

MINUTES
BOARD OF ADJUSTMENT
City of Burlington, NC
February 9, 2016

Members Present

City:

Mr. Mike Gee, Acting Chairman
Mr. Todd Smith
Mr. Robert Giles II (Alt.)

ETJ:

Mrs. Sylvia Greeson (Alt. ETJ)

Members Absent

City:

Mr. Ed Wilson, Chairman
Mrs. Joyce Lance
Mr. Eric Grant (Alt.)

ETJ:

Mr. David McDevitt (Alt. ETJ)

Also present was Mr. Joey Lea, Zoning Administrator and Mr. Chris Marland, Zoning Enforcement Officer.

Acting Chairman Mr. Mike Gee called the meeting of the Board of Adjustment to order at 8:30 a.m. Acting Chairman Mr. Mike Gee stated, the city representatives to the Board of Adjustment are appointed by the City Council. This is a quasi-judicial hearing. Everyone speaking before the Board should state their name, sign the log on the podium, and swear or affirm that everything they say is true to the best of their knowledge. Appeals of the Board's decisions may be taken to the Alamance County Superior Court. The City will state their position because of their knowledge of the case and the technical codes. The applicant will state their case, and then anyone from the public may speak. After the applicant and the public have presented all evidence the Board will then close the meeting to the public and discuss the case and vote. During this time no more evidence shall be admitted nor any other arguments made unless the Board wishes to ask the Applicant a question pertaining to the evidence already presented. Anyone that tries to make an argument or present any evidence at this time will be out of order. The Chairperson may order any individuals who willfully interrupt, disturb, or disrupt to leave; failure to comply with this order is punishable by imprisonment up to 60 days, a fine of up to \$1000.00 or both. An affirmative four-fifths vote is required to grant a variance. A majority vote is required to grant a Special Use Permit or to determine an appeal.

DUE PUBLICATION

Mr. Chris Marland, Zoning Enforcement Officer with the City of Burlington stated, due notice and publication of this meeting of the Board of Adjustment has been made, and all contiguous property owners were mailed a notice advising of this meeting.

SWORN TESTIMONY

Prior to testifying before the Board, each party was sworn in or affirmed that the testimony they were about to give was true to the best of their knowledge.

MEETING MINUTES

Board Member Mr. Todd Smith made a motion to approve the minutes as corrected. Board Member Mrs. Sylvia Greeson seconded the motion. The Board voted unanimously to approve the January 12, 2016 Meeting Minutes.

ITEM NO. 1:

CASE NO. 02-16 SPECIAL USE PERMIT (City)

Robert F. McCormick Jr.

104 N. Church St.

Alamance County Tax Map number 011-32-44

§ Section 32.13.U

Motor vehicle towing and storage in an I-2 zone.

EVIDENCE PRESENTED: Zoning Enforcement Officer Mr. Chris Marland stated, before you today is Case No. 02-16 for 104 North Church Street. Some of you may remember this from last month. Mr. Robert F. McCormick Jr. was in here and he applied for an outdoor storage yard on his property. Today he is here again before you with Doug Adams from Adams Towing. They are here to ask you for a Special Use Permit for a motor vehicle towing and storage lot to be located on the same property. He will have the towing storage lot be 50X100; 5,000 sq. ft. which is required by our ordinance. Some of you remember from last month that he also needs a place for a 40X40 fenced in area that will be just to the Church Street side of where he will locate this one. Acting Chairman Mr. Mike Gee asked, you said the 50X100 was required by the City Ordinance? Zoning Enforcement Officer Mr. Chris Marland stated, yes, 5,000 sq. ft. is required for a towing and storage lot according to the Special Use Permit section of our ordinance. Board Member Mrs. Sylvia Greeson asked, can you show us again where the other screened in area is going to be? Zoning Enforcement Officer Mr. Chris Marland stated, it's going to be right here, I guess that would be to the southwest towards Church Street, right in this general area as seen on the map; probably where those trailers are at. Mr. McCormick did say he was going to remove those trailers. The two storage areas will kind of be butted against each other. Acting Chairman Mr. Mike Gee asked, Mr. McCormick please come forward and state your name and swear or affirm that everything you say is going to be the truth.

Mr. Robert McCormick Jr. stated, my name is Robert F. McCormick Jr., I affirm that I will tell the truth. It's like they said Mr. Adams is wanting that storage lot right there, more convenience for him in towing for the town in the overload lot. I was just going to slide my storage lot down beside of it. Acting Chairman Mr. Mike Gee asked, is this something that you think is going to have any negative impact on surrounding property owners? Mr. Robert McCormick Jr. stated, no sir. My neighbor Wesley, who I went to high school with, he works for the bank and I've talked to him and he said whatever I want to do, is fine with him. So I've talked to my neighbors about it. Board Member Mr. Todd Smith asked, none of your neighbors has any complaints about this? Mr. Robert McCormick Jr. stated, no sir. Board Member Mrs. Sylvia Greeson asked, you said this was going to be an overflow lot for Adams Towing? Mr. Robert McCormick Jr. stated, yes ma'am. Board Member Mrs. Sylvia Greeson asked, where is Adams Towing in relation to your property? Mr. Robert McCormick Jr. stated, he is located on Belmont St. off of Webb Ave. If you notice downtown, near Church Street, when there is an accident they need to get them out of the area to reduce the hazards in the street. It's just centrally located right in the heart of downtown. Acting Chairman Mr. Mike Gee asked, do you think that if the Special Use Permit is granted that you will have any negative impact from a value stand point to any adjoining property owners? Mr. Robert McCormick Jr. stated, no sir. Board Member Mr. Todd Smith asked, we talked about this a little last time. This area you already use for some storage and of course you just got a Special Use Permit last week to have some more storage, is that right? Mr. Robert McCormick Jr. stated, it was last month but it's different, this one is for cars specifically.

Board Member Mr. Todd Smith asked, ok, so this area is already being used for storage? Mr. Robert McCormick Jr. stated, yes but it's going to change too. I couldn't build the storage lot before I got this one. Board Member Mr. Todd Smith asked, is this in harmony with the area? Mr. Robert McCormick Jr. stated, it is industrial so, yes sir. Board Member Mr. Todd Smith asked, there's nothing that is going to change the kind of safety here? Mr. Robert McCormick Jr. stated, no sir. You can't have anything on the street in front so it's all on the side. Board Member Mr. Todd Smith asked, you've worked intensively with the City to try and do this, you talked about this last time, isn't that right? Mr. Robert McCormick Jr. stated, yes sir. Acting Chairman Mr. Mike Gee asked, are there any more questions for Mr. McCormick? Thank you Mr. McCormick we may call you back. Is there anybody from the public that would like to comment on this request? Seeing no comment we will close for discussion among the Board.

DISCUSSION & FINDING OF FACTS: Board Member Mr. Todd Smith stated, we said last time, this was the old dog food plant, I'm glad to see somebody using it, glad to find another use for it. I think it's a good idea; it seems to meet that all the requirements for a Special Use Permit, so I would recommend that we make a motion. Board Member Mrs. Sylvia Greeson stated, it seems we are just extending what was approved last month, it's just more storage. Board Member Mr. Todd Smith stated, of course he has worked with the City to screen it and fence it and all that kind of thing. Acting Chairman Mr. Mike Gee stated, it does appear to continue to improve the property. Board Member Mrs. Sylvia Greeson stated, particularly the screening of the fencing, it helps to improve, I would think, the appearance. Acting Chairman Mr. Mike Gee asked, did we ask that question? Board Member Mrs. Sylvia Greeson asked, about the screening? No we did not. I think it's in the ordinance. Yes it is, screening, 3(C). Acting Chairman Mr. Mike Gee asked, can I ask a question without opening this back up to you guys Joey, Mr. Marland? Mr. Marland, Mr. Lea, is screening and fencing the minimal requirement set forth by the ordinance and we are doing this? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir. We have spoken with Mr. McCormick and Mr. Adams and they understand the screening requirements and have agreed to them. Acting Chairman Mr. Mike Gee stated, ok thank you. Any further discussion from the Board? Board Member Mr. Todd Smith said, no.

DECISION: Board Member Mr. Todd Smith stated, I would like to make a motion that the four required conditions for issuing a Special Use Permit in accordance to Section 32.13.B(1)(a) are met due to the following Finding of Fact:

1. **the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved;**
the findings of fact are, I find that, the reason that I think it would not materially endanger the public, is because it's already an industrial area that has been used for storage. In fact, this Board approved a similar storage area one month ago, and it's almost ideally suited for storage in that situation.
2. **the use meets all required conditions and specifications;**
the findings of fact are, we talked to Mr. Marland and he says they have met all the specifications, we've got a list here and he has done those things including the screening that was required.

3. **the use will not substantially injure the value of adjoining property or that the use is a public necessity;**

the findings of fact are, I think we have facts that can indicate both of those things and it won't injure the value of adjoining or abutting properties. Mr. McCormick has stated that as the owner of the property he believes that it won't do that and he has notified the neighbors and we've got no response as far as anybody else given any negative information. Also towing is a public necessity and people wreck cars and they have to be taken somewhere and it's also a public necessity.

4. **The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs;**

the findings of fact are, this has already been used in a similar situation and it doesn't seem to be affecting anything in a harmful way and so therefore it's in harmony with the environment.

Board Member Mr. Robert Giles II seconded the motion.

AYES: Giles, Gee, Smith, Greeson

NOES:

Board Member Mr. Todd Smith stated, I would like to make a motion to approve the Special Use Permit for Mr. McCormick to be located at 104 North Church Street. Due to the previously stated Findings of Fact and that the applicant shall complete development in occurrence to the plans submitted to be approved by this Board and if any of the conditions affix here to or any part there of shall be held invalid or void as this permit shall be void and have no effect.

Board Member Mr. Robert Giles II seconded the motion. The board voted unanimously to approve the Special Use Permit.

AYES: Giles, Gee, Smith, Greeson

NOES:

NEW BUSINESS: None

MEETING ADJOURNED

H.E. Wilson III, Chairman

Kelly Peele, Secretary