

MINUTES
BOARD OF ADJUSTMENT
City of Burlington, NC
March 11, 2014

Members Present

City:

Mr. Ed Wilson, Chairman
Mr. Todd Smith
Mrs. Joyce Lance
Mr. Eric Grant

Members Absent

Mr. Mike Gee

ETJ:

Mrs. Sylvia Greeson

Mr. David McDevitt

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

Chairman Ed Wilson called the meeting of the Board of Adjustment to order at 8:30 a.m. Mr. Wilson stated the city representatives to the Board of Adjustment are appointed but 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 6 months, a fine of \$250.00 or both. An affirmative four-fifths vote is required to grant a variance, special use or 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

Chairman Mr. Ed Wilson stated the first item of business for today is going to be the approval of the minutes from the October 8, 2013 and February 11, 2014 meeting. Are there any proposed changes? Board Member Mrs. Sylvia Greeson stated yes, the first set of minutes October 8, 2013, third page, first paragraph, needs to be "gist" not "jest". Board Member Mrs. Joyce Lance stated on the next page of the same minutes going down to line 17, needs to be "improved" not "approved". Line 18 "improved" not "approved", then line 26 "improved" not "approved". Board Member Mr. Todd Smith made a motion to approve amended minutes held from October 8, 2013 meeting. Board Member Mr. Eric Grant seconded the motion. The Board voted unanimously to approve the October 8, 2013 Meeting Minutes. Board Member Mr. Eric Grant made a motion to approve minutes held from February 11, 2014 meeting. Board Member Mrs. Sylvia Greeson seconded the motion. The Board voted unanimously to approve the February 11, 2014 Meeting Minutes.

ITEM NO. 1:

CASE NO. 01-14 – VARIANCE (CITY)

Forestdale Apartments

3567 Forestdale Dr.

Alamance County Tax Map 3-19-14

§ Section 32.4 (9)(b) & 32.4 (9)(c)

Minimum Distance Between Buildings for Multifamily Developments

EVIDENCE PRESENTED:

Zoning Enforcement Officer Mr. Chris Marland stated, the first case today is from Forestdale Apartments LLC, located right off Forestdale and Huffman Mill Rd. They are asking for a variance for four of their buildings. Buildings D, E, H and J. Looking at your screen you see buildings J and H in which they are looking for a 5.21 ft. variance, and between buildings D and E, and they are looking for a 5.27 ft. variance. Board Member Mrs. Joyce Lance asked, the first one was 5.12 ft.? Mr. Marland stated, 5.21 ft. variance between J and H. Mr. Wilson stated, those are pretty exact measurements. Mr. Marland stated, that is correct. This is an as built survey that was done for Forestdale LLC. The reason for the variance is because we have minimum distance between buildings that are required by the code. These are regulated by height and whether or not each of those buildings has a door or window and if they are facing each other. In this instance they do have doors and windows facing each other which would require a certain separation, and that's why it is so exact. There is supposed to be a minimum of 50 ft. between buildings J and H. That is where they are 5.21 ft. short, and a minimum of 40 ft. between buildings D and E where they are 5.27 ft. short. Mr. Wilson asked, why the difference in the 40

ft. and 50 ft.? Mr. Marland stated, If you look at buildings J and H, where there was a 50 ft. separation required, it is because they have 2 walls facing each other that contains a rear or side entrance. Between buildings D and E is where either 2 walls facing each other contains a window. That is where you get your 50 ft. or 40 ft. difference. These were constructed in 1998 and this company didn't purchase the property until 2012. Board Member Mrs. Sylvia Greeson asked, the original construction drawings, did they have the proper distance between them or do we have any way of knowing and were permits issued for the buildings? Mr. Marland stated, permits were issued and finalized for the building, but we do not have a copy of the original permits for the building anymore. Mrs. Greeson asked, the assumption is that they had the proper distance during construction? Mr. Marland stated, something was apparently missed during the inspection. Chairman Mr. Ed Wilson asked, what is the purpose for this variance? Is it for fire trucks to get through the two buildings? Zoning Administrator Mr. Joey Lea stated, the distance required between the two buildings is based on fire safety. The reason they are here today is because financial lending institution's today will not lend money to a property that has a zoning violation. The variance will correct it and make it legal. The original plans should have had correct dimensions on it when they were built and it was probably not caught in the field. This is not a financial hardship but it is a hardship none the less and it's not uncommon for this board to hear this type of request. Just one quick thing on the variance between buildings D and E the exact measurement is going to be 6.27ft. I miscalculated. Mr. Wilson asked, that is the requested variance? Mr. Lea stated, that is correct. Mr. Wilson asked, so the request for the variance between buildings D and E is 6.27ft and that's on the 40ft minimum variance? Mr. Marland stated, correct. Mr. Wilson asked, and then the variance between buildings J and H is the 50ft minimum variance? Mr. Marland stated, that is correct. Mrs. Lance asked, I thought you said that was a mistake and that buildings D and E were 5.27ft that you miscalculated? Mr. Lea stated, it is 6.27ft. Board member Mr. Todd Smith asked, there are no plans to build anything, this is just for financing? Mr. Lea stated, correct, as far as we know. The applicant will testify to that.

Mr. Paul Oertel stated, my name is Paul Oertel and I am an attorney here in Burlington. I represent Forestdale Apartments LLC. This is an issue that has arisen recently. We acquired the property in May 2012 so we inherited the problem. We discovered the problem and we were concerned. Selling, financing these are issues that in the financing world now a days are problems. We have to disclose this to a lender or to a buyer and the problem is that if you strictly read the ordinances, we are out of compliance. We would be required to literally move the building and I think that's the problem. The problem is literal enforcement would be an undue hardship upon us. Not just now but in the future. Banks don't want that, buyers don't want that and as such we have to come here and ask for that variance. Now, I looked at the ordinance and I have looked at the revisions and noticed there is a few provisions that we would like to look at or questions we would like to ask. One is, are we changing the use? No we are not changing the use. We are not going to do something we're not already doing and we're not going to ask for something that's not permitted. Are we expanding with a conforming or a non-conforming issue? No, we're not going to expand it. Are we changing the zoning maps? No, we are not asking to

change the zoning map. Other factors include the adequate supply of air and light to surrounding properties? Again, it is a completely internal issue. There will be no impact on surrounding properties. It's our position we're not increasing the fire hazard. Values of the properties adjoining it? I cannot imagine we're going to impact those of course we're talking about 6.27 ft. and 5.21 ft. internal measurements only. Frankly, no one would know this. The City of Burlington wouldn't have known this unless we came forward and said we have a problem which we did. Again, why wouldn't we let a sleeping dog lie? Because of the financing we are required to disclose this to other parties. If we did not do this disclosure we would have a liability. 16 years ago would have been great had we found the problem then. It could have been a window was moved, could have been a door was moved, it could have been just an error. We don't know what happened but 16 years ago it might have been feasible to move the foundation, might have been feasible to do that but today, the thought of moving one building 5ft, we could be out of tolerance with another aspect of the code, a setback violation, another building setback. Moving point A to point B is not a feasible issue. As for the real premise that I see is how is the public harmed? That's what we are here to ask. As far as I can tell, the public is not harmed. There is no impact on it. Board member Mr. Todd Smith asked, do you know if they had to get special zoning permission to build these apartments? Mr. Paul Oertel stated, I don't believe they did. If you are familiar where my office is, I can actually look out my windows and see these buildings. I can remember when they built them and I do not recollect if it was a special use. It's a B-2 zoning in the back and I think it's a qualified use in the front. Mr. Wilson asked, just for the record there is no plan to add on to these buildings, to change the existing footprints anyway, to further encroach variances on these existing buildings or other existing buildings on the property? Mr. Paul Oertel stated, as far as I know, no. In fact I think we cannot do that based on the setbacks. If you actually look at the property on the map there are power lines, there's water retention ponds, there's also parking lots. There really is no physical space to build anything else. It is fully built out. Mrs. Lance stated, I just want to get my dates right, the complex was built in 1998 and then sold in May 2012. Is this a resell you are getting financing for or is it taking this long to seek financing for the sale in 2012? Mr. Paul Oertel stated, my client acquired financing in 2012 and then I believe we redid some financing later on. So now we may do some financing or sell down the road but nothing has been determined as of yet. Mrs. Lance asked, would it be fair to call it refinancing? Mr. Paul Oertel stated, yes. Mrs. Lance asked, but you are really not going that route right now, you just want the option to do it for later? Mr. Paul Oertel stated, correct. I believe my clients are exploring that.

DISCUSSION & FINDING OF FACTS: Board Member Mrs. Joyce Lance stated, it seems clear cut to me. It's well presented. Chairman Mr. Ed Wilson stated, it's not practical to start moving buildings. This is very consistent with some of the other variances we have approved in the past for these small 5-6 ft issues. Board Member Mr. Todd Smith stated, it has been there for 15 years and no one has complained. Mr. Wilson stated, exactly right. Fire department hasn't shown any problems with it.

DECISION: Board Member Mr. Todd Smith stated, I would like to make a motion we allow a variance for property located at 3567 Forestdale dr. for 6.27 ft. in the 40 ft. setback between buildings D and E; and 5.21 ft. variance in the 50 ft. setback between buildings G and H on this property. I think there are practical difficulties unnecessary hardships in a way of carrying out the ordinance, that being the building was already built and inspected by the engineers. No one caught the mistake. The company that owns the property now doesn't have anything to do with that and bought it later on. The variance is in harmony with the general purpose and intent of the ordinance preserves it spirit in that it was in the zoning originally intended for. It has been there 15 years or more and hasn't had any complaints from the public or anyone else as far as we can tell. We think that the public safety and welfare have been assured. Justice has been done. Even though it is a little smaller than the plan required there is still plenty of room to get in between there as far as fire trucks and safety and that type of thing. For those reasons I move that we allow the variance that we just mentioned as constructed and as of the site plan for the Forestdale Apartments LLC. Board Member Mrs. Joyce Lance stated, correction; it's building J and H not G and H.

Board Member Mr. Eric Grant seconded the amended motion. The board voted unanimously to approve the variance.

AYES: Lance, Grant, Wilson, Smith, Greeson

NOES:

ITEM NO. 2:

CASE NO. 02-14 – SPECIAL USE PERMIT (CITY)

Like My Own 3

1315 Plaza Dr.

Alamance County Tax Map 12-7-91

§ Section 32.13 W

Child Care Facility

EVIDENCE PRESENTED: Mr. Chris Marland stated, this is a Special Use Permit request for like My Own 3 Daycare to be located at 1313 Plaza Dr. in Burlington. There is a slight change to the application. When they first applied for this they were going to have 50 children on 2 shifts so in your package you see a map showing a fenced area 50 feet by 100 feet with 5,000square feet, but they are going to have 75 children now on 2 shifts and that fencing area will have to be adjusted as such. They need 100 square feet per child of fenced in play area. The 5,000 square feet will not be enough, so change that to 7,500 square feet. Board Member Mrs. Joyce Lance asked, so that needs to be a part of the Special Use Permit? Mr. Marland stated, no, it's just shows on the plans for 5,000 square feet. We just wanted you to know that they are going with

75 children now, and as such, the fence will have to be moved for the added space. The fence is not there currently. Board member Mrs. Joyce Lance asked, ok but does that have to be mentioned in the Special Use that the fence has to be enlarged for what we're permitting for? Mr. Marland stated, they will testify that they will expand the fence. I'm just telling you because it won't match the plans in front of you. Zoning Administrator Mr. Joey Lea stated, we do require the 100 square feet per child. It does not say you have to have 7,500 square feet of fenced in area, because there may not be 75 children out there at one time. The State will allow her to put up a certain amount of fencing. They require 80 square feet per child where we require 100 square feet. Therefore, however many children she has out there at one time is the minimum amount of fencing that she has to have and that is what she will testify to. Mr. Marland stated, on the map you will also see where on Plaza Dr. they are not the end unit, they are the unit next to the end. That's why you will see a gap there between their space and the fenced in area. There will be a unit between them and the play area. Chairman Mr. Ed Wilson asked, do they have to have fenced access area from the unit to the play area? Mr. Marland stated, no. There is a very wide walk in front of this building. It is approximately 10ft. wide in front and it is covered, so there is a safe area to get the children to and from the play area. Board Member Mrs. Joyce Lance asked, does the fact that this property is being auctioned this month have any bearing at all on this Special Use Permit? Mr. Marland stated, no.

Ms. Rasanda Mitchell stated, I have 2 locations already in Burlington. One is an in-home daycare and the other is located on Chapel Hill Rd. We are out growing the daycares. Right now at location #2 we don't have much room for our school aged children. We are out growing the daycares and having to turn away a lot of children. We want another location to house the school aged kids getting prepared for school. We get a lot of calls for picking up kids but I don't have the space for them. We want another location for more kids. Board member Mrs. Joyce Lance asked, so you are expanding? Ms. Rasanda Mitchell stated, correct. Mr. Wilson asked, you will operate all three locations?

Ms. Rasanda Mitchell stated, yes. Board Member Mrs. Sylvia Greeson asked, so will this mostly be older children? Ms. Rasanda Mitchell stated, we want to do one for the children getting ready to go to school like age 4. We are trying to move them up and away from the smaller kids. Board Member Mrs. Sylvia Greeson asked, this will primarily be that age and after school? Ms. Rasanda Mitchell stated, yes ma'am. Board Chairman Mr. Ed Wilson asked, just for the record, there are other daycares in the area right? There is another off Chapel Hill Rd? Ms. Rasanda Mitchell stated, that is me. That is location number 2. Mr. Wilson asked, are there any other daycares in the area? Ms. Rasanda Mitchell stated, I think there is one over there by the Elks Lodge. Mr. Wilson asked, how many children do you anticipate keeping per shift and what are your operating hours? Ms. Rasanda Mitchell stated, I don't want to limit myself because a lot of times when you limit yourself then you have to turn people away. But when Bill Davis came out and looked he said with the square footage we could keep up to 75 kids. Which I will probably not have 75 kids but I didn't want to limit myself. Mr. Wilson asked, do you think you will operate all 3 shifts? Ms. Rasanda Mitchell stated, no. I think I said 2 shifts for the simple fact that we have some parents that get off work at 7:00pm so they will be picking up their children between 7:30pm and

8:00pm. There is another establishment beside us and I don't really want a late night because the other establishment will have people in and out. I just wanted to give my parents time to come and get their children. Mr. Wilson asked, so you are really just extending one shift? Ms. Rasanda Mitchell stated, yes sir. Some of my parents are hospital staff and have hours like that. Mrs. Lance asked, what is the other establishment? Ms. Rasanda Mitchell stated, the Hookah Lounge. They were there first. I don't want to disrupt their business so I decided to close between 7:30pm and 8:00pm. Board Member Mrs. Sylvia Greeson asked, you won't have any infants or toddlers at this location? Ms. Rasanda Mitchell stated, no ma'am. We will keep all the infants at either the in-home location or the other location on Chapel Hill Rd. Board Member Mrs. Joyce Lance asked, how many years have you been doing this? Ms. Rasanda Mitchell stated, since 1995. Board Member Mrs. Joyce Lance stated, so you know the state laws and requirements. Ms. Rasanda Mitchell stated, yes ma'am. Like Zoning Administrator Mr. Lea said about the fence, we know that we can only have so many children outside at a time. Now with the location on Chapel Hill Rd we have the kids separated. We take out this age group then we will take out another age group We have a schedule that we keep. Board Member Mrs. Joyce Lance asked, have you had any problems implementing what the state requires of you? Ms. Rasanda Mitchell stated, no ma'am. Board Member Mrs. Joyce Lance stated, I'm sure you have the occasional parent complaint, but it's not a problem. Ms. Rasanda Mitchell stated, no, it's not a problem. Board Chairman Mr. Ed Wilson asked, is the parking lot well lit? Ms. Rasanda Mitchell stated, it is. Mr. Wilson asked, is there a lot of parking spots out there? Ms. Rasanda Mitchell stated, there is. Parents can come and park right in front of the location. Mr. Wilson asked, do you have a plan for moving the children from the building to the fenced in play ground in a controlled manner? Ms. Rasanda Mitchell stated, yes sir we do. Mr. Wilson asked, do you see any adverse effect with any of the businesses around you? You said that the one beside you stays open later. Ms. Rasanda Mitchell stated, no sir. Board Member Mr. Todd Smith asked, has anyone complained to you yet? Ms. Rasanda Mitchell stated, no sir.

DISCUSSION & FINDING OF FACTS: Chairman Ed Wilson stated, it seems like we have an applicant here that has operated 2 successful daycares, understands all the rules and regulations of the State and of the City, and she is seeking to open her third location here.

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 approves;***
the findings of fact are that Ms. Rasanda Mitchell has been in the daycare business since 1995 and is well versed in State Requirements and all of the public safety issues that she has to be concerned with and she has testified that there are no problems;
2. ***the use meets all required conditions and specifications;***

the findings of facts are that she is familiar with the State requirements as well as the City requirements and has not had any problems implementing any of those requirements per her testimony;

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 that this board has a long history of granting a Special Use Permit for daycare centers because they are a public necessity and this is her third endeavor. She is simply expanding her business;

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 that there is no testimony to suggest that having this daycare center will present a problem for any entity and there is no one here expressing any concerns via testimony. So I feel that the location of the daycare center complies with the rest of the neighborhood considering there are other daycares centers in the vicinity;

Board Member Mr. Todd Smith seconded the motion.

AYES: Lance, Grant, Wilson, Smith, Greeson

NOES:

Board Member Mrs. Joyce Lance stated, I would like to make a motion to approve the Special Use Permit for Ms. Rasanda Mitchell for Like My Own 3 Daycare Center to be located at 1315 Plaza Dr. Burlington. Due to the previously stated Findings of Fact and the applicant be required to comply with all of the State and City requirements and that the applicant/owner shall complete the development according to the plans submitted and approved by this Board any if conditions affixed hereto or any part therefore shall be held invalid or void then this permit shall be void and of no affect.

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

AYES: Lance, Grant, Wilson, Smith, Greeson

NOES:

ITEM NO. 3:

CASE NO. 03-14 – SPECIAL USE PERMIT (CITY)

Bradley Street Towing and Storage Lot

636 Bradley St.

Alamance County Tax Map 111-461-143

§ Section 32.13 U

Motor Vehicle Towing and Storage Services

EVIDENCE PRESENTED: Mr. Chris Marland stated, this is at 636 Bradley St. This is a Special Use Permit application for a towing and storage lot. Right here on your screen on this lot there is no address for it but it is 636 Bradley St. where you see the fenced in area and it is to be the storage lot. Right next door is 646 Bradley St. Board Chairman Mr. Ed Wilson asked, what is the property 646 Bradley St. being used for, is that a storage lot? Mr. Marland stated, yes that is a storage lot, which is where he is currently. He owns this lot. The people that run the business here which I believe is an automotive repair shop, owns this lot here in question. There will be some kind of swap of land there. I did not want to confuse you, but both parties are in agreement to do some type of swap of land. They will testify and be a little clearer on this. Board Member Mrs. Joyce Lance asked, it looks like a parking lot or is that a storage lot there on 646 Bradley St.? Mr. Marland stated, it is the storage lot and where the towed cars are stored. Board Member Mrs. Joyce Lance asked, so those are towed cars, so is he expanding over or just changing the lot? Is he moving the towed vehicles over to where he is now? Mr. Marland stated, that is my understanding. He will testify to that. The red line here indicates what he has told us will be the storage area. Again this is a Special Use Permit for a towing and storage area. Board Chairman Mr. Wilson, asked so to your knowledge this plans meets all the specialty codes for a storage area? Mr. Marland stated, correct. Mr. Wilson asked, it has got the right size, screening? Mr. Marland stated, correct. Mr. Richard Bailey stated, I'm right on Joe's land on the left there and I've basically bought the land beside it. If we can get a Special Use Permit he is going to sell me his land behind the Honda and Acura Repair Center. He is going to put all the cars over in the other lot. Then I will own all the land instead of just renting it and he will own my land that I have now. Board Chairman Mr. Ed Wilson asked, so you are the tenant at 646 Bradley St.? Mr. Richard Bailey stated, I am the tenant of 646 Bradley St. and the owner of 636 Bradley St. With what we are going to do, we didn't want to sell each other the land until he could get a permit. If he can get a permit then he will take those cars over there and I will own the whole lot. Board Member Mrs. Sylvia Greeson asked, what is the structure we see on 636 Bradley St.? Mr. Richard Bailey stated, it used to be a Lance building where they stored their cookies and crackers. There are 5 individual bays that are 20 by 20 by 20. Board Member Mrs. Sylvia Greeson asked, so the structure is going to stay? Mr. Richard Bailey stated, yes. It is a metal building that we painted blue and cleaned it up. Board Member Mrs. Joyce Lance asked, what does the red line represent? Mr. Richard Bailey stated, the fence. Mrs. Lance asked, is it already there? Mr. Richard Bailey stated, no it is not. Mrs. Lance asked, it's going to be put up there? Mr. Richard Bailey stated, yes. Mrs. Lance asked, the building structure will stay? Mr. Richard Bailey stated yes ma'am. Mr. Wilson asked, is that 5,000 sq. ft. the fence there? Mr. Marland stated it is 7,500 sq. ft. Board Chairman Mr. Ed Wilson stated, so on the drawing here it says 7,100sq.ft. is that how big the fence will be? Mr. Richard Bailey stated, yes. Mrs. Lance asked, so the empty part of that is going to remain empty and the cars are just going to the back in a fence but nothing is changing around the existing structure it's just going to stay the same? Mr. Richard Bailey stated, correct. Board Chairman Mr. Ed Wilson asked, could you tell us about the screening that will be on the fence? Mr. Richard Bailey stated, it's just like the lot beside it.

It's that green colored cloth that you put all the way around it. Board Chairman Mr. Ed Wilson asked, is there any lighting on the lot? Mr. Richard Bailey stated, it has a pole light and on the corner of the building it has those flood lights that come down. I'm sure when Joe buys it he will have to put lights up so he can get in and out of it. Board Chairman Mr. Ed Wilson asked, so currently all the lighting on the property faces inward? Mr. Richard Bailey stated, yes. Board Member Mrs. Joyce Lance asked, are those cars that are sitting there around your rented building going to go inside this fence? Mr. Richard Bailey stated, yes but about 11 or 12 of those cars are my Honda cars that we are working on, that's located in his lot now. He probably only has about 15 or 16 cars right now at the most, the rest are the Honda cars that we're working on. Board Member Mrs. Joyce Lance asked, have any of your adjacent property owners complained or had any concerns about any of this? Mr. Richard Bailey stated, no. In front of us is the John Deere tractor store and beside us is LabCorp and all they have is a big storage space. We've got fence against fence. To the right of that red line is where they back their tractor trailers up and unload their stuff. Board Member Mr. Todd Smith asked, how long have you guys been there? Mr. Richard Bailey stated, I've been there for 13 years I think. When the Lance people went out, I bought it because I was going to put a building up but when Joe found out I was going to put a building up he said all I need is a lot to put a few cars in that way I don't have to move all my lifts and equipment. It makes more sense to stay where I'm. Zoning Administrator Mr. Joey Lea stated, Mr. Chairman, for the record we would like the board and also the applicant to know and understand that the Special Use Permit that's current for 646 Bradley St. will remain current for 646 Bradley. The Special Use Permit goes with the land. So your lot when you purchase it can still be used for towing and storage services. Mr. Wilson stated, I thought it went away when it was no longer being used for the function that it was designed for. Mr. Lea stated, no, it stays with the land. Board Chairman Mr. Wilson asked, so if it became a daycare next month then years later it became a towing business it wouldn't matter. Mr. Lea stated, correct. Board Member Mr. Eric Grant asked, everything that is proposed in this property transaction was in use on both of these lots, was meeting with the City's requirements? Zoning Administrator Mr. Lea stated, yes. Board member Mr. Todd Smith asked, the fence will at least be 6ft. high? Mr. Richard Bailey stated, yes. Board member Mr. Todd Smith stated, you are going to put gravel down? Mr. Richard Bailey stated, yes; with using a wrecker you will have to have gravel.

DISCUSSION & FINDING OF FACTS: Chairman Ed Wilson stated, this certainly seems in harmony with the area. They have been doing this for years and are just moving over a few feet and doing it again.

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 approves;***

the findings of fact are that they have been doing this exact business right next door, all the same neighbors and location is just feet away from where it's at now. There has been no harm at all as far as we can tell and it is in compliance;

2. **the use meets all required conditions and specifications;**

the findings of facts are that we asked about the sizing of the fencing and the height as well as square feet, what kind of gravel they will put down, lights and how they will use them. It will be a screened location. Not in front of the property or within a front yard;

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 that it clearly looks like it won't change any property values at all. It's a useful business in town and no property will be increased or decreased in value;

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 that I think the only person that will probably know is the neighbor that is part of the deal. This will not change the look if it's even noticed;

Board Member Mrs. Joyce Lance seconded the motion.

AYES: Lance, Grant, Wilson, Smith, Greeson

NOES:

Board Member Mr. Todd Smith stated, I would like to make a motion to approve the Special Use Permit for Mr. Richard Bailey located at 636 Bradley St. Burlington. Due to the previously stated Findings of Fact and the applicant be required to comply with all of the State and City requirements and that the applicant/owner shall complete the development according to the plans submitted and approved by this Board any if conditions affixed hereto or any part therefore shall be held invalid or void then this permit shall be void and of no affect.

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

AYES: Lance, Grant, Wilson, Smith, Greeson

NOES:

NEW BUSINESS:

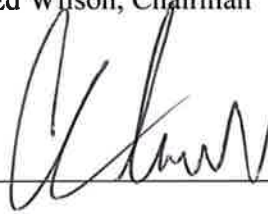
Zoning Administrator Mr. Joey Lea stated, Mr. Chairman I would like to discuss with you the new changes that have been made to the statue, with the variances they have removed practical difficulties. I sent you all a link. Those that made the changes to the statue to determine that practical difficulties and unnecessary hardships, are synonymous. We discussed how to use either one, and according to them, they are the same thing. Zoning Enforcement Officer Mr.

Chris Marland stated, Mr. Chairman I would like to introduce Karl Cheek, he goes by KC. He will be working with us as the Zoning Enforcement Technician.

MEETING ADJOURNED



Ed Wilson, Chairman



Chris Marland, Secretary