

Minutes of the Yadkin County Board of Adjustment

June 11, 2012

Board Members Present:

Richard Foster- Vice Chair
Gray Gentry
Larry Vestal
Jeff Smith
Tim Swain – Alternate

Board Members Absent:

Landon Wagoner
Charles Collins- Alternate

Staff Present:

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

Guests Present:

Cathy Thiel	Mark Wooters
Bill Bigham	Bill Lasater
Gary Jester	Sheryl Jester
Robin Raymond	James Raymond

Call to Order

Vice Chairman Foster called the June 11, 2012 meeting of the Yadkin County Board of Adjustment to order at approximately 6:00 PM and attendance and quorum were noted. Tim Swain was made a voting member at the meeting.

Approval of Minutes

Vice Chairman Foster called for a vote to approve minutes of the April 9, 2012 meeting. Dawn Vallieres expressed Interim Director Bob Clark's apologies and relayed that he had asked that the minutes be tabled until the next meeting. Vice Chairman Foster called for a vote to postpone minutes of the April 9, 2012 meeting. A motion was made, seconded and passed. The Board voted in favor of postponement 5-0.

Additional Business

Vice Chairman Foster asked if there was any additional business. There being none, Vice Chairman Foster opened the public meeting.

Public Hearings

**Conditional Use Permit Application- Article 17. Conditional Uses. Section 8.
Auction House in Highway Business District- Ms. Cathy Thiel at 1014 Enon
Business Park Drive, East Bend, NC 27018**

Vice Chairman Foster explained to the audience in attendance that this was a quasi-judicial board, and not the same as a County Commissioner Meeting. That this meeting would be held similarly to a court hearing. He informed them that not just anyone could speak. They had to be signed in to speak.

Vice Chairman Foster asked if everyone who wanted to speak had signed in.
Vice Chairman Foster affirmed all those in the room that wished to speak on the matter.

Director Mike Poston asked the Board if they would like to see a Power Point presentation on the case. Vice Chairman Foster said they would have to suspend the public hearing to do so. Board members agreed to suspend meeting for the presentation. Dawn Vallieres gave a Power Point presentation giving the specifics of the case.

THE BOARD RESUMED THE PUBLIC HEARING

Robert Foster asked if there was anyone wanting to speak in favor:

Cathy Thiel handed out a packet of information she had prepared for each Board member, then took the stand and spoke about her proposed auction house, how she wanted it to be a nice place and wanted to work with the neighbors to ensure that everything was handled well. Auctions would most likely be held on Thursday evenings and Sunday afternoons.

Mark Wooters, the property owner, then spoke. He said that he had seen the way Cathy handled her business in W-S and that she was an honest, trustworthy, responsible person. He did not want to rent to someone who would cause problems.

Vice Chairman Foster asked if there was anyone wanting to speak against:

Bill Jester took the stand- "I don't want to speak against it but my biggest concern is noise. We live below the building and the sound carries. We like to sit out on our back porch, especially on Sunday afternoons"

Vice Chairman Foster – "Speak to the Board, Please"

Bill Jester – "Sunday afternoons we like to relax after church, you know, we own several acres and it looks like a long ways off but it really isn't, the sound carries, we can hear conversations and the gravel drive with people coming and going."

Vice Chairman Foster asked how long he had lived there- "since 1998"

Vice Chairman Foster asked if the business had been there before they bought – "Yes"

Bill Lasater took the stand- It is 555 feet door to door to my house. He discussed distance to other homes and noise. What type of items will be sold? "

Vice Chairman Foster stated that we can't specify items they can auction.

Bill Lasater- “Let’s discuss times- zoning has no restrictions. Will there be any more hearings on this? Will it be decided tonight? “

Vice Chairman Foster stated that the decision would be made tonight over the next 3 or so hours. Restrictions will be discussed in the regular meeting.

Director Mike Poston said “ If I may, if the board does put any additional conditions beyond what is contained in the criteria, that is something staff can take a look at enforcing . If a condition is not to go past X time and they are going past X time staff can look at enforcing it. For example, not to go past X time that is something that we can address with the applicant/ property owner. This is a condition approved by the Board; this is what the Board approved the use for.”

Vice Chairman Foster – “That’s what we’ll get to after the public hearing?”

Director Mike Poston—“Correct”

Vice Chairman Foster – “Does anyone else wish to speak?”

Robin Raymond- “My name is Robin Raymond. My husband Jim and I live directly across 421 from Mark’s property. I have several of the same concerns that have already been brought up. My 1st concern was the parking because, I’m sorry I am not visual about all this, “

Vice Chairman Foster –“ Talk to the Board, Please”

Robin Raymond- “I do not see where there is going to be enough parking for the maximum of 160 people, if they show up, You’ve been out there, I live across there, I just don’t see it, maybe if it was marked off but it is gravel drive, people can park where they want to. If they are going to have someone out there parking these people, but Mark is saying they can’t park here, they can’t park in front of this door, I just do not see where there’s going to be enough parking. My other concern AND I don’t want them spilling across the street and parking on my property or down the road. I don’t want them obstructing the road. There is a little business in front of my property, a florist or nursery, it is seasonal, if she is not opened when there is an auction, I don’t want people coming and parking on that property or parking on the road.

Vice Chairman Foster asked if the business was on her property.

Robin Raymond- “Yes. We own 7 acres from road front straight back, and our house is back in the woods. There is a small nursery that was there that my mother used to own but she rents to my cousin. “

Vice Chairman Foster- “but it is on your property?” – “Yes”

Robin Raymond- “My concern also was times; I heard that it is going to be Thursday and Sunday. My concern is what kind of items are you going to have to sell that they are going to be able to have auctions 2 times a week. What kind of clientele is it going to be

bringing into the area? She said she had an Auctioneers License but it was not listed on the NC State Auctioneers web site out of Raleigh and could not find her, and I was not able to find a web site for the business. Those are my concerns.”

Vice Chairman Foster asked how long she had lived there- “since 1999”
And that was zoned as commercial since you’ve been living there? – “yes”

Robin Raymond - “The businesses that are there now only store items and equipment. They are not open to the public. They do not have customers coming to the location. I’m confused about the Conditional Permit. What conditions are there? “

Vice Chairman Foster- “That is what we will discuss after the public hearing is over, when we reconvene our regular meeting.”

Robin Raymond-“So there are not conditions set that you can add to or take away from? You are going to define them? So you can say -These are your conditions or you are not going to get your permit.”?

Vice Chairman Foster said that was correct.

Board Member Gray Gentry pointed out that there were requirements. He then discussed minimum requirements. There are 5 items on the list they do have to meet. Property must be zoned HB or CB; minimum setbacks have to be doubled; site cannot create a greater nuisance than that created by the existing use or previous commercial use; cannot cause noise greater than that created by existing use or previous commercial use; cannot cause traffic flow greater than the existing or previous commercial use, and materials that must be submitted to the Board.

Robin Raymond-“So the conditions that are there say that her parking or her traffic flow or noise cannot exceed what is already currently happening there?”

Mike Poston – “ Typically speaking, what the Board will take into consideration, is information on proposed uses, the Board will probably want to take a look at is what is allowed in the district by right without a conditional use permit. What can the zoning department issue a permit for today? And there is a long list of that, all coming with associated impacts depending on the use. I’m sure the Board will take that into consideration.”

Vice Chairman Foster – “Does anyone else wish to speak?”

Bill Bigham- “On the plat map that was up earlier, I live just off the right hand upper corner, I live at 5637 Winding Creek Lane. We bought our house in Dec. of 2005, Mark’s project started just before we moved in. Concerns are about the noise. We do hear noise from the complex when heavy machinery is operating, which is not too often, from the center of the complex but can be heard ¼ mile away, it is 1300 feet.. I think if we had an increase in traffic in and out of the warehouse complex, we probably would hear it down through our little creek valley. I am concerned I saw that the basement is being rented by a volunteer fire department, Would that truck be able to get in and out easily during an

auction if it was needed? I've known Mark longer than any of you, I used to work for his dad, he has a nice operation now but I'm not sure that this type of almost retail use would fit in there. Thank you for your consideration."

Vice Chairman Foster - Does anyone else wish to speak?

Dawn Vallieres read comments from 2 residents who could not be here tonight- Keith Mathews is concerned about auctioneer's license and is opposed because we already have 1 auction house down the road and is concerned about items being left outside. Chester White is opposed due to the noise.

Cathy Thiel wanted to address the issues raised. Cathy Thiel took the stand- "They asked what kind of items, there is always someone dying, in bankruptcy, estate, there is always something to sell. There are always people willing to consign their items. As far as type of people- I have been to high dollar auctions, and they have to have money to come to these auctions. As far as caliber of people- some people with money are not upstanding and poor people that are very upstanding, there are just variations. I understand the noise concerns, but approved uses could create more noise. An antique shop is an approved use, which would be a constant use 11 hours a day 7 days a week versus 4 hours or so for an auction. But it is zoned Highway Business, as far as caliber of people, I can legally open a liquor store there without a conditional use permit. Type of people you just don't know. Times will be Sunday, Wednesday, Thursday, just depending. It may only be 1 day per week. Estates are different. If it comes through the court, Court ordered auctions have to be at specific court ordered times. As far as the livestock, it would not be an animal auction; I do a lot with animal rescue. She gave her auctioneer's license number and firm license.

Board Member Larry Vestal spoke about concerns about open doors. He asked if the building was air conditioned? – Cathy Thiel replied that the goal was next year. Would doors be opened? – Cathy Thiel replied that she would try to keep doors closed but that people entering and exiting would make it impossible to promise. The side doors would be in use. The doors on the end facing the Jester property would not be used, product would be lined up along there.

Board Member Tim Swain asked how long she has had her license. Cathy Thiel replied "since March" (2012). Have you ever run an antique shop? – "Not yet" Have you ever operated an auction house before? – "No but I have been to a lot and worked for several."

Mark Wooters – I was going to address the parking issue. Robin Raymond was concerned over parking on her property. I generally do the best to do what I say I'm going to. I'm confident that we can control the parking. Mark offered to place no parking signs on adjacent properties during auctions. "Cathy promised me that she was going to have someone out here parking during auctions. An auction house is going to bring in some traffic on Sunday afternoons. If there is a problem with noise, I think this back door is what the Jester's and Lasater's are worried about. It is 4 feet off the ground and was designed as a loading dock. The building's been sitting empty for 4 years. There is

some driving in and out, sometimes the machinery is the volunteer fire department, they bring their stuff out every Friday, honk the horns, run the sirens. “

Board Member Tim Swain asked how long is contract for? “3 years”
What kind of clause is there to terminate? “ I don’t think there is a noise clause in the contract, I am willing and I think Cathy would be willing to re-write the contract if that is something the Board would see fit .”

Vice Chairman Foster- We will now close the public hearing and reconvene the regular meeting. Vice Chairman Foster discussed the protocol.

Mike Poston told departing guests –“ The Board will discuss in public meeting, It is a regular meeting, you can stay, however, there are no more public comments, it is just the Board deliberating.”

Sheryl Jester- “ I did not sign in but can I ask a question?”

Vice Chairman Foster- “ No, ma’am”

Vice Chairman Foster – Asked for a motion to approve conditional use permit for auction house. A motion was made and seconded. Unanimous vote in favor 5-0. Now we have an active motion on the Board. Discussion ensued. We have a legal entity that has rights and responsibilities that go along with that. Gray mentioned criteria. What were they?

Gray Gentry- “ Minimal setbacks twice what would normally be required by this ordinance;

Vice Chairman Foster –“Let me ask a question about that? Would that be twice the commercial setbacks?”

Director Mike Poston – “Yes, Highway Business would be a 40’ setback so they would be required to have an 80’ setback. We have scaled that off and they meet the setback.”

Gray Gentry - No greater nuisance existing than proposed commercial use, cannot cause noise greater than existing use;

Vice Chairman Foster – “Proposed commercial use, you can’t go on existing use because it is sitting empty.”

Gray Gentry-“ cannot cause traffic greater than existing use”

Vice Chairman Foster – “This is on a major commercial road. “

Board Member Larry Vestal- “I was debating on that”

Vice Chairman Foster – ‘concerns as you get into feeder roads, but this is a state highway.’”

Board member Tim Swain -“So what is the required parking?

Dawn Vallieres - “20 spaces per the ordinance based on assembly and 4 for employees- there is adequate parking out there. Handicapped spaces are already marked.”

Discussion ensued about parking per ordinance and what is actually needed.

Director Mike Poston spoke about parking tables and how they were developed by Institute of Transportation Engineers. Parking tables are fairly standardized from municipality to municipality.

Vice Chairman Foster asked about parking for the current use. Dawn Vallieres showed a chart that listed current uses and required parking.

Continued discussion on whether it met all of the requirements. Discussion ensued about traffic flow. Flint Hill Road is a serious road, not a feeder road, it feeds into 421. 421 is a state highway.

Vice Chairman Foster – Asked for a motion to approve conditional use permit for an auction house. Larry Vestal made the motion and Tim Swain seconded. Unanimous 5-0 vote in favor.

Director Mike Poston- “ Dawn will work on the actual minutes and the findings, if the Board finds the findings to be per their specifications and we will have that reflected in the order that you would sign.”

Vice Chairman Foster – “Does anyone have any considerations on anything?”

Services & Development Director Mike Poston - “Would the Board mind voting to approve the finding of facts as submitted? “

Vice Chairman Foster – “Do we have a motion to approve the findings of fact as submitted by staff? “ a motion was made, seconded and passed unanimously 5-0

Adjournment

With no other business to discuss, a motion was made, seconded and passed unanimously 5-0, and the meeting was adjourned at approximately 7:55 p.m.

Respectfully Submitted,

Dawn Vallieres
County Planner

Approved _____

Chairman