

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled December meeting on Wednesday, January 2, 2008, at 4:00 p.m. in the Board of Commissioners Meeting Room, 100 N. King Street, Hendersonville, North Carolina. Those present were: Dean Bonessi, Chairman, Jim Phelps, Vice-chairman, Tony Engel, Ann Pouch, Jim Crafton, Zoning Administrator Toby Linville, Secretary to the Board Karen Ann Antonucci, and Associate County Attorney Sarah Zambon.

There was a brief and informal discussion before the meeting to inform the board members about the resignation of board member Gary Griffin and the appointment of Jim Crafton to the board as a regular member, by the Board of Commissioners.

Chairman Dean Bonessi called the meeting to order at 4:01 PM. He welcomed everyone and stated that today's meeting was postponed from December 26th, 2007 due to the Holidays. He then introduced the Board.

Chairman Bonessi asked for a motion to approve the November 28, 2007 minutes. Jim Phelps moved to approve the minutes. Tony Engel seconded, and all members voted to approve the minutes as presented.

Chairman Bonessi read the narrative explaining the quasi-judicial proceedings.

Case SUP-07-19, Gould Properties LLC, is requesting a special use permit for Wholesale Trade with Fuel Oil Distribution, Outdoor Storage greater than 5,000 sq. ft. and a manufactured home park as accessory uses which requires a special use permit in the Industrial zoning district and is defined by S.R. 8.1, 7.7, and 2.9 in the Land Development Code. The property is located at the intersection of Mills St. and W. King St. PIN: **9577-75-8714**

Chairman Bonessi asked Associate County Attorney Sarah Zambon if swearing in should be done first then determine who is a party or witness.

Associate County Attorney Sarah Zambon said to determine first who is a party to the case then swear in all of those persons.

Chairman Bonessi asked Secretary to the Board Karen Ann Antonucci if there was a sign up sheet. She answered, "Yes". He asked that she call the names from it and that each person state their name and why they were there. The board would then determine if they were a party or witness that needed to be sworn in.

Brian Gulden, attorney for Gould Properties LLC said that all the proponent witnesses for the case were signed in.

First called was Michael Edney, attorney for First Baptist Church of East Flat Rock. The Zoning Board of Adjustment unanimously approved Mr. Edney as a party.

Second called was Anna Conner. She stated her address as 206 W. King Street and her husband was Gerald Conner. All members of the Zoning Board of Adjustment, except Ann Pouch approved Anna Conner as a party.

Third called was Jim Roberts. Mr. Roberts started to make a statement and Chairman Bonessi told him that this process was to determine if he is in fact a party and to just state his address. Mr. Roberts said his address was 111 Level Stone Drive. The Zoning Board of Adjustment unanimously approved Mr. Roberts as a party.

Fourth called was Myron Medlin of 106 Level Stone Drive. The Zoning Board of Adjustment unanimously approved Mr. Medlin as a party.

Fifth called was C.K. Blackwell of 108 Level Stone Drive. The Zoning Board of Adjustment unanimously approved Mr. Blackwell as a party.

Marsha Washburn came in after the meeting started. She was asked by Chairman Bonessi to sign in and state her name and address. She said her address was on the corner of W. King Street and James Street. The Zoning Board of Adjustment unanimously approved Marsha Washburn as a party.

Brian Gulden, attorney for Gould Properties LLC, quickly noted that Scott Marino of 305 W. King Street may also need to be a witness to the party because he owns the property.

Chairman Bonessi called everyone forward who would be testifying in the case today. Secretary to the Board Karen Ann Antonucci swore in: Michael Edney, Anna Conner, Jim Roberts, Myron Medlin, C.K. Blackwell, Marsha Washburn, Brian Gulden, John (Chip) Gould, Eric Goodman, Jon Cannon, and Zoning Administrator Toby Linville.

Chairman Bonessi asked for a motion to go to public hearing for Case SUP-07-19. Ann Pouch offered the motion and Jim Phelps seconded the motion.

Mr. Blackwell stood up and stated he had just come from Chemo treatments and asked that he go before the applicant because his health would not allow him to wait until the other parties were heard.

Brian Gulden, attorney for Gould Properties LLC asked Mr. Blackwell if he was staying for the entire meeting. Mr. Blackwell said he was not staying. Mr. Gulden agreed to let Mr. Blackwell go before his client.

Mr. Blackwell stated his concerns:

- 1-He had breathing issues and was concerned about living next to Gould Properties LLC because of the fuel storage and noise coming from the property.
- 2-He was concerned with the traffic impact on the area. He asked that with the increased traffic would there need to be a traffic light installed at Route 176 and W. King Street.
- 3- He asked, "Will they get rid of the kudzu?"

Chairman Bonessi asked if there were any questions for Mr. Blackwell.

No Zoning Board member had questions for Mr. Blackwell. Nor did Chip Gould, Brian Gulden, or any other party present.

Chairman Bonessi thanked Mr. Blackwell. Mr. Blackwell left the meeting.

Chairman Bonessi asked Zoning Administrator Toby Linville to give the staff report. Mr. Linville reviewed the packet each board member had in their binders. He noted the requirements of wholesale trade, fuel oil sales and outdoor storage. He also noted the aerial view of the site, the manufactured home park on the property, the application of the Special Use site plan, and noted the pictures of the site provided. Mr. Linville pointed out that one of the pictures was labeled wrong and gave the correct information. Mr. Linville requested that all of the information he reviewed be entered as evidence. He also stated that the Technical Review Committee gave their approval of the plans.

Chairman Bonessi asked if the applicant had any questions for Mr. Linville.

Brian Gulden said he did have questions. He first asked for a set of the pictures that Toby referred to so he could review them. He asked Mr. Linville if the use of the property with outdoor storage greater than 5,000 sq. ft. as submitted, meets the minimum requirements of the Land Development Code. Mr. Linville stated that it did. Mr. Gulden then asked if the other uses of the property also meet the minimum standards of the Land Development Code. Mr. Linville said, "Yes". Mr. Gulden asked Mr. Linville if his opinion about the minimum requirements being met would change if the road that is Mills Street (James Street on the site plan) was not able to be paved. Mr. Gulden asked the question in another way. "Does the paving of the that road in between the site and First Baptist Church of East Flat Rock have any bearing on your opinion that the site plan met the minimum requirements of the Land Development Code?" Mr. Linville said, "No, there is no access to the project site from Mills Street. So its condition now or in the future doesn't pertain to this project."

Mr. Gulden then asked if it would be the same for any improvements on W. King Street. Mr. Linville said that the Land Development Code does not require any road improvements to W. King Street. Mr. Gulden then asked if the approximate location of the fuel storage tanks on the site caused him concern as it is near the Southern Railroad right-of-way. Mr. Linville said it did not cause him concern because that location meets the minimum set backs of the Land Development Code and he was not sure what the set backs from a railroad is. Mr. Gulden said it was a dedicated 100 foot right-of-way on either side of the railroad. Mr. Linville said he would not have authority over the railroad's set back. Mr. Gulden asked Mr. Linville if he had an opinion on the appropriateness of the proposed use of the site considering the location to a residential R1 area. Mr. Linville stated he was not paid to have opinions as to the appropriateness but stated he did know the site plan met the buffering requirements against a residential district.

Mr. Gulden asked for just a moment to review the pictures. He then said he had just one more question. He asked if Mr. Linville investigated the availability of all necessary utilities - water, electric and sewer. Mr. Linville said, "No further than just their location on the site plan". Mr. Gulden asked, "Are those utilities available as far as the site plan shows them?" Mr. Linville said, "Yes".

After Mr. Gulden's questions to Mr. Linville Chairman Bonessi stated that the applicant can present their case.

Mr. Gulden said he would have Chip Gould give a brief introduction about Cason Companies and its uses, Then Luther Smith will present the site plan because he would be better able to address the site plan and any questions that pertain to it.

Mr. John (Chip) Gould, said he is the owner and president of Cason Companies on 1818 Spartanburg Highway and also the member manager of Gould Properties LLC, which will be the company that will purchase the property for Cason. He said the company is a wholesale building materials supplier, (brick, rock, and block), landscaping materials supplier, fuel supplier, (kerosene, oil, home heating oil, lubricants, gasoline, and diesel fuel) currently located on Spartanburg Highway. He said he would be available to answer any technical questions about the operation. He stated that the new location of Cason would continue to operate exactly as it does now. The reason he is looking for a new location is because they are on a leased piece of property and they are running out of time. He also pointed out that 75% of the current property is located in a 100 year flood zone. He does not feel it is viable to keep the business in the current location, but under the circumstances and even though it is expensive, he must move the company. The only place he can put his business in Henderson County is in an area that is zoned industrial under special use.

Mr. Gould said that he would have Luther Smith, landscape architect and planner, continue the presentation. Mr. Smith stated that he produced the site plan for Gould Properties, LLC. He noted that the site is 17 acres that is bounded on the east by James Street which appears to have a couple of different names depending who you talk to, which is a wide gravel road and to the south and center is W. King Street, which is an average width paved road. Level Stone Road is an off-shoot road to the eastern portion of the property. He noted a warehouse building and a former textile plant sales office in the center of the property. Mr. Smith pointed out that there is a mobile home park located on the upper portion of the property and has existed for a number of years and is listed on the county's list as one that's existed prior to the manufactured home ordinance. This mobile home park will continue to be the use for this area of the property until Mr. Gould needs the area. A Moose Lodge and fitness center building will also be able to continue to operate as is.

Mr. Smith then reviewed the proposed development of the property. He said there will be an office facility on the east side, towards James Street with customer parking. On the other side of the office facility would be contractor parking. Part of the facility will contain a product display area, maintenance building and fuel storage. The existing warehouse facility may possibly be expanded. There is no time limit on that. The maintenance building, for vehicle maintenance that will be built is also in that area. The fuel storage area that is in that general area has been chosen in relation to standards that were provided by Rocky Hyder, Fire Marshal and as he understands it, meets all of the state and federal requirements for distances from adjacent property lines and adjacent structures.

Mr. Smith said that W. King Street must stay in place as it serves the Minute Man facility. Plans at this point may be upgraded to a commercial grade road so that it can handle not only the trucks servicing the new facility but continue to handle the vehicles that service the Minute Man facility. This is something that Mr. Gould may need to address, as he has had discussions with D.O.T.

Mr. Smith said to his knowledge there are no projected improvements for Level Stone Drive which appears to be just a gravel driveway and there may or may not be improvements to James Street. There have been discussions with D.O.T. as to them making improvements rather than having James Street and W. King Street come to a Y intersection to allow it to come down to a T intersection. This would mitigate the impact on the residence on the corner there which he believed is Mrs. Washburn. It would also make it a safer intersection.

Mr. Smith said that in going through the new Land Development Code with Toby, he will include tree and shrub buffering around the proposed facilities when they are completed, and the residential areas. He said the existing Minute Man facility has city water and sewer on the property. There are fire hydrants along the road coming into it. The sewer line comes through the property. The fire hydrants on the property will be upgraded and more added as necessary to provide the level of fire protection that is necessary and of course sewer service. Mr. Smith also stated that the three areas that are associated with employee parking will meet requirements of the type used and square footage of the ordinance.

Chairman Bonessi asked what the status was on any upgrades of W. King Street from D.O.T. He wanted to know if the upgrades were something that Gould Properties LLC would do or D.O.T. Mr. Smith said that Mr. Gould needs to be the property owner before he can work out those issues with D.O.T. It was his understanding in most cases when you deal with D.O.T. if you want to move a road or something you do it at your own expense. He was not sure how that would be handled, but Mr. Gould could better address that since he has had conversations with D.O.T.

Chairman Bonessi asked if the applicant had anyone else they wanted to call before they go into cross examination. Mr. Gulden asked Chairman Bonessi if he wanted to cross examine Mr. Smith first

because he had rebuttal evidence to Mr. Blackwell's comments since he went out of order, but that wouldn't come until after the opposing sides have all spoken. Mr. Gulden said he had no questions for Mr. Smith but he may respond to questions from the Zoning Board itself or from the public parties.

Chairman Bonessi said, "So the applicant doesn't have any other evidence to present other than the rebuttal?"

Mr. Gulden said, "That is correct, as far as the application is concerned."

Chairman Bonessi asked if the Board had any questions for Mr. Gould or Mr. Smith.

Jim Phelps asked if storm water storage area or drainage issues had been taken into consideration. Mr. Smith said that there are three areas on the site but may need to be upgraded by DWQ (Division of Water Quality). There is a high point in the center of the property and everything drains to the areas designated. With regards to storm water the county doesn't have an active storm water ordinance per say, however effective this past July the Division of Water Quality at the state level does have a storm water standards. They would need to meet the appropriate DWQ standards and obtain a permit just like you have to get an erosion permit on the county level as opposed to the state level. He stated they would have to have any D.O.T. connection permits, storm water permits, erosion permits, water and sewer extension permits before Mr. Gould can begin construction.

Jim Phelps asked, "That's all part of your process?" and Mr. Smith said that it was.

Chairman Bonessi asked if any other board members had questions for Mr. Smith or Mr. Gould. Mr. Gulden asked Chairman Bonessi if he could have Mr. Gould address the board member's question about D.O.T. Chairman Bonessi said that he was the one that had asked about D.O.T. Mr. Gulden asked if he could just first ask Mr. Smith one further question. Chairman Bonessi said, "Yes." Mr. Gulden asked Mr. Smith if he was aware of any blue line streams or floodplain on the site plan. Mr. Smith said, "No, not that we are aware of."

Jim Crafton then asked Mr. Smith how long the area had been zoned industrial. Mr. Smith said he was not sure but for some time that area and the area that extends down to Highland Lakes was zoned industrial and some residential when he was Chairman of the Planning Board in the late 1980s. Jim Crafton asked again if the area has for some time been zoned industrial and Mr. Smith said again that it had for some time been zoned industrial for some time and was not a new district that was created with the current code.

Chairman Bonessi thanked Mr. Smith then indicated that Mr. Gould could come forward. Mr. Gould asked the Board if they had copies of the survey or just the site plan. Toby Linville, Zoning Administrator said they just had the site plan and not the survey. Mr. Gould passed around copies of the survey and pointed out the James Street (Mills Street) property line and the W. King Street property line. Toby Linville, Zoning Administrator pointed out to the Board that James Street and Mills Street are one in the same. He also said there is an upcoming public hearing about those road names. The right-of-way is called James Street but the county named it Mills Street with signage and that will be straightened out.

Mr. Gould said he had spoken to Mark Gibbs the Division Engineer and Mr. Gibbs told Mr. Gould that in 1956 a 60 foot right away was given by all the property owners along W. King Street. When you deal with the state they use this document, when you deal with the surveyor he cannot find this recorded so consequently you don't show a 60 foot right-of-way, however according to the state they maintain they have a 60 foot right-of-way along W. King Street. The state maintenance ends probably 30 feet past Level Stone Drive. So from Level Stone Drive to Minute Man Anchor right now is a private road. If this property is sold to me or anybody else then there's a big gap in Minute Man Anchor's not having access to their property. We have showed them our site plan. We are willing to work together to get the road,

number one lined up property according to the survey right-of-way documents and also accommodate our traffic and also bring the road down to Minute Man Anchor's property. In regard to James Street it is our intention to try to get that road paved. If you go from W. King Street down to the church property, all of that road is within this property's boundary. For example Mrs. Washburn has no right-of-way to give, the state will not pave the road and they are not going to buy the right-of-way. You have to deed the road right-of-way to them. We are more than willing to give that right-of-way down through there to accommodate this. We can give some of the right-of-way, probably half way down to where the middle of the Baptist church lot is but then the rest of the way someone else is going to have to give some right-of-way. We'll give our side of the road right-of-way. It will have to be paved all the way. The state is in agreement to pave it and as soon as we can proceed to buy this property. They've already staked the property and are ready to survey. It is also their (D.O.T.) plan to turn the road from 45 degrees from James Street on up to W. King Street to a 90 degree intersection. Provided the state gets the right-of-way from the three W. King Street residences at the lower end, they will pave that road and we are ready to give them what we need to on our property in order to make that happen. They tried to pave this earlier, probably 10 years ago from the Elkamet property all the way to the East Flat Rock Post Office. The majority of the people on James Street signed up to have it paved, but the people on Westhall Street did not approve of it and at the time D.O.T. could not do it because they did not have the right-of-way. But they have indicated they will pave to W. King Street if they get those right-of-ways down at the bottom. We'll give the right-of-way on our side of the road.

Chairman Bonessi asked if there were any more questions from the Board. At that time there were no more questions from the Board.

Chairman Bonessi said the people with standing in the case could ask the applicant any questions that they might have.

Mr. Edney, the attorney for First Baptist Church of East Flat Rock, asked Mr. Smith to speak specifically to the screening and the buffering issue. He asked that Mr. Smith tell the church exactly what he was doing for the church members.

Mr. Smith said the ordinance requires that in areas adjacent to residential uses have established a minimum buffer and composition for that buffer. It does give credit for existing trees and shrubs as well and trees that can be identified. He said, "Since the vegetation along there is kind of a mix of stuff, we decided it doesn't make sense to try to identify trees. We have plans that were submitted, there is a buffer in the ordinance and at a minimum we are meeting that buffer in terms of tree planting and I believe shrub planting."

Mr. Edney asked if he could tell the church members present exactly what the trees and shrubs were.

Mr. Smith referred to the landscape plan submitted to the county. He said for every 150 foot section the buffer requires 13 small trees, dogwood size trees, or larger shrubs. There is included with the plan a list of plantings. He was not sure if the exact plants on the list would be in the area by the church, because there are several buffer areas on the site plan. He said some of the larger trees were specified. October Glory Maple, Nellie Stephens Holly is a mid sized tree, Southern Magnolia, a Little Gem is a variety. Some of the shrubs are, Hydrangeas, Virginia Sweet Spire, and Catawba Rhododendron.

Mr. Edney asked if the church's buffer would be trees over a few feet or would there be real buffer to keep out the noise. Mr. Smith said there was a fence proposed along there and the planting is along the outside of the fence, the street side of the fence to both hide the fence and eventually give a fairly complete planting. Mr. Edney then asked of there would be a 6 foot or 8 foot fence. Mr. Smith said that he did not know.

Mr. Gould said that it would be at least 6 feet with barbed wire.

Mr. Edney then asked if there would be fence and then the plantings. Mr. Smith said it would be the street, fencing and then the planting. Mr. Edney stated that the church would then have the 45 foot road right-of-way. Mr. Smith said that from the church's property there would be a 45 foot road right-of-way, the planting, then the fence, then the storage area. Mr. Smith clarified and said the proposed fence will be on the western side of James Street. The planting will be in front of the fence between the street right-of-way and the fence. Because the planting cannot go within the right-of-way. From the church school yard or play yard at the church there will be a 45 foot right-of-way at which point it will eventually have a planted hedge or screening along there and then a fence behind that, then the storage yard. He stated the buffering materials would roughly be 50 feet wide. The fence cannot just be a chain link fence. It needs to have a degree of openness to it, the type with the vertical slats or similar to that.

Mr. Edney said he was trying to get Mr. Smith to make the point that there is a big distance between his use of the area and the church day care. Mr. Smith said he did not remember how close the day care is to the road to the church's right-of-way of the property line. But from the church's property line they are a minimum of 50 feet before there is any use for the property.

Mr. Edney asked what the general use will be for the area behind the day care. He asked if it would be used for a dusty lot or storage or other. Mr. Smith said that he could tell Mr. Edney what is generally to be constructed on the lot, but how it will be organized he did not have an idea. He said that generally the lot would include pallets of block, brick or rock, possibly piles of gravel and those sorts of things. On its own it is not stuff that creates any vapors or harmful gases. It is inert material.

Mr. Edney asked, if for the road itself were there any other expenses that Gould Properties LLC are aware of other than giving right-of-way that the church may incur to get the road paved. And as far as the fire hydrant did he know if the water line would need to be moved.

Mr. Gould said that based on D.O.T. information in terms of a 45 foot right-of-way they would only pave 18 feet. And in regards to that water line, where they have it staked out now they do not think they need to move it. Mr. Smith added that in his experience if D.O.T. is upgrading a road it is the city's responsibility to move their utilities out of the way. If there were power poles the power company would be required to move the poles.

Mr. Edney said those were his questions and thanked the applicants.

Chairman Bonessi asked if any of the other parties to the case had questions for Mr. Gould or Mr. Smith before moving on.

Jim Phelps asked if he could ask a question of Mr. Smith for clarification. Chairman Bonessi said that was OK. Jim Phelps asked if the buffer area across from the church had a 10 foot width.

Toby Linville Zoning Administrator said that on the landscaping details it requires a 30 foot buffer. Because the site is outdoor storage it requires a buffer and a screen. The screening requirement calls for a 6 or 8 foot fence, the opaque fence. There are typically screening landscaping requirements. This also requires buffering requirements which are graded so they will be doing the fence and then doing the buffer. The buffering is a 30 foot wide strip with at least, for every 100 feet, 2 large deciduous trees, 3 small deciduous trees, 5 large evergreens or 12 small evergreens. There are variations on how they can be placed, but that is the limit.

Mr. Phelps said the types of things being stored, stones and building supplies, don't make noise and with that amount of adequate screening that it seems everything complies with all of the county ordinances. He said it that Gould Properties LLC has done everything to minimize obnoxious things considered a nuisance.

Mr. Smith said he has tried to mitigate any potential intrusion on the two neighborhood areas that are adjacent to the area.

Chairman Bonessi and Jim Phelps thanked Mr. Smith.

Chairman Bonessi said that next on the party list was Mr. Edney. Mr. Edney said he was not going to testify, but would make a comment at the end of the hearing.

Chairman Bonessi asked Mrs. Conner if she would like to speak.

Mrs. Conner stated her name as Anna Conner of 206 W. King Street. As a homeowner she said she is concerned about the property value and the children that live there. She wanted to know where the buffering was around her property because what she heard does not address buffering her house. She felt there may be other areas this site could go in the county.

Mr. Gulden attorney for Gould Properties LLC asked Mrs. Conner if she investigated the zoning as industrial when she purchased the property.

Mrs. Conner said she was a realtor and did research the area, but the industrial area is right near a residential area. In her opinion there are other areas that can be sought out for a use such as Gould's and not be near a residential area.

Mr. Gulden asked Mrs. Conner if she had children.

Mrs. Conner said she did not have children- she rents to a single mom with an 11 year old child.

Mr. Gulden asked, "You don't live there? You knew it was zoned industrial when you bought the property."

Mrs. Conner said she had a vested right to protect the right of the person she rents to on her property.

Chairman Bonessi asked Toby Linville Zoning Administrator if he could show Mrs. Conner the buffering areas.

Toby Linville Zoning Administrator noted that on the site plan there is buffering in the area of question. Mrs. Conner said that was good, but the Gould's use of the property will have an impact on the area. Mr. Linville indicated there will not be a fence but there will be 22 trees. Mrs. Conner again stated there is plenty of land in Henderson County that is zoned industrial and again said that she felt the Cason site could be moved.

Mr. Gulden asked, "You just don't want it in your front yard?" Mrs. Conner said, "No." Mr. Gulden then asked, "But you don't mind if in someone else's yard?"

Chairman Bonessi asked if there were questions for Mrs. Conner from the Board and recognized parties.

Mr. Edney asked that as a realtor did she feel the Cason site would have any impact on the rental rates she could charge on her home. Mrs. Conner said she felt that it would have a negative impact. Jim Crafton then asked her, "You bought the property if full knowledge the land was zoned industrial?" Mrs. Conner again said that she did. Mr. Crafton thanked Mrs. Conner.

Chairman Bonessi asked if there was anyone else that had questions for Mrs. Conner. There were no more questions for her.

Chairman Bonessi thanked Mrs. Conner. He then said that Mr. Jim Roberts was next on the list to come to speak.

Mr. Roberts stated he lived at 111 Level Stone Drive and said his main concern was with the tanks that would be on Level Stone Drive. He bought the property when it was zoned residential, not industrial. He was concerned with the runoff of the tanks because it would go down hill to his property if there was a spill. He was concerned with the noise of the increased truck traffic that the Cason facility would bring. He said that he has 7 rental properties on Level Stone Drive that he feels will be affected because of the gas tanks. He said that he thinks his insurance rates will rise. He mentioned that he has an issue with Gould's fuel business and feels it will be a danger.

Chairman Bonessi asked if there were any questions from the Board or the other parties.

Only Chairman Bonessi had a question. He asked Mr. Roberts if his biggest concern was the fuel, did he know what types of tanks Cason will use, above ground or their containment situation. Mr. Roberts said he had a photograph of what types of tanks Cason has now. He is assuming they will move the tanks to the proposed property.

Chairman Bonessi said that questions regarding the tanks can be asked of Mr. Gulden now, because if the tanks were going to be above ground they would need some type of containment system. Chairman Bonessi asked Mr. Gulden if he would like to elaborate on the tanks. Mr. Gulden said he was going to offer evidence in the rebuttal if it was brought up, but he would be happy to do it now after Mr. Robert's statement. He said he could answer any questions after all the rest have gone. He said it was up to Chairman Bonessi.

Chairman Bonessi said he wanted to talk about it now because Mr. Roberts had concerns.

Mr. Gould said, They would move exactly what tanks they have now to the new site. They are above ground storage tanks. They will be contained in a dyke. He must comply with MFPA code 30 which is the building code for the petroleum business. Mr. Rocky Hyder the Fire Marshall could probably give technical advice on all the things pertaining to that. His is a very highly regulated business. He as to comply with US EPA, North Carolina Department of Natural Resources Ground Water, North Carolina Department of Air Quality, Federal Regulation 49 CFR, Homeland Security and has a Spill Prevention Plan that is on file with the State. He stated that his site is periodically checked. He also said Cason Building Supply is the back up supplier to all Henderson County Emergency Services, EMS, Fire Department, Sheriff's Department, and personnel in an emergency. They all have keys to the facility and have 24/7 access."

He further stated, "On the trucking end of the business they are US D.O.T. registered carrier. They have to file with the D.O.T. and are regulated by the D.O.T. In regards to safety Mr. Gould said that he is not in disregard to the neighborhood and must comply with the laws and his truck drivers must comply with the laws. The location of the fuel tanks is close to the railroad tracks so that in the event of a spill it can more easily contained and easily accessible for a clean up."

Chairman Bonessi asked if Cason Building Supply has had any spills.

Mr. Gould said, "Cason Building Supply has been at the current location since 1979 and had one spill in 1996. It was due to the weather. The temperature was 56 degrees below zero with the wind chill. The sheriff's department notified him of the spill. In 15 minutes, Blue Ridge Fire Dept was on the scene. The area was contained and an environmental company cleaned it up. Reports were filed. Rocky Hyder's office was in charge. Fortunately the ground was frozen. Mr. Gould said that the spill went right into the creek and it was contained there, so yes, they had one, but they are very knowledgeable on how to take care of it."

Chairman Bonessi asked how large the spill was.

Mr. Gould said, "It was about 1,200 gallons."

Chairman Bonessi asked, "What is your storage capacity?"

Mr. Gould said, "We have a storage capacity of about 120,000 gallons. At \$3.00 a gallon we certainly will not have that kind of money sitting there every day. I don't think it's going back to \$1.00 a gallon, so we typically have about 60,000 to 70,000 gallons. Something like that."

Mr. Gould also pointed out that they are an 8:00am to 5:00pm, Monday through Friday business. In regards to the noise concern that Mr. Roberts had with the tanks he said the petroleum tankers were the least noisy of the entire operation as they typically come during the daylight hours. They do not have a 24 hour loading and unloading business. Because of Homeland Security they cannot give keys to anyone like they used to. Occasionally there is a truck at night.

Chairman Bonessi asked how many gallons the large tankers held.

Mr. Gould said they typically contain 8,000 gallons. He also mentioned that the fumes are captured by a Vapor Recovery System. This captures the vapors and insures they are not released back into the air. The fumes are hauled back to Spartanburg or Charlotte. They have been checked by NC Department of Air Quality on numerous occasions and they are a highly, highly regulated industry.

Mr. Gulden asked of Mr. Gould knew what the spill containment of the dykes would be.

Mr. Gould said the dyke has to contain the volume of the largest tank, so it will be a block wall. The largest tank would be 20,000 gallons.

Mr. Gulden asked Mr. Gould to explain to the Board what he meant by a dyke.

Mr. Gould said they are constructed of a concrete pad that the tanks sit on, surrounded by a sealed concreted or block wall. In the event of a spill, it stays in the dyke. The requirement is to only contain the largest tank. He speculated that the theory is that all the tanks would not leak at the same time.

Mr. Gulden asked Mr. Gould if the spill in 1996 was due to any type of negligence of an employee.

Mr. Gould reminded him that that spill was due to the wind chill of -56 degrees which cause the valves to freeze.

Mr. Gulden asked what type of lighting he was going to have in relation to Mr. Robert's property. Mr. Gould said that he will have security lighting around the shops and the tanks themselves. He said the whole property would have the minimum allowed lighting and that it would shine away more from people that on them. He stated that he did not need to light up their products at night like car lot or a shopping mall, just have security light. Mr. Gould pointed out that Mr. Robert's has an outdoor security light that is about 9 feet off of the ground that will have more light than his facility will.

Mr. Gulden asked if Mr. Gould would have his light on Mr. Robert's property on 24 hours.

Mr. Gould said, "I don't think so. No."

Mr. Gulden asked Mr. Gould to explain to the Board why he chose the area for the storage tanks.

Mr. Gould said he had mentioned earlier that when the site was looked at, from an overall safety standpoint that area seemed to be in the least conflict with anything around the other buildings and residences. He felt it was unfortunate that a residence is next to it, but they are in the middle of a

residential district where they are currently located and they have no complaints. Beside and behind the tanks is all residential where they are now.

Mr. Gulden asked him if he has had any complaints of odor, noise or glare and Mr. Gould said, "No."

Chairman Bonessi asked Mr. Roberts if he had any questions for Mr. Gould because this was the time to talk back and forth and ask questions of one another.

Mr. Roberts said the lighting that Mr. Gould now has on his property is not minimal. It is like a main street. If he is going to have the same type of lighting on the proposed East Flat Rock location than it is more lighting than Mr. Gould is willing to admit.

Mr. Gulden asked Mr. Roberts if he was aware that Mr. Gould had only had one light on the front of his property. Mr. Roberts said he was aware of the fact that it is lit up like a Wal-Mart parking lot. Mr. Gulden then asked him if he lived where the current Cason Building Supply is located. Mr. Roberts said he did not live there but has owned the property adjoining it since 1969. Then Mr. Gulden asked him if he had a business there that has a light out front. Mr. Robert's stated that he did. Mr. Gulden then asked Mr. Roberts if the location that he lives in now, the residential area, also has an outdoor security light about 9 feet off of the ground that stays on during the night. Mr. Roberts said that he did.

Mr. Gulden said he had nothing further for Mr. Roberts.

Chairman Bonessi asked if anyone else had anything for Mr. Roberts.

Mr. Edney asked Mr. Roberts to show the Board the picture of the tanks (he stated earlier he had pictures of the tanks in their current location). He gave the Board the pictures for review.

Chairman Bonessi asked Myron Medlin to come to the podium.

Mr. Medlin came forward and stated his address as 106 Level Stone Drive. He said he also owned the lot behind at 104 Level Stone Drive which is directly in front of where the tanks will be placed. His property is right across from Mr. Robert's, they corner each other. He said he was 51 years old and has lived there all of his life. All that has ever been in the proposed new Cason location is a trailer park back in the 60's and 70's, before that, kudzu vines and before that mill houses. He said his parents' owned his house, now he owned his house and what is there has been there. He said he did not mind the business and that he burnt wood and his wife has lung problems. He said that the tanks would be right outside his front window and felt an 8 foot fence would not contain any problems. He said that he was on a hill and would be looking right over the fence at the fuel tanks. His concern was with the fuel tanks.

Tony Engel asked him if it was the safety he was concerned about. Mr. Medlin said that safety, noise and the lighting were his concerns. Tony Engel then asked Mr. Medlin if he had looked at the site plan. Mr. Medlin said that he had looked at it briefly when he came to the meeting. Tony Engel noted that the tanks would be about 250 feet from his property. Mr. Medlin said, "That's a straight shot, though. It's about the distance between me and the railroad track." Mr. Medlin again stated that the land hasn't been used for anything industrial in the past. He said that the Minute Man business has used the land and the Moose Lodge has been used for a good while and none of them were conflicts. He said he had a nephew that got hit on W. King Street when they did have a lot of traffic back in the 70's. He said that this year he himself nearly got "T-boned" a dozen times in the intersection of James Street.

Mr. Gulden asked if Mr. Medlin burnt his wood inside or outside. Mr. Medlin said he burnt wood inside his home, but he sometimes burnt it outside in the summer when there is not a burning ban on. Mr. Gulden then asked Mr. Medlin if he ever lets his outside fires get out of control. Mr. Medlin told him he did not. Then Mr. Gulden asked Mr. Medlin if in his opinion there was no possible was that one of his

outdoor fires could ever reach Mr. Gould's fuel storage area. Mr. Medlin said that he was not God and gave an example of 60 mile per hour winds kicking up. He sited the spill in 1996 due to -58 degree wind chill factors that caused the accident. He said that there are always concerns and said to "look at what happened in California and just down in Green River, not long ago from a small fire."

Mr. Gulden asked if Mr. Medlin burnt wood inside also even though Mr. Medlin said his wife has lung problems. He stated his wife smokes and is having some problems, but the stove is airtight and vented very well. Mr. Gulden then asked if Mr. Medlin said that he had kids at the corner of Mills Street and W. King Street. Mr. Medlin said that was his nephew he mentioned earlier that got hit. Mr. Gulden asked him if any of the people that almost hit him a dozen times this year staff members or employees of Cason. Mr. Medlin again that he was not God, he did not know and that he did not ID all of them that nearly hit him. Mr. Gulden asked if any of the people that nearly hit him had CDL licenses. Mr. Medlin said, "A couple of pretty good sized trucks went across there and nearly hit me, yes." Mr. Gulden said he had nothing further for Mr. Medlin.

Chairman Bonessi asked if anybody else had any questions for Mr. Medlin. There being no more questions, Chairman Bonessi thanked Mr. Medlin.

Chairman Bonessi called Mrs. Washburn to give her statement.

Marcia Washburn stated her address at the corner of W. King Street and James Street (which she said is also called Mills Street). She said she did not know what was going in the field in front of her house. She said she is retired, she has breathing problems, sinus problems and a lot of problems now, and this is just another one. She said D.O.T. has been on her property and they told her they won't touch her land but placed stakes on her property. She said D.O.T. said they are going to put a road in the field in front of her house. But she said she didn't know what they were going to put in the field. She said she had nervous problems and she could not take the noise and the trucks. She has been down by 176, down by Cason and the trucks stop in the middle of the road without giving a signal and that she has almost hit them. She said she did not want the noise because there was enough noise from Minute Man. She doesn't want the tankers down below her. She feels where she lives is a quiet neighborhood, though she said that the field in front of her is already contaminated. She said that a mobile home trailer was burnt and buried in the field years ago and is still there. She said that she did not want heavy trucks coming past her place.

Chairman Bonessi pointed out the site plan next to Mrs. Washburn for her review to show what is proposed for that field. Mrs. Washburn said, "Well, I couldn't understand if I looked at it."

Mr. Gulden said he would be happy to point out to Mrs. Washburn the proposed uses on the site plan or that Mr. Smith could do it. Mr. Smith showed Mrs. Washburn the various streets on the site, the buffering, set backs, the proposed types of buildings and locations on the site, and where the road changes might be. After Mr. Smith helped her to understand the site she gave several more comments. She said she still did not want the noise and she was concerned with the children living there. She said there have been three generations living in her house and that she was not getting any younger. Mrs. Washburn thanked the Board for its time.

Chairman Bonessi asked if anyone else had questions for Mrs. Washburn.

Mr. Gulden asked her if she realized that the back of her property was 160 feet from the edge of Spartanburg Hwy. and the front of her house will be 230 feet away from the contractor parking for the proposed use. Mrs. Washburn said she did not know this. He stated again that the contractor parking and any noise associated with it will be at least 230 feet away from the front of her house, but the noise from Route 176 is only 155 feet away from the back of her house and again asked her if she realized this. She thanked Mr. Gulden.

Chairman Bonessi thanked Mrs. Washburn then asked if anybody else had any questions for. There being no other questions Chairman Bonessi said the Board would take a 5 minute break.

After the 5 minute break Chairman Bonessi called the meeting back to order.

Karen Ann Antonucci Zoning Board Secretary asked the attorney for Gould Properties LLC to restate his name and spell it for the record.

Mr. Gulden said, "Brian G,u,l,d,e,n and Brian with an 'i' ."

Mr. Gulden indicated to the Board that he had neglected to indicate he may call Rocky Hyder as a rebuttal witness. Mr. Gulden did not see Mr. Hyder at the beginning of the meeting, but he was present now and he intends to call.

Chairman Bonessi said that Mr. Hyder would need to be sworn in and asked that he come forward to do so. Karen Ann Antonucci Zoning Board Secretary swore in Mr. Hyder.

Associate County Attorney Sarah Zambon reminded Chairman Bonessi that the applicant can offer any rebuttal evidence at this time.

Mr. Gulden said he did have a rebuttal but wanted to ask Mr. Gould if the drivers of vehicles operating out of his current location all maintained CDL licenses. Mr. Gould said that all of the drivers did. Mr. Gulden then asked if any of the drivers that work for Cason have had accidents exiting or entering the property. Mr. Gould said they have not. He said there have been accidents in front of Cason, but none related to their vehicles since 1979. He also asked if Mr. Gould has looked down Spartanburg Highway from W. King Street on the proposed site and noticed any blind spots or blind curves that would impede his employees who are entering or exiting onto or off of Spartanburg Highway. Mr. Gould said he has not seen any blind spots, and in his opinion it would be a less dangerous situation than where they are in now. He stated that since they have been at the current location there is a housing project across the street and there has been a lot more traffic since 1979. In his opinion he feels the new location is safer for trucks pulling in and out until some time in the future when that side of town builds up and there is increased traffic.

Mr. Gulden asked Mr. Gould aside from the fuel oil distribution business what are the hours of operation for the building side of the business. Mr. Gould said the hours were 8:00am to 5:00pm, Monday through Friday. He then asked if there were any after hours or weekend deliveries or pickups that happen on a regular basis. Mr. Gould said, "Not on a regular basis, occasionally there may be a truck that comes in the evening, mostly in the summertime, but as I said only our employees have keys to the gate. Everyone else needs to come in 8 to 5 or make an arrangement to be there when someone is there."

Mr. Gulden said he had nothing further for Mr. Gould.

Chairman Bonessi asked if there were any more questions for Mr. Gould.

Mr. Edney asked if Mr. Gould would insure that none of his vehicles would be used on James Street (Mills Street) for ingress or egress. Mr. Gould responded that it was his intention to use W. King Street and not run trucks on the smaller road. Mr. Edney thanked Mr. Gould.

Mr. Gulden called Mr. Hyder as a rebuttal witness and asked him to state his name and occupation for the Board.

Mr. Hyder stated he was Rocky Hyder the Emergency Services Director for Henderson County. Mr. Gulden asked how long Mr. Hyder was employed with the County. Mr. Hyder said he was employed since 1992 as the Fire Marshal. Mr. Gulden asked him to explain his duties as Fire Marshal. Mr. Hyder

said the duties associated with fire inspections with regard to business inspections, plan reviews of commercial business, fire investigations, and things of this sort and fire prevention. Mr. Gulden asked if he was familiar with Cason Building Supply and its oil distribution at its current location and had he looked at the plans submitted to the Board of Adjustment for a Special Use Permit. Mr. Hyder said that he was on the Technical Review Committee so he has looked at it. Mr. Gulden then asked him if there was anything on the new plan that caused him concern. Mr. Hyder said he had no concern because they had consulted with Cason Companies before the plan was submitted to make sure all of the set back requirements were met. Mr. Gulden asked Mr. Hyder if he knew all the federal, state or local regulations they have to comply with in order to be permitted to distribute oil from that location. Mr. Hyder said there are federal regulations with regard to the transportation of petroleum products. There are North Carolina as well as US D.O.T. regulations with regard to transportation. National Fire Protection Association Standards with regard to storage and handling, with regard to the docking and everything that has been said earlier is absolutely accurate. Mr. Gulden asked if Cason would have to meet all of the state and federal standards before they could get a permit to distribute oil from that location. Mr. Hyder said, "That's correct." "All those standards have to be met before a permit can be issued." Mr. Gulden asked if it was Mr. Hyder's office that would issue the local permit to conduct that type of operation here in Henderson County. Mr. Hyder stated that it was correct. His office would issue the local permit to be in compliance with the North Carolina Fire Code which references all of the state and federal documents. Mr. Gulden asked again that before Mr. Hyder's office issues a local permit they need to be in compliance with federal, state, and local regulations as required. Mr. Hyder again said, "Yes, and they would have to do several site inspections to insure that is the case." Mr. Gulden asked Mr. Hyder if he was able to discuss with Mr. Gould his spill prevention plan. Mr. Hyder said that they did not specifically discuss the spill prevention plan although he guessed it was a given because that has to be part of the overall site design in the permitting process. Mr. Gulden asked if he was aware that Mr. Gould has a spill prevention plan in place. Mr. Hyder said he was aware that Mr. Gould has a spill prevention plan and has to have one in place because of the docking and site designs so the drainage is designed to keep most of the spill on site so that it does not go off site. It is only a large spill that would escape the facility in the design criteria.

Mr. Gulden had no further questions for Mr. Hyder.

Chairman Bonessi asked if anyone else had any questions for Mr. Hyder.

Mr. Edney asked as far as His Kids Child Development Center and their requirement to have an evacuation area for their kids incase of fires and whatnot, is there anything at all about this project that will adversely affect what they do or what conditions they will have to meet. Mr. Hyder said that it would not change their requirement what so ever. The set back requirements are required on the site itself therefore it should not affect any adjacent property in regards to evacuation areas and thing like that.

Chairman Bonessi asked if anyone else had questions for Mr. Hyder. There were no more questions for Mr. Hyder.

Mr. Gulden called Scott Marino to the stand.

Mr. Marino stated he works at Minute Man Anchors at 305 W. King Street. He said his family owns the business. Mr. Gulden asked Mr. Marino to give a brief history of the use of the property, as he is aware. Mr. Marino said that as far as he was aware his grandfather, Al Marino, bought it in 1969. His family moved there in 1970 and his father went to work for him there. Scott said he has had an association with the property. He as worked part time in high school and full time for about 10 years. As far as he knows there has always been some type of industrial site there since about 1930 or 1940 when Shipman's factory was there. His grandfather bought it from Shipman in 1969 and so there has always been a continuous business there.

Mr. Gulden asked him if he was aware of a mobile home park that was there located off of Level Street. Mr. Marino said he was aware of the mobile home park at that location since about the mid 70's to about 10 years ago. At that time his family decided to shut the park down because they had a lot of problems with the residence there. Police had visited too often, etcetera. He stated there were a little over 20 homes there at the time.

Mr. Gulden said that was all he had for Mr. Marino.

Chairman Bonessi asked if anyone else had questions for Mr. Marino.

Anne Pouch asked if Minute Man Anchors is still active.

Mr. Marino said it was and has been in operation for roughly 40 years and planned to continue.

Chairman Bonessi asked if anyone else or any of the parties had any questions for Mr. Marino. There were no further questions.

Mr. Gulden said he would call Eric Goodman as his last rebuttal witness.

Eric Goodman stated his name and profession as a Real Estate Broker since 1982.

Mr. Gulden asked in his employment, did he have knowledge of any residential structures in and around the present location of Cason Building Supply. Mr. Goodman said he did. Mr. Gulden asked if he was aware if the value of those properties have increased or decreased with the continued use of Cason's existing site. Mr. Goodman said they have increased in value and in fact everything has gone up county wide about 1/3. He did not know of anything in Henderson County that has gone down in value.

He said he owns real estate rental properties and is always on the look out for something cheap. He cannot find anything cheap and reasonable right now. He said everything has continued to go up.

Mr. Gulden asked if he had an opinion, satisfactory to himself, as to whether or not the rental value or property value of the residences out there at the proposed location will increase, decrease or stay the same. Mr. Goodman said he thought it will stay the same, but over time it will increase as inflation plays into it. He felt the values will increase because he has rental properties not far from Cason's present location and he has been able to increase the rental fees. Mr. Gould had nothing further for Mr. Goodman. He said that he had no other questions for the applicant.

Chairman Bonessi asked if anyone else had any questions for Mr. Goodman.

Mr. Edney said he did not have any more questions, but would make a closing statement at the appropriate time.

Jim Crafton asked Mr. Gould if he could point out where the trucks will go through the site to the tanks. Mr. Gould referred to the site plan and stated the trucks will enter and exit the same place on W. King Street.

Chairman Bonessi said the Board would now hear closing statements.

Mr. Edney said, on behalf of the First Baptist Church of East Flat Rock, the ordinance requires the minimization of noise, glare dust, etc. and it appears the buffering requirements of 45 feet and 30 feet, fencing and bushes will meet that requirement and minimize the effects. It also requires the minimizing the effects of traffic. Given what we have been told about the paving of the road and other considerations we think that it would meet our needs. Those were the only issues we had, given the layout and the fuel tanks are not going to be near us.

Mr. Gulden offered his closing statement. He reminded the Board and others present that Cason Building Supply has been in that location since 1972, Mr. Gould has been out there since 1979, he lives in Henderson County, married his wife Dee Dee, from East Flat Rock, so they are not going anywhere. They are not intending to use the property then have someone else run the business and retreat to Florida. They are going to be at that location day in and day out insuring that it is operated according to the special use permit and the way that it should under the federal, state, and local regulations. As Mr. Edney indicated we did address the issues as far as health, safety and welfare of the community. As far as traffic goes the evidence shows the good safety of the drivers of Cason Companies, there being no blind curves, good site location as far as ingress and egress off of Route 176. Though there is some evidence of children playing in and out of the road, but there are regulations as far as CDL license, speed limits, the size of the road, what they are doing, I don't think there is any direct evidence presented to the board of an incident happening to a child related to Cason and or the use. So I would ask the Board to consider the evidence that was presented of the good driving history of Mr. Gould and his company. Also, we talked about the odor. He indicated there was remediation as far as the tankers coming in delivering the fuel to the oil tanks that the fumes are recycled or recirculated back into the truck and brought back to the point of its origin to be disposed of. If the roads are paved according to D.O.T. that would significantly decrease on dust, but Mr. Gould did indicate that there would be no employee or staff driving up and down James Street or (Mills Street). That would certainly cut down on any dust associated with that road. As far as W. King Street, it is paved so the only dust associated with that is the fugitive dust that would come up off of any road. We talked about the spill response plan. We had Mr. Hyder come up here and say that before this operation can go into business they have to comply with all federal, state and local regulations. He is going to have to do that, it is not - does he want to do it - he's going to have to do it if he wants to run a fuel storage and distribution out of this location he's going to have to do it. They've got regulations which require a minimum spill dyke or that can contain up to 8,000 or 12,000 gallons of fuel oil.

Mr. Gulden reminded the Board they also talked about the hours of operation. The main business of building supply would be open from 8:00am to 5:00pm with the exception of a stray delivery that happens in the busy season after 5:00pm. No one will have a key. No one will be able to access it. We also talked about the buffering. There will be buffering along all residential or all property lines that abut residential uses that includes (Mills Street) James and W. King Street. We've done all we can to meet with the requirements. I believe Mr. Linville indicated we meet all of the special requirements of the ordinance under the new Land Development Code. We talked about property values. I know there was evidence that someone speculated that you won't be able to charge as much rent. But we introduced evidence comparable if not more sufficient that indicated the property values around the current location of Cason have increased in value. Our expert's opinion was that the value will remain and or increase over time.

He stated that when he looks at it with the site appropriateness, easy access to 176, it's a large area, it is bordered by other industrial uses and the railroad track, Minute Man, road access is easy on and off to 176, and the protection of the health safety and welfare of people, he felt that they have adequately addressed all of the issues and he would ask the Board to vote in favor of approving the special use permit as proposed in the application. Mr. Gulden then thanked the Board.

Chairman Bonessi said at that time the Board would go into a discussion with no other input from the public. He started with Ann Pouch for her comments and opinion.

Ann Pouch said, "It looks like they've complied with the land management people. They've answered all the questions. It is industrial and it seems to me they have been very cautious."

Jim Phelps said, "I have no questions, they seemed to have answered all of my questions and it seems to be an appropriate use for industrial classification."

Tony Engel said, "It seems appropriate and there are nice buffer zones around residential areas. It will have the least amount of impact of anything in industrial use."

Jim Crafton said, "I'm in agreement with their application. Those who have residential ownerships nearby, as always, they struggle when you have residential properties adjoining industrial properties. But our commissioners have deemed this land appropriate for industrial development which we need to have and any community needs to have. Therefore the buffering requirements are more demanding to an area adjacent to a residential zone than they would be to commercial or that type of thing and I think they've done that. It's part of the necessary growth in a community but they have answered all the questions. They have met all the requirements and even the factors that we are asked to look at have all been satisfied so I am satisfied."

Ann Pouch commented to Jim Crafton that it has been industrial and that our Commissioners have had that zoned industrial since the beginning.

Jim Phelps said, "It's just a continuation."

Chairman Bonessi said, "It has been for a long time. I do struggle with these decisions just because of – I look at the fact – do I want to live around that and so forth, I do struggle with that. With the guidelines pretty much given to us, with the window that we have to work in I don't really see anything that prevents us from doing that. It looks like they have basically worked within all the rules and done everything that has been asked of them."

Chairman Bonessi said he needed a motion because there did not seem to be a whole lot of discussion.

Jim Crafton said he would move that the Zoning Board of Adjustment approve the Special Use Application that was presented before them tonight with the necessary designation, number and name and identifiers that are appropriate with no additional conditions required.

Jim Phelps seconded the motion.

Chairman Bonessi asked all board members in favor to raise their hand. All Board members approved the application, indicated by a raised hand.

Chairman Bonessi congratulated Mr. Gould on his approved application and told him the Board would review the order at the January 30th meeting. If it is what they agreed to today then the order would be signed and it would be available to him.

Mr. Gulden thanked the Board.

Chairman Bonessi said he needed a motion to go out of Public Hearing.

Tony Engel made a motion.

Ann Pouch seconded the motion.

Chairman Bonessi asked all Board members to indicate if they were in favor. All Board members indicated they were in favor.

Chairman Bonessi said they would now go into Old Business

Associate County Attorney Sarah Zambon said she was still working on the by-laws. She asked if Zoning Board Secretary Karen Ann Antonucci had everyone's email address. Ann Pouch said she

does not have an email address. Ms. Zambon said that she could email everyone the draft. Chairman Bonessi said that would be the best way to get the by-laws to him for review. He also asked if it was possible to email the Board packages out prior to the meetings. He felt that getting even just the agenda via email would be helpful.

Zoning Administrator Toby Linville said that it would not be a problem because everything they had could be emailed out.

Associate County Attorney Sarah Zambon said she spoke to the County Attorney Russell Burrell and he indicated the Order can be sent out electronically. A Temporary Permit can be available at the meeting so the applicant has something they can take with them. This would allow them not to have to wait the 30 to 45 days to pick up the signed Order. She said she would put a waiver on the Temporary Permit that indicated it was only good until the final Order is signed. They would not have to pick up the Order. We could mail it if they wanted. They don't have to sign for it. They would have to understand the Temporary thing they are getting may not be the final Order. She was not comfortable with doing it personally because there are some complications because she cannot anticipate everything that comes up.

Chairman Bonessi said he felt that was fine but he would not make it a practice, he would make it an exception.

Zoning Board Administrator Toby Linville said in Cason's case they would not need the signed Order before 45 days.

Associate County Attorney Sarah Zambon said it would be mainly for homeowner that wanted to put up a shed.

Zoning Board Administrator Toby Linville said it would be for someone that did not want a variance and he could just issue them a zoning permit.

Chairman Bonessi said he would not make it too easy and would not go to the trouble to do it every time.

Chairman Bonessi asked if there was any New Business to discuss.

Zoning Board Administrator Toby said the current Alternate Board Member were: Eric Goodman, Suzanne Holbert and Janice Brown. He said Suzanne Holbert was the Alternate that has not attended meetings.

Zoning Board Secretary Karen Ann Antonucci said that Suzanne Holbert does not attend meetings and does not respond to any phone calls that are made to her.

Zoning Board Administrator Toby Linville asked Karen Ann when the last meeting was that Suzanne Holbert attended.

Zoning Board Secretary Karen Ann Antonucci was not sure but said she could check the Attendance Roster. She recalled looking at the Roster last month and there were several months Suzanne did not attend a meeting.

Chairman Bonessi said he was OK to send a letter that he would sign to see if Suzanne was still interested or not.

Zoning Board Administrator Toby Linville said he would have Terry Wilson Deputy Clerk to the Board of Commissioners do the letter.

Chairman Bonessi said what ever they needed to do because he did not think he has seen Suzanne at a meeting in a year.

Jim Crafton said that the other boards he sits on has similar issues and he asked what to do about it. That board said they look for the Chairman of the board to ask the Commissioners to make a replacement.

Zoning Board Administrator Toby Linville said, "She had not responded to us in two months. Karen Ann has called her several times."

Chairman Bonessi said the Board needs people that will respond and come. With Gary Griffin leaving we need to find more Alternates.

Zoning Board Secretary Karen Ann Antonucci asked Chairman Bonessi if he would be the one writing the letter and contacting the Board of Commissioners.

Jim Phelps said Chairman Bonessi could request that Zoning Board Administrator Toby Linville do it.

Chairman Bonessi said, "Toby I request that you do that for us." He then asked if we had people in waiting and thought the Natalie Berry had said there might be one in the pool a while back, a woman. Zoning Board Administrator Toby Linville said he did not know, but he would check with Natalie.

Zoning Administrator Toby Linville said she had served on a Board of Adjustment in New Jersey or wherever her home was.

Jim Crafton said he suggested to Toby that when the Board contacts people and when they are enlisted that we distinguish between the permanent seat and the alternate seat. He said when he was enlisted; he was just enlisted to the Zoning Board. He did not have a clue that there were alternates and permanents until he got here. He said it would help them to know what they are committing to when they are enlisted.

Chairman Bonessi said the Board has talked about defining the roles more. He said the Alternates need to be more involved so they are not sitting idly at the meetings. There may be a way to figure out how we can incorporate them into the discussions if it is not a Quasi Judicial discussion, but the other aspects. So they get used to the procedure. So they get used to understanding why decisions are made.

Jim Crafton asked if anyone wanted to carpool to the February 7th Workshop in Enka.

Zoning Administrator Toby Linville said he would arrange for a van and that the attendees should meet at the office and go together.

Tony Engel asked if Zoning Administrator Toby Linville could get a leer jet for him.

Zoning Administrator Toby Linville said that if he could get a leer jet for him he would not be back.

The Board members were reminded the Board of Adjustment Workshop at AB Tech in Enka was on February 7th.

Zoning Board Secretary Karen Ann Antonucci said there were 8 slots paid. There were 7 attendees so far and she was going to contact Eric Goodman to see if he would be able to attend.

Jim Crafton asked if the next Board meeting was on January 23rd.

Associate County Attorney Sarah Zambon said the next meeting was on January 30th.

Zoning Administrator Toby Linville stressed that the meetings are always on the last Wednesday of the month, not necessarily the 4th Wednesday of the month.

There being no further comments or business, Chairman Bonessi made a motion to adjourn the meeting. Jim Phelps offered a first and Ann Pouch seconded the motion. The meeting was adjourned at 6:42 p.m. The next meeting will be on Wednesday, January 30, 2008 at 4:00 p.m.

Dean Bonessi, Chairman

Karen Ann Antonucci, Secretary