

MINUTES
BOARD OF ADJUSTMENT
City of Burlington, NC
July 12, 2016

Members Present

City:

Mr. Mike Gee, Vice-Chairman
Mr. Todd Smith
Mrs. Joyce Lance

ETJ:

Mrs. Sylvia Greeson (Alt. ETJ)

Members Absent

City:

Mr. Ed Wilson, Chairman
Mr. Robert Giles II (Alt.)
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. The Extraterritorial members are appointed by the County Commissioners. 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 interrupts, disturbs, or disrupts to leave. Anyone who willfully refuses to leave the meeting is guilty of a Class 2 misdemeanor. 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.

ITEM NO. 2:

CASE NO. 05-16 SPECIAL USE PERMIT (City)

Annie Woods

1875 N. NC Hwy 62

Alamance County Tax Map number 12-52-89

§ Section 32.13.W

Child care facility

EVIDENCE PRESENTED: Zoning Enforcement Officer Mr. Chris Marland stated, case number 05-16 this morning is at 1875 North NC Highway 62 for Annie's Blessed Children Daycare and Ms. Annie Woods is here to talk about that today. This is an existing childcare in-home center that she has for 8 children on 3 shifts currently. She is seeking to add 4 more children to the State's maximum of 12 children for 3 shifts for her in-home children's daycare. As you see on the map, there is a fenced in area already, and again this is an existing in-home child day care and that's pretty much what this case is about today. Acting Chairman Mr. Mike Gee asked, as far as the technical requirements for the codes, are we in good shape there? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir, she is already meeting all of those. Acting Chairman Mr. Mike Gee stated, alright, any other questions for Mr. Marland?

Ms. Annie Woods stated, I'm trying to increase my facility to 12 children per shift because I get calls where I can't accept more children and I want to accept more. Acting Chairman Mr. Mike Gee asked, how long have you been running this childcare facility? Ms. Annie Woods stated, 10 years. Acting Chairman Mr. Mike Gee asked, in this same location? Ms. Ann Woods stated, yes. Acting Chairman Mr. Mike Gee asked, how many children do you currently have? Ms. Annie Woods stated, I have 8 children. Acting Chairman Mr. Mike Gee asked, on just one shift? Ms. Annie Woods stated, no, I have 3 on first shift, and 5 on second shift. Acting Chairman Mr. Mike Gee asked, this request would allow you to have up to 12 children on three separate shifts is that correct? Ms. Annie Woods stated, yes. Acting Chairman Mr. Mike Gee asked, I know that you are already an existing facility but we need to try and figure out if the use will materially endanger the public health or safety if we grant this additional permit. Do you think that by allowing you to go from 8 to 12 children that we will be creating issues with the public health or safety? Ms. Annie Woods stated, no. Acting Chairman Mr. Mike Gee asked, if we were to allow you to add additional children to the facility on a per shift bases do you think it will have a negative impact on adjoining property owners? Ms. Annie Woods stated, no. Acting Chairman Mr. Mike Gee asked, ok, if we let you do this, do you think it will be in harmony with the area in the neighborhood you are located in? Board Member Mrs. Joyce Lance asked, lets restate that shall we; do you think what you are doing fits in to where the neighborhood you are at now and do you think the extra children will make a difference? Ms. Annie Woods stated, yes it fits in with the neighborhood and it will help with the neighborhood. Board Member Mrs. Joyce Lance asked, where is the nearest child care facility to you? Ms. Annie Woods stated, next door. Acting Chairman Mr. Mike Gee asked, are they pretty full also? Ms. Annie Woods stated, yes. Acting Chairman Mr. Mike Gee stated, ok, sounds like there is a need in this community for additional childcare facilities capacity.

DISCUSSION & FINDING OF FACTS: Board Member Mr. Todd Smith asked, has there been any public comment on this? Zoning Enforcement Officer Mr. Chris Marland stated, no sir there has not. Board Member Mrs. Joyce Lance stated, the precedent has been set, we often have people come here to simply increase their service to the community and I don't see any problem with it.

DECISION: Board Member Mrs. Joyce Lance 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, this is a daycare business that has been there for 10 years and there is really no change other than increasing the number of children per shift by 50%.
2. **the use meets all required conditions and specifications;**
the findings of fact are, Ms. Woods has been in this business for 10 years and is aware of all State requirements and it has been testified by the City that she has met all required conditions and specifications.
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, per Ms. Woods testimony, she has a number of calls asking for her services so obviously it is a necessary service and there is no expert here to say that there would be injury to adjoining or abutting properties.
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, she has been there 10 years and there is a daycare next door, so I think that shows harmony in the neighborhood.

Board Member Mrs. Sylvia Greeson. seconded the motion.

AYES: Lance, Gee, Smith, Greeson

NOES:

Board Member Mrs Joyce Lance stated, I would like to approve the request for Annie's Daycare at 1875 North NC Highway 62 due to the previously stated Findings of Fact and that the applicant shall complete the development in accordance to the plans submitted and approved by this Board and if any of the conditions affixed hereto or any part thereof shall be held invalid or void then this permit shall be void and of no effect.

Board Member Mrs. Sylvia Greeson seconded the motion. The board voted unanimously to approve the Special Use Permit.

AYES: Lance, Gee, Smith, Greeson

NOES:

NEW BUSINESS: Acting Chairman Mr. Mike Gee asked, is there anymore business before the Board? Zoning Enforcement Officer Mr. Chris Marland stated, we have voting of officers it's that time of the year for that, where we vote in Chairman and Vice-Chairman. Board Member Mrs. Joyce Lance stated, I make a motion that we renew Ed Wilson's term as Chairman of the Board of Adjustment Committee. Board Member Mrs. Sylvia Greeson seconded the motion. The board voted unanimously to approve the renewal of Ed Wilson's term as Chairman of the Board of Adjustment.

AYES: Lance, Gee, Smith, Greeson

NOES:

Board Member Mrs. Joyce Lance stated, I make a motion that we renew Mike Gee's term as Vice-Chairman of the Board of Adjustment Committee. Board Member Mrs. Sylvia Greeson seconded the motion. The board voted unanimously to approve the regal of Mike Gee's term as Vice-Chairman of the Board of Adjustment.

AYES: Lance, Gee, Smith, Greeson

NOES:

MEETING ADJOURNED

H.E. Wilson III, Chairman

Kelly Peele, Secretary