster called for a vote to approve the minutes of the March 17, 2014 special called meeting with the change of got to gotten in the 1<sup>st</sup> paragraph under Board Meeting. Tim Swain made a motion to approve the minutes with the change; Jeff Smith seconded. The Board voted to approve the minutes 5-0.

Chairman Foster asked the applicant if he had signed in on the sign in sheet. He had. At this point, Chairman Foster affirmed all those wishing to speak. The Board suspended the regular meeting to go into the public hearing.

### **Public Hearing- Dolan Cheek- Resumption of Nonconforming Manufactured Home at 3017 Marvin Road**

Conditional Use Permit Application- Article 15 Nonconforming Uses. Section 5.  
Resumption of a Nonconformity

Chairman Foster asked Mr. Cheek if he would like to speak. Mr. Cheek spoke about wanting to replace the manufactured home. He had taken it out and did not realize there was a time period to replace before it lost nonconforming status.

The age restriction on manufactured homes was discussed (manufactured after June 15, 1976 to meet HUD standards).

Mr. Cheek continued. The reason he had taken it out was that it had taken him 3 months to get the tenant out and by that time the tenant had destroyed it. He wanted to remove it because it was an eyesore for the community. He has the septic tank and water lines. If he had realized there was a time limit he would have not removed it until he was ready to replace it.

Do you use it as rental property? Yes.

What size was the mobile home that you took out? 12 by 65. The new one will be the same size.

What direction was it facing? The street.

A Board member asked if there would be a new driveway? No, they will use the same entrance but he will put gravel to create a parking space for the mobile home. The entrance off of Marvin Road will be the same.

The distance and location were discussed. Chairman Foster asked Mr. Cheek to come forward and point out where the mobile home would be going. He did. Setbacks from the right of way were discussed.

Planning & Services Director Mike Poston passed around the 2002 and 2007 aerials showing the mobile home located on the property.

Chairman Foster said that at this point we normally ask if there is anyone who wants to speak against the project. Obviously there is not. There was a letter submitted to us against it due to concerns regarding septic issues. Everyone has a copy of the letter.

Chairman Foster asked if there were any more questions? There were not.

The Board closed the public hearing on the Marvin Road application and returned to the Board meeting.

### **Regular Board Meeting**

Board member asked about the findings of fact in the Board memo...specifically the parking. The ordinance does not define a specific number but there will be off street parking.

The existing landscaping was discussed. The ordinance does not require landscaping for residential. He meets the requirements for buffering because there are no standards for buffering for residential use in residential district.

Could you have a house on a half acre lot? Yes, if the lot was in existence prior to the subdivision ordinance. A new lot could not be created that was half an acre (unless there was sewer and water). If the property owner lived on the parcel then they could place a manufactured home as an additional dwelling. In this case, the owner 1) does not live on the property and 2) the lot is not 60,000 square feet, but since this was already in place prior to our zoning requirements and it was in place after the adoption of our zoning requirements the board has the ability to consider the reconstitution of the use in its nonconforming state.

Can it be divided later? No, the lot would not be able to meet minimum lot size unless water and sewer are available, then smaller lots are possible.

If the family decides to sell it then it would have to be sold as one lot? Yes.

The Board asked when the manufactured home was moved off? Mr. Cheek was unsure, he thought possibly 2004 or 2005. Staff pointed out that it was still on there in the 2007 aerial.

Chairman Foster asked for staff to summarize Findings of Facts.

Staff gave a PowerPoint presentation on the Marvin Road property.

How long have you owned the property? Applicant had bought the property about 2007. It had been owned by his parents.

A Board member said he had a question about the letter that was submitted concerning the septic but Yadkin County Environmental Health had already approved the existing septic system. It was a serious accusation and he wanted to ensure that the county inspector has checked the septic system. A copy of the approved environmental health permit was submitted and included in Board packets.

A Board member asked if there were two septic systems on the property? There are. There is a common well.

Chairman Foster asked if the Board wished to entertain a motion...Jeff Smith made a motion to approve. Dale Holcomb seconded the motion:

A Board member said as long as it meets environmental health regulations. He had a concern about the septic issue. Someone had alleged continuing septic issues (letter submitted) but that has been addressed and approved. It was a serious concern but it has been addressed.

If the property had not had a mobile home on it would he be able to put it on?

No because 1) He does not reside on the property. If it is not a family member then the property owner must live on the property. 2) Lot size is not large enough to meet area requirements for the second dwelling.

What is the statute of limitations after he removes it? If you reintroduce the use within 365 days then it does not require a conditional use permit.

The use has to be there prior to adoption of the ordinance then continue through after the adoption of the ordinance. Those rules make the use nonconforming. The use has to exist after 2003 as well as before it to create that continuum that allows the Board to even consider it.

Board member expressed concern about setting precedence on the length of time.....The Sportsman's Paradise case was discussed.

The length of time is not given in the ordinance; you have to be able to establish that there was a continuum of use pre and post adoption. It has to be an established use which is why we have the 2002 and 2007 aerial included in the presentation and the file so that we can show

Board member asked about property to the south. It is zoned highway business but is a residence.

There being a motion on the table and seconded...the vote was 4-1 to approve.  
Ayes- Foster, Smith, Gentry, Holcomb  
Nays- Swain

### **Other Business**

No further business.

### **Adjournment**

With no other business to discuss, a motion to adjourn was made and seconded, the vote passed unanimously 5-0, and the meeting was adjourned at approximately 6:35 p.m.

Respectfully Submitted,

Dawn Vallieres, Secretary to the Board

Approved on \_\_\_\_\_

\_\_\_\_\_  
Chairman