

MINUTES
BOARD OF ADJUSTMENT
City of Burlington, NC
October 10, 2017

Members Present

City:

Mr. Mike Gee, Vice-Chairman
Mr. Todd Smith
Mrs. Joyce Lance
Mr. Robert Giles II (Alt.)

Members Absent

City:

Mr. Ed Wilson, Chairman
Mr. Eric Grant (Alt.)

ETJ:

Mrs. Sylvia Greeson (Alt. ETJ)

ETJ:

Mr. David McDevitt

Also present were 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 interrupts, disturbs, or disrupts to leave the meeting. Any person who fails to comply with this order 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 required 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 per corrections. Board Member Mrs. Sylvia Greeson seconded the motion. The Board voted unanimously to approve the August 8, 2017 Meeting Minutes per corrections.

ITEM NO. 3:

CASE NO. 09-17 SPECIAL USE PERMIT (City)

Collateral Recovery

1520 Industry Dr.

Alamance County Tax Map number 12-5C-17

§ Section 32.13.U

Motor Vehicle Towing/Storage Facility

EVIDENCE PRESENTED: Zoning Enforcement Officer Mr. Chris Marland stated, case 09-17 as you stated is at 1520 Industry Drive. We have Collateral Recovery looking to get a Special Use Permit to operate a motor vehicle towing/storage yard at this location. We received three phone calls about the sign; all of them had no problem with the motor vehicle towing being there. One gentleman said he thought this was the best place for it; he even wanted to make sure I said that to you. Acting Chairman Mr. Mike Gee asked, are there any questions for Mr. Marland? Board Member Mr. Todd Smith asked, does it require the fencing with the slats? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir, and if you will notice, I just pulled up on the screen for you there the fenced in area, and he knows he has to put the screening on there, and he can testify more to that. Board Member Mr. Todd Smith asked, is this part of the City's Planning and Zoning code? Zoning Enforcement Officer Chris Marland stated, yes sir, it is part of a Special Use Permit. In that section of the code it states about the screening and the visibility. Board Member Mr. Todd Smith asked, did you have to make it a condition of the permit or is it just already in there? Zoning Enforcement Officer Mr. Chris Marland stated, no it meets the requirements of that section of the ordinance. Acting Chairman Mr. Mike Gee asked, just to clarify the specific requirements in the ordinance is that there will be a chain linked fence minimal of 6 feet in height, there will be proper screening of the area, the surface that the cars will be located on will be a well maintained, all weather surface, the lighting won't light upon adjacent properties and it will not be within a 100 feet of any residentially zoned property and just to clarify are you stating that those specific requirements conditions are met? Zoning Enforcement Officer Mr. Chris Marland stated, they are met or going to be met, that is correct and he can testify again more to the fencing and the screening. Board Member Mrs. Sylvia Greeson asked, can you tell me what the site is currently being used for? Zoning Enforcement Officer Mr. Chris Marland stated, as part of your owner packet there is a letter from AIM Nationalease Inc. I'm not exactly sure what they do there, but they can testify to that. I just know that is the current tenant there, their sign is still up and they have agreed that they know this is going on. I think it is some type of trucking terminal, maybe. Acting Chairman Mr. Mike Gee asked, any further questions for Mr. Marland? Ok, if someone from Collateral Recovery would come forward and if you would state your name and swear or affirm that everything you say will be the truth.

Mr. Pete Guelho stated, Pete Guelho from Collateral Recovery and everything I say and state will be the truth. Acting Chairman Mr. Mike Gee asked, if you can tell us what you are hoping to do here that would be great. Mr. Pete Guelho stated, just to move and store repossession vehicles for everyday use. Acting Chairman Mr. Mike Gee asked, are you currently in this business? Mr. Pete Guelho stated, yes sir. Acting Chairman Mr. Mike Gee asked, are you using a lot anywhere else at this point? Mr. Pete Guelho stated, on E. Webb Avenue. Acting Chairman Mr. Mike Gee asked, ok. So this will be in addition to your existing facility? Mr. Pete Guelho stated, no I'm shutting this one down. Board Member Mrs. Joyce Lance asked, I know I'm being really specific but you said repossess vehicles and cars you are including trucks and any motor vehicles? Mr. Pete Guelho stated, yes ma'am. Board Member Mrs. Joyce Lance asked, is it repossess only? Mr. Pete Guelho stated, yes. Acting Chairman Mr. Mike Gee asked, obviously this is an industrial area and there are certain conditions that have to be met in order to grant a Special Use Permit and the first one is that the use is not going to materially endanger the public health or safety if it is located where it is proposed, do you believe that this location moving your business is going to have any impact and endanger the public health or safety? Mr. Pete Guelho stated, no. Acting Chairman Mr. Mike Gee asked, in your opinion do you think that that the use, if you move your business here, will have any negative impact on the value of any adjoining properties? Mr. Pete Guelho stated, no sir. Acting Chairman Mr. Mike Gee asked, ok. I asked these questions to Mr. Marland and if you could just confirm for us are you intending to meet specific requirements of the ordinance regarding the security with a chain link fence around the property? Mr. Pete Guelho stated, yes sir. Acting Chairman Mr. Mike Gee asked, is that fence going to be at least 6 feet high? Mr. Pete Guelho stated, yes sir. Acting Chairman Mr. Mike Gee asked, and it will be locked whenever someone is not there? Mr. Pete Guelho stated, yes sir. Acting Chairman Mr. Mike Gee asked, and you are going to keep the proper screening? Mr. Pete Guelho stated, yes sir. Acting Chairman Mr. Mike Gee asked, as far as the surface of the lot goes, is it well maintained? Mr. Pete Guelho stated, yes it is asphalt. Acting Chairman Mr. Mike Gee asked, as far as lighting goes, you don't intend to have any lighting outward facing do you at this point? Mr. Pete Guelho stated, no sir, whatever lighting is there, is what we will put on and remain. Acting Chairman Mr. Mike Gee asked, you will not be within a 100 feet of any residential property either, correct? Mr. Pete Guelho stated, no sir. Board Member Mrs. Joyce Lance asked, I would like to ask what type of screening? Mr. Pete Guelho stated, it's going to be lattice slats. Board Member Mrs. Joyce Lance stated, ok, you know what the screening requirements are and you have been giving this in writing and you know you have to meet that? Mr. Pete Guelho stated, yes ma'am. Acting Chairman Mr. Mike Gee asked, the final requirement that the location of the use if it is developed as you are requesting will be in harmony with the area that it's going to be located in, can you tell us a little bit about your neighbors in this area? Mr. Pete Guelho stated, looking at the property to my right is Chisholm and to the left is Sacho maybe. I believe it is Sacho but I don't know what they do; some kind of aluminum piping or something is all I see out there. Acting Chairman Mr. Mike Gee asked, so it is an industrial area? Mr. Pete Guelho stated, yes sir. And they are also across the street, in the building behind me, and the building to the left of me and are all owned by the same business. Board Member Mrs. Joyce Lance asked, approximately how far away is the nearest resident? Mr. Pete Guelho stated, I don't know. I believe that is all industrial. I don't believe there is a residence there. Board Member Mrs. Joyce Lance asked, about a half a mile, just guess? Mr. Pete Guelho stated, on that whole street there is not a residence on it. Acting Chairman Mr. Mike Gee asked, are there any further questions for Mr. Guelho? Thank you Mr. Guelho we will ask you back if we need anything else.

Mr. Pete Guelho stated, thank you. Acting Chairman Mr. Mike Gee asked, is there anyone from the public that would like to address this request? Seeing as there is no public commentary we will close this to Board discussion.

DISCUSSION & FINDING OF FACTS: Board Member Mrs. Joyce Lance stated, he meets all the requirements, he has affirmed that there is nothing but industrial uses out there. Board Member Mrs. Sylvia Greeson stated, there is no residential anywhere in the area. Acting Chairman Mr. Mike Gee asked, would anyone like to make a motion?

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, per testimony and per location, this is an industrial/commercial area and there are no problems specific to this particular location.
2. ***the use meets all required conditions and specifications:***
the findings of fact are, Mr. Guelho affirmed that all of the requirements regarding size, security, screening, surface, lighting, and location meet the requirements of the City either at this moment or will be done prior to opening this business.
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, there is no expert here, real estate broker, or other type of real estate expert to testify that there would be any injury to any adjoining property. This is a storage area for repossessed vehicles so it is 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 is a long established commercial industrial section in this town and it is definitely in harmony as the applicant can't even state a private residence that is even close, so there is no question that its location and character is in harmony with the area.

Board Member Mr. Todd Smith seconded the motion.

AYES: Giles, Lance, Gee, Smith, Greeson

NOES:

Board Member Mrs. Joyce Lance stated, I would like to make a motion to approve the Special Use Permit for Collateral Recovery to be located at 1520 Industry Drive, Burlington, NC. Due to previously stated Findings of Facts that the applicant be required to meet all the requirements of the City and the applicant/owner shall complete the development in accordance with the plans submitted and approved by this Board and if any of the conditions as a fixed here to or any part there of shall be held invalid or void then this permit shall be void and of no affect.

Board Member Mr. Todd Smith seconded the motion. The board voted unanimously to approve the Special Use Permit.

AYES: Giles, Lance, Gee, Smith, Greeson

NOES:

NEW BUSINESS: None

MEETING ADJOURNED

H.E. Wilson III, Chairman

Kelly Peele, Secretary