

MINUTES OF THE HENDERSON COUNTY  
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held its regularly scheduled July meeting on Wednesday, July 27, 2005, 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 Robert Fleming, Dean Bonessi, Gary Griffin, Ann Pouch, Alternate Member Suzanne Holbert, Planner Autumn Radcliff, Development and Enforcement Director Toby Linville, Zoning Administrator Natalie Berry, and Secretary to the Board Joyce Karpowski.

Chairman Fleming called the meeting to order at 4:07 PM and introduced the members of the Board. Chairman Fleming presented the minutes of the meeting from June 29, 2005. There were no corrections or changes. Mrs. Pouch moved to approve the minutes as written, Mr. Griffin seconded, and all members voted to approve the minutes as presented.

Chairman Fleming welcomed everyone. Chairman Fleming explained the quasi-judicial procedure that would be followed today and the appeal process. He called forward anyone wishing to testify today to be sworn in. Sworn in were: Assistant Zoning Administrator Autumn Radcliff, Zoning Administrator Natalie Berry, Gerald Dotson, and Eric Goodman.

**Case CU-05-08, – Gerald Dotson**

Chairman Fleming called Case CU-05-08, Gerald Dotson, requesting a Conditional Use Permit to construct a storage facility, consisting of two proposed structures in a C-4 district. The parcel is located at the corner of Highway 25 North and Butler Bridge Road in the rear of the shopping facility.

Chairman Fleming opened the public hearing and asked for a summary of the issues. Ms. Berry said the parcel is zoned C-4. The approximate size of the property in question is 0.91 acres. Section 200-22.B(2) "Conditional Uses" [added 5-16-2001] allows for light industry with a Conditional Use Permit. Light industry allows warehouses and that is what storage facilities are classified as. The zoning administrator interprets storage facilities to be within the definition of a Warehouse. Section 200-22.C "Dimensional requirements" lists the Minimum Front Yard Setbacks: Major Road 75' and Minor Road 60'. Hope Opal Lane is designated as a Minor Road by definition of Major Road as listed:

**"Major Road** – The following are classified major streets in Henderson County for purposes of this chapter. Chimney Rock Road (US 64), Brevard Road (US 64), Asheville Highway (US 25), Greenville Highway (US 25), Spartanburg Highway (US 176), Interstate 26, Boyleston Highway (NC 280), Haywood Road (NC 191), Kanuga Road/Crab Creek Road (SR 1127), Clear Creek Road (SR 1503), Upward Road (SR 1722), and the Upward Road Connector (SR 1783). [Amended 10-1-1990; 12-15-1993]"

Ms. Berry said the maximum building height is 40 feet. Side yard setbacks are the same as the side yard requirements to which the district is contiguous. The zoning district that is contiguous to the site is R-15. R-15 has side and rear yard setbacks of 15'.

Ms. Berry said Section 200-40 "Off Street Parking" states that Wholesale and Industrial Uses have 1 space for each 2 employees at maximum employment on a single shift, plus 1 space for each company vehicle operating from the premises. There will not be an on site office and there will be no company

vehicles. The applicant provided 2 spaces (1 space for each building). She pointed these out on page 1-6 of the Board's packet.

NC Accessibility Code requires (1 in 8) accessible parking spaces, or maximum of one (whichever is the greater number). Since the ordinance would not require parking, neither parking space is van accessible. I will leave the determination to the board.

Section 200-41 "Off-Street Loading and Unloading". Ms. Berry said she does not believe any off street loading and unloading as pertaining to retail would be required. Applicant provided an aisle width of 20' between buildings and one-way travel and to the side of the buildings to accommodate the stopping and unloading of possessions to each unit of the proposed storage facility.

Lighting: The property has existing lighting as shown on the site plan the applicant provided. She pointed out the current lighting on site on the plan.

Sign: The property has an existing sign for the other business Mr. Dotson runs on an adjacent parcel. The sign is located on this parcel and will be modified as shown in the photograph (page 1-16) provided by the applicant.

Existing structures: The property has 1 modular home for show that crosses the two property boundaries of the applicant's property. This modular will remain. The property also has an existing small storage unit in the rear of the parcel that will also remain. Ms. Berry pointed these out on page 1-6. The property also has 1 manufactured home crossing the property on the south that will remain. This manufactured home is occupied as a residence. Ms. Berry explained that the reason these buildings are crossing property boundaries is because, up until May 9 this was Open Use District and the buildings were placed before May 9 and allowed at the time.

Fencing: The applicant will not provide fencing on this project.

Landscaping: The applicant will provide Leland Cypress Trees on the three sides of the parcel closest to Hope Opal Lane as shown on site plan provided by the applicant.

Hours of Operation: The proposed storage units will be accessible 24 hours a day.

Outdoor Storage: Will not be allowed at this storage facility (such as boats or recreational vehicles).

The property boundary lines should be redone to exclude the three existing structures on the property. The ordinance only allows for one principal use of the property unless a Conditional Use permit is applied for requesting a shopping center.

This application was duly advertised as required in §200-69.C.(1) of the Henderson County Zoning Ordinance. The legal ad was published in the Times News on July 11<sup>th</sup> and 18<sup>th</sup> of 2005. The display ad was published in the Times News on July 25<sup>th</sup> of 2005.

Mrs. Pouch asked where US Highway 25 was located. Ms. Berry showed where it would be on page 1-6. Ms. Berry said that it could be seen better on page 1-7. Chairman Fleming asked if Heritage Park Drive was a dead end street. Ms. Berry said yes and Hope Opal Lane turns off to the left. Ms. Holbert asked if the property could be seen from US 25. Ms. Berry said no, it was behind Subway and the donut shop. Mrs. Pouch asked how to enter the property. Ms. Berry said on Heritage Park Drive or Hope Opal Lane. Mrs. Pouch asked if the property across the road was residential. Ms. Berry said no, it was manufactured home sales also. Chairman Fleming asked what egress there was onto Hope Opal Lane. Ms. Berry said there is no egress onto Hope Opal Lane for the site itself, but there is access from Butler Bridge Road through Hope Opal Lane and then onto Heritage Park Lane for access to the facility. Chairman Fleming asked about the 30-foot setback on page 1-6 – if it was from the

mobile home or property line. Ms. Berry said that it was from the mobile home but he is only required a 10 foot setback. Ms. Berry said there is a planned buffer of trees between the two buildings.

Chairman Fleming asked Gerald Dotson to come forward. Mr. Dotson said that he recently purchased Lots 3, 4, 5, and 6. He said Lot 6 is a mobile home park that has existed for a number of years. He said Lot 5 is empty except for the modular home model. Lot 4 has other models and his office. Lot 3 is an empty lot with one model crossing the line. He said they have been in business since 2000 and the models can be seen from I-26. Mr. Dotson is proposing putting the 2 storage buildings on the empty lot and they will be built to conform to the other buildings across the road (the strip shopping center). The buffer between the mobile home park and storage facility will be 4 Leland Cypress trees planted 20 feet apart, which he described. Mr. Dotson said on the road side, he proposes to put 5 flowering trees, similar to weeping cherry or weeping peach trees. On the third side (Heritage Park Drive) there are 4 existing silver maple trees.

Chairman Fleming asked about the lighting. Mr. Dotson said there is an existing area light shown on the site plan that is about 20 feet high. He also said there are floodlights on his existing business. Mrs. Pouch asked if he would add more lighting. Mr. Dotson said no. Chairman Fleming asked if that would be sufficient lighting if they were open 24 hours. Mr. Dotson said there would be lights on the outside of the building and between the storage compartments. Chairman Fleming asked why there would be no fencing. Mr. Dotson said he didn't feel a need for it, with residential so close and there would be locks on each storage compartment. Mrs. Pouch said the flowering trees are beautiful but only shielded you about 6 months of the year. Mr. Dotson said he considered evergreens, but the flowering trees are more consistent with the trees across the road.

Mr. Bonessi asked what was across Hope Opal Lane. Mr. Dotson said it was the back of a strip mall, with a bank and donut shop. Ms. Berry described the 2 pictures in the back of the Board's packet. Ms. Berry showed where the storage facility would be placed on the property. There were no more questions for Mr. Dotson.

Mrs. Radcliff reported for the Planning Board's review of the application on July 19, 2005. There were some questions and concerns. One concern was a discrepancy about what was already existing on the property and clarifying the buffer (type and spacing). Mrs. Radcliff said that Mr. Dotson was at the Planning Board meeting and addressed both those issues, the same evidence entered today. The Planning Board voted 7-0 to send the Zoning Board of Adjustment a favorable recommendation for granting this conditional use permit. In addition the Planning Staff offer the following comments:

1. That the Zoning Administrator address if the proposed storage facility can be constructed on the parcel in addition to the existing structures.
2. That the ZBA specify a timeframe within which the applicant must satisfy any conditions and require that the applicant obtain from the Zoning Administrator confirmation of zoning compliance prior to receiving a Certificate of Occupancy.

Eric Goodman said that he owned the commercial building south of the subject property. He said that he has a bank on his property with security lighting around the building that is very bright and the light spills over onto Mr. Dotson's property. Mr. Goodman said he has no objection to the proposal and is in favor of it and hoped the Board will grant it.

Ms. Berry wanted to make a correction in that she said the side yard setback was 10 feet and it is 15 feet. She wanted to clarify if more than one use was allowed on the property. Ms. Berry determined that because everything was placed when the property was zoned Open Use, it would be all right to place this use with the model home crossing the property line as well as the manufactured home. But the Board could recommend that the property boundaries be redone around the homes. The setbacks could still be met. Chairman Fleming asked when the zoning was changed. Ms. Berry said May 9, 2005. Ms. Berry said that Mr. Dotson came in that day and she had to deny the permit and refer him to the Board for the Conditional Use Permit.

There were no more comments and Chairman Fleming closed the public hearing and asked the Board for discussion.

Mr. Bonessi said the overall plan was good. He said he might want to see a stipulation that, if the other structures are moved, they cannot be replaced across the property lines and not conform to what he is asking for. Mr. Griffin said he is meeting the setbacks anyway. Mr. Bonessi said, if the two property lines were changed, then he could meet.... Ms. Berry said that if something is moved, it can be replaced, so it would be taking away something that they have. Mr. Griffin asked if he owned that property too. Ms. Berry said yes. Mr. Griffin said they could do away with the lines. Ms. Berry said one way to address it would be to redo the property line on that side. Chairman Fleming asked if the Board felt the property line should be redone. The Board discussed it and felt he met the setbacks and it would be an extra expense. The Board discussed if the property were sold and the mobile home could be moved, or the property line moved, or an easement granted.

Chairman Fleming proposed that page 1-6 be adhered to as a site plan. Mr. Griffin voiced a concern that if there is no fence and just grass, could people pull into the storage facility anywhere. Ms. Berry said there was a curb along the street and most people wouldn't consider doing that. Chairman Fleming suggested that more buffering be placed on the one side. Mr. Griffin said to use the trees as a barrier. Ms. Berry said you could add one or two more trees to close the area. Ms. Holbert felt the curbing was sufficient. There was no further discussion.

Mrs. Pouch said the use for which the permit is sought will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use. Mr. Griffin said that the property is in a commercial area with businesses around it. Chairman Fleming said it was Open Use before and is now zoned C-4. And the proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. Mrs. Pouch said that the neighbor does not object, and it has been rezoned to C-4. Mrs. Pouch asked for any conditions to be placed on the permit. Chairman Fleming said the applicant should adhere to the site plan (page 1-6), including the landscaping. Chairman Fleming said that he should follow the proposals from the Planning Board. There was discussion. The Board decided that the applicant should continue the landscaping around the corner between the storage facility and the mobile home park. Mrs. Pouch suggested that the landscaping should be completed before opening for business or receiving the Certificate of Occupancy. Also a Zoning Permit before receiving a Certificate of Occupancy. The Board discussed the timeframe suggested by the Planning Board. Ms. Berry said she didn't feel an expiration date was needed.

Mrs. Pouch said with regard to the application of Gerald Dotson, CU-05-08, for a conditional use permit authorizing the operation of a ministorage unit on the property located at the corner of Highway 25 North and Butler Bridge Road, I move the Board to make the following findings of facts: The proposed use will 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, I further move the Board to grant the requested Conditional Use Permit with and only to the extent represented in the application and with the following conditions: the conditions spoken about previously. Mr. Bonessi seconded the motion.

Chairman Fleming asked for a vote by a show of hands:

Mr. Fleming	-	Yes
Mrs. Pouch	-	Yes
Mr. Griffin	-	Yes
Mr. Bonessi	-	Yes
Ms. Holbert	-	Yes

Chairman Fleming said the Conditional Use Permit was granted with conditions.

COMMITTEE AND STAFF REPORTS: None

OLD BUSINESS:

Ms. Berry presented pictures of the mobile home park on Holbert Road. She said all but 9 units have been moved, so he is doing what he said he would do. She reviewed the history of the park. She said all the mobile homes would be removed by the end of this or next week and then he will start grading the road. She will review this again at the next meeting.

NEW BUSINESS:

Ms. Berry distributed copies of the Flood Damage Prevention Ordinance, which became effective July 15, 2005. The Zoning Board of Adjustment is also the Board of Adjustment for the Flood Plain Ordinance. She asked the Board to read over the Ordinance and there would be a presentation at the August 31<sup>st</sup> meeting and any questions would be answered. Ms. Berry said that she would help and guide the Board because in a lot of instances the Board does not have the ability to grant a variance. She said it usually does not happen very often, but the Board does need to understand the Ordinance.

There being no further business, Chairman Fleming made a motion to adjourn. Mr. Griffin seconded the motion and all voted in favor. The Chairman adjourned the meeting at 4:50 PM.

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Robert Fleming, Chairman

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Joyce Karpowski, Secretary