

LANCASTER COUNTY
BOARD OF ZONING APPEALS
REGULAR MEETING
MARCH 08, 2016
MINUTES

Members Present: Reid Rushing, Harvey Carnes, Don Brouwer, Terry Graham, LaVilla Brevard.

Others Present: - Nick Cauthen, Planner I; Judy Barrineau, Secretary; Kenneth Cauthen, Zoning Officer; Gavin Witherspoon, Zoning Officer; John Weaver, County Attorney;

Others Absent: Elaine Boone, Planner II; Penelope Karagounis, Planning Director; Frances Liu, Board Member; District 6 – Vacant Seat; Amy Bowers, Zoning Officer; Dwight Witherspoon; No members of the press were present.

The following press were notified of the meeting by mail or by fax in accordance with the Freedom of Information Act: Lancaster News, York Observer, Kershaw News Era, The Rock Hill Herald, Fort Mill Times, Cable News 2, WRHM Radio, and the local Government Channel.

Approve the Agenda

LaVilla Brevard made a motion to approve the agenda and Harvey Carnes seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Approval of the Minutes

Terry Graham made a motion to approve the February 2016 minutes and Harvey Carnes seconded the motion.

Reid Rushing called the meeting to order.

Staff introduced themselves and Judy Barrineau swore them in.

Judy Barrineau - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

Staff – Yes.

Reid Rushing – Have all the adjacent property owners and the applicant been made aware of tonight's meeting including place, date, and time and advertised in the paper including a copy on file?

Nick Cauthen – Yes.

Reid Rushing – The zoning board of appeals duties are within three specific areas: A) Administrative review is an appeal of an order, requirement, decision, or determination of the Administrator that has alleged error. B) The power to grant variances when strict application of the zoning ordinance would not cause an unnecessary hardship and the granting of variances would not cause substantial detriment to adjacent property or the public good. C) Special exceptions are permitted when uses require a public hearing prior to granting authorization. The public hearing is conducted to review comments and information both for and against a proposed application. During the public hearing portion of the meeting all interested parties will be given the opportunity to speak and give factual information or present factual documentation. All people speaking will be placed under oath. All persons wishing to speak must sign the proper registry prior to speaking. Anyone speaking will come forward to the podium, speak into the microphone, state your name, address, and your telephone number. We must record all information for the record. Applicant will speak first, all opponents second, the proponents next. The applicant will also have an opportunity for a rebuttal. Please, a 5 minute limit will be placed on each speaker.

Variance application of Mr. Ken Faulkenberry. The applicant is requesting a variance from Chapter 5, Density and Dimensional Regulations, Section 5.4 Principal building setback requirements of the Lancaster County Unified Development Ordinance. BZA-016-005

Nick Cauthen – Presented the statement of matter.

Reid Rushing – I will now proclaim the public portion of our meeting open.

Judy Barrineau - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

Ken Faulkenberry – Yes, My address is 3022 Mulberry Lane Lancaster, SC 29720. If you went out and looked at the site it states 75 foot to 45 foot but according to the Code I can do a common setback with Clay Cauthen's Body Shop which would put me at about 54 feet. I'm really only asking for a nine foot variance. The stakes I have up are directly in line with his body shop and that's about 54 feet from the property line. The current ice machine that I have there now is sitting at 45 feet so that would actually be the front of the vending building that we are talking about building. The front of it would actually sit where the ice machine is sitting today. There is a stream that goes through all of the run off from the old Dobson School and all the way to where and I can't remember the name of that road that turns right; but all of that run off actually comes our way and runs across my lot and across Clay's lot. Before I turned in this application I went and talked with Mr. Clay Cauthen that runs the body shop. I sat down and told him exactly what we were planning on doing and asked him if he had any objections that I would understand. He told me that he didn't have any objections. You have always been good neighbors and you keep the grass cut. I don't have any problem whatsoever if you are building the building with the front setback to where your machine currently is now. I did some research and of course if I was across the road; if you go across Hwy. 200 where Sistare Carpet is and I was on that side of the road and used a common setback, it would be 31 feet. Clay and I are the only ones on my side of the road that is within the 400 feet to allow the variance setback. What we are planning on building is a metal building and it will have insulated panel walls inside because the room is actually going to be in the ice and it will be 15 degrees. The bagging room where you actually bag the ice to put it on the belts will be 35 degrees. It will be cement block foundation, metal building with metal roof. The machine that we have there now will go actually behind this building. That is one reason I need to put the building further forward also; this machine will actually go behind that building and that is what actually feed the ice plant for the bagging room. The machine that is there now will actually serve as the ice maker and will sit outside the behind the plant and blow the ice into the plant.

Kenneth Cauthen – Those pieces of rebar you have driven in the ground, is that the front of the building?

Ken Faulkenberry – That is in line with Clay's. I pulled the string and lined those rebar's up with the front of his building; if I was allowed to use a common setback. If I measured right my machine is actually about 8 foot six inches which will be further toward the side of Hwy. 200 than he is.

Kenneth Cauthen – So it's going to be about 8 feet behind the front of the present ice machine. So the ice machine that is there is going to be closer to the road than the building.

Ken Faulkenberry – The one that is there now will actually be 4 foot closer. Where the vending part of the machine is going to be because we want it to be noticeable so it will attract people; it will stick out 4 foot further than the building but it will be with the 45 foot setback.

Reid Rushing – The building which you are proposing to build is going to be in line with Cauthen's body shop right there?

Ken Faulkenberry – No sir, if I was going to do that it would be a common setback. The building that I want to build will actually be about 8 foot six inches in front of his.

Reid Rushing – I'm looking in my packet which shows the ice machine.

Ken Faulkenberry – That looks like we are even I know.

Reid Rushing – That is what I am asking. Where is this building that you are proposing to build here in relation to the ice machine that I'm looking at?

Ken Faulkenberry – This building here will go right through and you would have to be there; if you are looking at the front of the ice machine and you see this back door on the ice machine, somewhere in the center of that back door is where the stakes are that I put out. It's about 8 foot six inches further back. The back left corner is almost off the bank and we tried to do it without asking for a variance. We are talking about putting a 24, 26 foot building on there. We are not trying to put something unreasonable on that type lot.

Reid Rushing – If we grant the variance how much variance are we looking at? It says the variance would reduce the front setback requirements on the property from 75 foot to 45 foot; so we are looking at a variance of 30 foot.

Kenneth Cauthen – We could use a common setback and it would be close to 54 feet so he is right asking for a variance of 8 or 9 feet.

Ken Faulkenberry – We are not looking at a 30 foot variance. The Code gives us the authority to request a common setback.

Reid Rushing – I can't say I'm going to vote on a variance that I don't know what the variance is. This is not correct.

Ken Faulkenberry – It is going to be nine foot from the common setback.

Terry Graham – We can't grant that variance. You are asking for 30 foot and now you are saying you only want 8 foot.

Reid Rushing – We can make a motion to approve an 8 foot or 9 foot variance.

Terry Graham – Tell us about the drainage ditch and what this is and how far that is from the highway.

Kenneth Cauthen – It's probably from the bottom of the ditch is probably 50 feet from the front of the ice machine and it drains all the way up to Airport Crossroad and drains all the way back to the old Dobson school. It probably has a drainage area of....

Terry Graham – How far is it from the highway?

Kenneth Cauthen – From the edge of the highway is probably 75 or 80 feet.

Ken Faulkenberry – 75 foot setback you couldn't build anything there, it would be on the drainage ditch.

Terry Graham – You said you were going to set the machine behind the building?

Ken Faulkenberry – No, the ice maker will be sitting behind it. The new building at the 45 foot setback will actually be, just say 9 foot in front of what is the common setback. I didn't know how to word that. I didn't know how you went from a common setback. Kenneth and I had talked about it and the Code states you can use a common setback.

Kenneth Cauthen – We've used common setbacks hundreds of times when you have a line of buildings. Instead of putting the building back 75 feet when all the other buildings are at 30 feet. It just wouldn't like right. We've used it plenty of times so it's correct to say he is asking for 8 to 9 foot variance.

Reid Rushing – The front of your new building that you are proposing to build will be 45 foot from the curb on Highway 200.

Ken Faulkenberry – Yes sir.

Reid Rushing – What kind of area is that going to give you for vehicles?

Ken Faulkenberry – The concrete and all is already there. Where the shoot is going to come out on this machine; the customer will walk up there put the money in and gets their ice. It may not be in line with where it's at now. The only thing we would do there is pour a four or six foot wide walkway to get to the machine. As far as the driveway the entrances, none of that is going to change; there is never any traffic there, the car comes in there and spend 1 or 2 minutes, get their bag of ice and they are gone. The lot has two driveways. It has an in and out, whichever way you are coming from. We are not proposing doing anything to the concrete. It will all stay just like it is.

Reid Rushing – When you bought this was the ice machine already on it?

Ken Faulkenberry – No sir, we bought it and put it there.

Reid Rushing – Have you ever had any accidents at this place?

Ken Faulkenberry – No sir.

Reid Rushing – That afternoon sun coming up Highway 200 is brutal right along in there. I need somebody to tell me how much variance we are asking for, eight, nine, ten, twelve? That is what I need to know.

Reid Rushing – I will now proclaim the public portion of our meeting closed.

John Weaver – I think it would be appropriate if the zoning administrator could say that the setback as exists right now, which is called a common setback, is 54 feet.

Kenneth Cauthen – 54 feet.

John Weaver – So it's not the 75 feet, if it was totally empty and there was no other building it would be 75 but because there are existing buildings within that 400 feet, the appropriate setback is 54 feet. Would you agree with that Kenneth?

Kenneth Cauthen – Correct, if it is going to be 45 feet then that is 9 foot.

John Weaver – Asking for a forward variance of 9 feet.

Reid Rushing – So we are asking for a variance of 9 feet?

John Weaver – Yes sir.

Reid Rushing – We need a motion to approve with a variance of 9 feet instead of proposed variance of 45 feet.

John Weaver – Yes sir, I think it would be appropriate to amend the application to ask for a variance of 9 feet forward rather than the 30 feet and then it would be appropriate for a motion to be made to approve or deny a 9 foot variance.

Terry Graham made a motion to amend the application to a 9 foot forward variance and LaVilla Brevard seconded the motion.

VOTE: 5 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

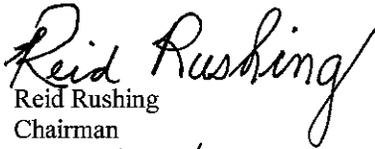
LaVilla Brevard made a motion to approve the application for a 9 foot variance due to it would not be of substantial detriment to adjacent property or to the public good; Terry Graham seconded the motion.

VOTE: 5 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

Harvey Carnes made a motion to adjourn meeting and Terry Graham seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Respectfully Submitted,


Reid Rushing
Chairman


Nick Cauthen
Planner I