

June 25, 2003
4:00 PM

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held a regularly scheduled meeting on Wednesday, June 25, 2003, at 4:00 p.m. in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Diane Grant, Janice Brown, Anthony Engel, Robert Fleming, Zoning Administrator Brad Burton, Temporary Zoning Administrator Suzanne Godsey, Planning Director Karen Smith, and Secretary to the Board Joyce Karpowski.

Chairman Grant called the meeting to order at 4:07 PM and introduced the members of the Board. She presented the minutes of the meeting from May 28, 2003. There were no corrections. Chairman Grant said the minutes stand approved as presented.

Chairman Grant called forward to be sworn in those who would be presenting testimony in the case scheduled to be heard. Sworn in was Todd Justus.

Case CU-03-04 – Jeff Justus, Continuation from May 28

Chairman Grant called Case CU-03-04, Jeff Justus, requesting a conditional use permit to develop a shopping center with two buildings. The property is located on the corner of South Allen Road and Upward Road and is zoned C-4. Chairman Grant opened the public hearing.

Mrs. Godsey said that at the last hearing there were several issues that the Applicant needed to address. There were seven items that were mainly addressed by notes on a revised site plan. Both the list and revised site plan were in the Board's packets. She wanted to address each issue. Item #1 addressed the placement of doors for loading and unloading on new buildings. The buildings are numbered Building #3 and 4 on the site plan. The note on the revised site plan responding to this is, "Doors for loading and unloading will be at rear of the buildings. Exact locations will be determined when more tenant information is available." So the exact locations have not been shown on the plan, just that they are at the rear of the building. Item #2 addresses room for vehicles and access to back of building. There is the same proposed service drive with the one-way arrow pointing to the North. Mrs. Godsey pointed it out on the revised plan. Item #3 was the distance between the manufactured home park and service drive to allow for a buffer. The revised site plan now shows a 10 foot area between the property line and the service drive. Lighting was the next item (Item #4) and in the notes it says, "Exterior light fixtures shall be installed so that glare toward adjacent property is shielded." Mr. Burton visited the site to view the existing lighting. Mr. Burton described the lighting over each individual front store door and at least 4 lights in the back of the building. Mr. Burton said he assumes the lighting on the new buildings will be the same. Chairman Grant said she would be more concerned with the lighting on the new building with only about 12 feet from the property line for trucks to maneuver. Mr. Justus said that trucks are usually not there after 5 o'clock. Mrs. Godsey said there are 4 proposed light poles for the development and pointed them out on the revised plan. Chairman Grant asked if there was any indication of what kind of lights they would be. Mrs. Godsey said no.

Item # 5 addressed landscaping. That was addressed in a note on the revised plan stating, "Landscaping at buildings #3 & #4 will be same size, spacing, and species as landscaping at

existing buildings #1 & #2.” Mrs. Godsey said that left a lot to interpretation. She presented the Board with 3 photographs of the existing landscaping around buildings #1 and #2 and described them. Chairman Grant asked if there was room around the proposed buildings for the same kind of landscaping. Mrs. Godsey said yes. On building #3 three sides of the building have areas for planting. Only the front of building #4 has room for planting. Mrs. Godsey said that she has done some calculations for the landscaping. Item #6 is the sign placement and note #6 says, “Signs on buildings #3 & #4 will be similar to signs on existing building #2. Pylon sign at entrance will be designed when more tenant information is available.” Item #7 is the width of the entrance at Upward Road and that is specified on the revised plan as 35 feet, which would allow for 3 lanes for an entrance (a right out, left out and the entrance lane).

Chairman Grant asked where the proposed sign would be located. Mrs. Godsey said it was not addressed. Chairman Grant asked what kind of signage was on the existing buildings. Mr. Burton said it is on the buildings and in harmony with the business. Chairman Grant asked what a pylon sign was and Mrs. Godsey said it was a tall metal sign that would potentially have Justus Business Center on top and the businesses listed underneath. Chairman Grant asked if there was a sign ordinance to cover the sign. Mrs. Smith said no.

Chairman Grant asked Mr. Todd Justus to come forward and add any information. Mr. Justus said he is a co-owner of the property. Mr. Justus said, as far as the sign, he would prefer a sandblasted sign. Chairman Grant said the Board is concerned with the lighting on the sign and asked where it would be placed. Mr. Justus pointed out he would place it between Upward Road and the “future drive” on the revised plan. Chairman Grant asked about the room there, so vision wouldn’t be impaired. Mr. Justus said it would be done like Brookdale Square with the sign 8 to 10 feet from the ground. Chairman Grant asked how much room there is on the island and how far it is from the pavement of Upward Road. Mrs. Godsey said there is about 25 feet from the back of the right of way to the “future drive” on the site plan.

Mr. Justus spoke about lighting and said that most of the rear lights have timers that go off automatically. He said the majority of people are gone by 5 o’clock at night. Chairman Grant asked if one proposed use was a restaurant. Mr. Justus said it is a possibility, but that would only be open until 9 or 10 o’clock at night. Chairman Grant said lighting is a concern because of the homes so close to the property. Mr. Justus said the other issue is to have some of the manufactured homes that are over onto his property removed. Chairman Grant said that is something he would have to address. Mr. Justus said he thinks that the landscaping done so far looks very nice. Chairman Grant said that the Board has requirements from the Zoning Ordinance and Mr. Justus will not always be the owner, so the Board has to make sure things are spelled out.

Chairman Grant asked about the vegetation between the manufactured home park and his property. She said it seemed to be thicker toward the back of the property and sparser nearer Upward Road. Mr. Justus said they would leave as much vegetation as possible. Chairman Grant asked if there was a requirement for a setback where the buffer should start where the property line meets a roadway. Mrs. Godsey said it would start at the right of way. Chairman Grant asked if a planted buffer would block vision. Mrs. Godsey said she didn’t think so. Mrs. Godsey said there was approximately 185 feet from the proposed entrance to the corner of the property where the buffer would be.

Chairman Grant asked if there was anyone else who wanted to speak at the public hearing. There was no one. Chairman Grant closed the public hearing.

Chairman Grant spoke of the findings of fact necessary. Chairman Grant asked for input as to whether the proposed use would affect the health and safety of persons residing or working in the neighborhood. Mr. Fleming spoke about the entrance on Upward Road and difficulty entering a

busy road. Chairman Grant asked if the revised site plan took into consideration the widening of Upward Road. Mrs. Smith said the setback should take into consideration future road expansion. Chairman Grant said that widening the road could eliminate some of the parking spaces along Upward Road. Mrs. Smith said that the widening has not been decided yet and forums will be held. The widening of the road was discussed. Mrs. Smith said the Department of Transportation could be contacted. Mr. Justus said that he was under the impression that land would be taken from the South side of Upward Road to try to straighten the nearby bridge.

Chairman Grant said that the entrance will be 35 feet wide, which is sufficient for three lanes of traffic. Mr. Fleming suggested asking to have a stop sign put at the entrance. Mr. Burton said the stop sign on a public vehicular area might not be enforceable, but a good idea. Chairman Grant said that stop could be painted on the pavement. Chairman Grant asked if there would be access to building #4 from both Allen Road and Upward Road. Mrs. Godsey said there is access to building #4 from both roads. Chairman Grant asked city water and sewer were available.

Chairman Grant said the Board should discuss conditions for the permit. She proposed a buffer strip as defined in the Ordinance between the manufactured home park and this property along the entire eastern line of the property. Mrs. Karpowski supplied copies of the previous Conditional Use Permit order to the Board. Mrs. Godsey suggested the buffer strip be installed prior to the issuance of a Certificate of Occupancy for enforcement.

Chairman Grant said that outside lighting along the eastern boundary of the project be shielded from adjacent property.

Mrs. Godsey asked for clarification about the installation of the buffer strip before the issuance of the Certificate of Occupancy for the first building or both buildings. Chairman Grant said before a Certificate of Occupancy is issued for either building. Chairman Grant said the buffer strip is set forth in the Zoning Ordinance.

Chairman Grant said shielded outdoor lighting should be along the eastern boundary.

Chairman Grant asked for suggestions about the sign and lighting. The Board discussed the size of the sign and the height. The Board discussed leaving the design to the discretion of the Zoning Administrator. Mrs. Smith said guidelines should be given. The lighting of the sign was discussed. Mrs. Godsey suggested that Mr. Justus come back before the Board with an amendment for the sign. The Board decided that the applicant must amend the permit with entrance sign details (size, location, type, materials, and lighting) prior to installation.

Mrs. Godsey said that, since this is designed as a group development and landscaping is required, the note on the revised plan is vague and there is no landscaping plan. The Board discussed what kind of landscaping should be required. Mrs. Godsey said that she took the numbers of the plant materials that they have installed around buildings #1 and #2 and came up with the numbers of plant material that they need and the locations to be in sync with buildings #1 and #2 as they say in their note. Mrs. Godsey listed the numbers of trees and shrubs and explained how she arrived at the amounts. Chairman Grant asked about enforcement. Mrs. Godsey said if something happened to required plantings, they would have to be replaced. Mr. Engel said that the minimum number of plantings suggested by Mrs. Godsey would be good for continuity. The Board decided that landscaping should include 12 large deciduous trees (such as maples), 21 small deciduous trees (such as crape myrtles), 62 shrubs (75% of which shall be evergreen) and installed within 6 months of the issuance of the Certificate of Occupancy for the second of the two buildings.

Chairman Grant said the Board's other concern was the placement of the loading doors. That has not been specified, but they are pretty limited to where they can be placed. It could be left to the discretion of the owner.

Mrs. Godsey said that one of the conditions that has been placed with other multi-tenant buildings is the requirement of a Zoning Permit for each tenant to make sure a tenant's use is allowable in the C-4 Zoning District. Mrs. Karpowski read the condition from the previous permit: "This permit covers the construction of the structure only. Individual tenants utilizing the Subject Structure or a portion thereof must apply for individual zoning permits for their particular use." The Board agreed to that condition.

Chairman Grant said the Board could require some painted signage at the entrance of Upward Road. Mr. Fleming said he would like that, since Upward Road is one of the busiest roads in the County. The Board discussed whether it was part of the plan. The Board decided to make a condition of the permit be pavement striping denoting traffic movement with arrows and a stop bar be painted and adequately maintained at the Upward Road entrance.

There was no more discussion and Chairman Grant asked for a motion.

Mr. Fleming said that with regard to the application CU-03-04 for a conditional use permit authorizing the operation of a shopping center on the property in question, he moved the Board to make the following finding of facts: the proposed use would not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use and the proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. Accordingly, he further moved that the Board grant the requested Conditional Use Permit with and only to the extent represented in the application and with the following conditions: Mrs. Karpowski read the previous 6 discussed conditions. 1. Pavement striping denoting traffic movement with arrows and stop bar be painted and adequately maintained at the Upward Road entrance; 2. A buffer strip as defined in the Ordinance between the manufactured home park and this property along the entire eastern line of the property be installed prior to issuance of any Certificate of Occupancy; 3. Outside lighting along the eastern boundary of the project be shielded from adjacent property; 4. The applicant must amend the permit with entrance sign details (size, location, type, materials, and lighting) prior to installation; 5. Landscaping should include 12 large deciduous trees (such as maples), 21 small deciduous trees (such as crape myrtles), 62 shrubs (75% of which shall be evergreen) and installed within 6 months of the issuance of the Certificate of Occupancy for the second of the two buildings; 6. This permit covers the construction of the structure only. Individual tenants utilizing the Subject Structure or a portion thereof must apply for individual zoning permits for their particular use. Mr. Engel seconded the motion. There was no further discussion.

Chairman Grant called for a vote and the following vote was taken by a show of hands:

Mr. Fleming	-	yes
Mrs. Grant	-	yes
Mrs. Brown	-	yes
Mr. Engel	-	yes

Chairman Grant said the application was approved with the conditions.

This concluded the hearing of cases.

COMMITTEE AND STAFF REPORTS: None

OLD BUSINESS: Mr. Burton reported that he has spoken with Mr. John Cely about his Conditional Use Permit for Sleepy Hollow Manufactured Home Park and it may come back before the Board.

NEW BUSINESS: Mr. Burton reported that he has been speaking with a couple about a Conditional Use Permit for a Bed and Breakfast that has had some changes to it and may come before the Board.

The Board was reminded that the next regular meeting of the Board of Adjustment was scheduled for Wednesday, July 30, 2003, at 4:00 PM in the Meeting Room of the Henderson County Land Development Building.

There being no further business, Mr. Fleming made a motion to adjourn, Mrs. Brown seconded the motion, and all members voted in favor. The meeting was adjourned at 5:15 PM.

Diane Grant, Chairman

Joyce Karpowski, Secretary