LANCASTER COUNTY
BOARD OF ZONING APPEALS
REGULAR MEETING
MARCH 10, 2015
MINUTES

Members Present: Reid Rushing, Harvey Carnes, LaVilla Brevard, Don Brouwer, Frances Liu.

Others Present: - Elaine Boone, Planner II; Nick Cauthen, Planner I; Judy Barrineau, Secretary; Amy Bowers, Zoning Officer; John Weaver, County Attorney.

Others Absent: Penelope Karagounis, Planning Director; John Neal, Board of Zoning Appeals Member; Kenneth Cauthen, Zoning Officer; Dwight Witherspoon, Zoning Officer; 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
Frances Liu made a motion to amend the agenda by adding under New Business: Nomination for Board Member of the Year; Don Brouwer seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Frances Liu made a motion to approve the agenda as amended and LaVilla Brevard seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Approval of the Minutes
Don Brouwer made a motion to approve the December 2014 minutes and LaVilla Brevard 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. Jerry Catledge to request a variance from Chapter 4, Conditional and Special Exception Uses, Section 4.1.12, Manufactured Homes (5b) of the Lancaster County Unified Development Ordinance regarding the addition of a manufactured home to the property. BZA 015-001

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?

Jerry Catledge – Yes. My address is 1109 Tenth Street, Lancaster, SC 29720. My wife and I are planning on retiring in about a year or year and a half. It was our plan to move a single-wide mobile home on my mother's property to help take care of her. She will be 88 at the end of this month and next month my wife will be 71. It's getting time for us to settle down. Our income is modest and we do not have a lot of money to put into a conventional built home. There are a lot of expenses that I know are coming forward; the purchasing of the home, the moving and set up of the home. There will also be the expense of water and sewer, power, and possibly natural gas. I do not feel placing a mobile home there will detract from the community. To the left of my mother's home there are already three mobile homes in a small mobile home park; south where the rescue squad is they have a mobile home back in there. I don't think it would detract from the property or anything. It would be much appreciated if you would allow this.

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

Reid Rushing – Has a site check been done?

Amy Bowers – There is a mobile home park close by. I also wanted to ask if there was an existing mobile home there at one time?

Jerry Catledge – Yes.

Reid Rushing – Have all measurements been verified?

Amy Bowers – Yes sir.

Harvey Carnes – What size mobile home do you want to put in there?

Jerry Catledge – A 14x60, somewhere in that neighborhood.

Reid Rushing – Did staff receive any calls or letters?

Elaine Boone – No.

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

VOTE: 5 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

Variance application of Zero Waste Recycling LLC. On July 12, 2011 the subject property was granted a special exception with stipulations (BZA Case#011-008) from Chapter 4, Conditional and Special Exception Uses, Section 4.2.1 Automotive Wrecking, and/or Junk, and/or Salvage Yards as stated in the Lancaster County Unified Development Ordinance. The applicant is requesting a variance from those stipulations to increase the amount of cars allowed on the site at any given time. BZA 015-002

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?

Will Simmons – Yes. My address is 511 Brooklyn Avenue, Lancaster, SC. (Passed out a site plan to board members that was done after filing the variance application). At the rear of the property that backs up to King Circle and Billings Drive, you can see that the majority of that property is in a flood plain. We can't go any further that way, regardless. You are basically land locked there. We do have one open field at the rear of the property that you can't see from the road and that is where we want to increase the storage. We have plans and intentions on moving this site to a much larger site. We have another project that will be in front of you by next month I assume; to look at a new piece of property. We bought this property and took it over in September and since then as he mentioned, we actually have 44 employees which around 40 of them live in Lancaster County. Since that time we have increased our revenue by 40 percent and we have spent 3 million dollars in capital purchases in Lancaster County that are providing jobs. This site is not ideal for our growth and we do have future plans for a different use on this property. It will be the same basic business but we are going to use it for more storage and parking in the future. It's going to take 24 months for us to get into a new site here in Lancaster County. So what we wanted to do is see if we could use this back piece of property that would have no impact in the area. We've spent since September $300,000 dollars with the local concrete company here just in upgrading that facility and getting it to a standard in which our company could support. I think the letter in opposition was probably more of the old company versus the new. I just want to state that with it going into the rear of the facility and again, the five hundred cars won't be there all the time; we just want to allow ourselves that steady pace of growth. Our only business isn't in cars; Zero Waste Recycling is a full recycling company. We service customers like BMW in Spartanburg, Coca-Cola Consolidated. We have taken four of their plants land fill free. We have employees on site there everyday. Our company is a green company and we look forward to the 35 acre tract that we are looking at and will talk about next month. This would allow us that steady growth for the next 24 months and allow us to continue to hire people and keep right on going. There was currently no screening on the fence when we arrived and we put up our own screening on the fence to help. If this is to be approved we would also like to plant some Leland Cypress and some other things to make it look really nice out front. It would add additional coverage to what we currently do. If you stand at the road you wouldn't even be able to see where any of these vehicles are sitting.

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

Reid Rushing – Did staff receive any calls or letters?

Nick Cauthen – Just the one letter that was passed out prior to the meeting.

Reid Rushing – Has a site check been done?

Amy Bowers – Yes.

Reid Rushing – There was no need to check the measurements.

Amy Bowers – Right.

Don Brouwer – These 500 additional cars you are asking for; how much more production and noise will you be making?

Will Simmons – I don't know that we would be making additional noise than what we already do. It is the same process. Our 500 cars would turn over about every 90 days. So what we are really asking for is an increase in inventory to allow us to do more volume. We bought the two shears that we have that cut metal on the facility; we purchased those back in September which is part of the capital purchases that I shared with you earlier. We are not going to go and purchase more shears at this point. It wouldn't be any longer hours. It's pretty much going to be the exact same.

Don Brouwer – If you hire more employees you will need to push more work through?

Will Simmons – Sure, absolutely. The shearing process itself makes the noise it's going to make. I don't necessarily think it would increase the noise. We already have the capacity to handle it. The equipment is running during the day all day right now. It is still going to run at the pace.

Reid Rushing – You are not going to change any of your hours of operation? I believe your hours of operation have already been set and you can't open before seven and have to be closed by seven, correct?

Will Simmons – Yes, and it would still be just like that. We would probably operate more on Saturdays. We do have a skeleton crew that may go to a full crew.

Reid Rushing – Do you cut up the cars or are you stripping them?

Will Simmons – Our goal as a company is to reduce, reuse, and recycle.

Reid Rushing – Are you a recycling company?

Will Simmons – We are a recycling company. We recycle cardboard, plastic, aluminum cans, plastic bottles. As a part of recycling we also do salvage; we will bring in a vehicle and take the parts off that have value, core that part out or sell that part, then we will cut the vehicle up entirely.

Frances Liu – With increased work will you increase hours on Saturday now?

Will Simmons – I don't think so. When we turn the crane on I think what people are hearing if the noise has been a complaint; I've never had a noise complaint. I've had complaints about mud on the road which we corrected. We've had some complaints about it didn't look good and we changed a lot of the way it looks. If there is a noise issue, the cranes are running now on Saturdays with the skeleton crew. When I bring in a skeleton crew it is just for less labor. The people are still running the machines, if that makes any sense. We've been running our shears for the last three months six days a week.

Reid Rushing – In 24 months you plan to move the operation that you have?

Will Simmons – Yes.

Reid Rushing – What will become of that facility?

Will Simmons – It will become our logistics headquarters where we will do our fleet maintenance for our trailers, roll off boxes, vans, parking for containers and things.

Amy Bowers – We've never had a noise complaint from that facility.

Elaine Boone – Until the letter we just received. I will give you a copy also. It came from Louie Watts.

Reid Rushing – That is the only complaint you are aware of?

Elaine Boone – When I worked in zoning you can still go to the site and do the readings on it. You could go back to Kings Circle and take the decimal readings to see just how high it is. We did not receive any calls regarding this, just the one letter from Louie Watts.

Will Simmons – Was that a noise complaint?

Elaine Boone – Yes. He has some rental houses on that King's Circle and when they were doing some renovations that is when they noticed the noise.

Will Simmons – We want to be a good neighbor. Before we even brought our headquarters here, we came and met with the folks from the city and the county and we really explored all the options to make this type of investment particularly in the new site we are going to relocate to. That is the reason we bought that facility and the reason we invested that much money into that facility. This was done just to bridge the gap. That is a lot of money invested for a 24 month operation. If the noise is an issue we would be more than happy to hear what we could do to help fix that. We want to be something that Lancaster County and the City can be proud of. We have Fortune 500 Companies that are asking us to come in and help them with their recycling needs at their plants; this is a good location and it will provide a lot of jobs for a long time. We don't get no very often when we sit down with these big companies and we tell them they will become landfill free. I mean landfill free. Their trash compacters go away and we don't sort trash. We have baled cardboard, baled LDPE film, we go in and separate the items onsite and we bring them back here and finish, package them and sell them. We have restrictions as well with DHEC. We have to report our tons in and tons out. We are not a landfill. We are not a multi-sort station like a MRF (Material Recovery Facility). We report every year to DHEC our tons in, tons out. They want to make sure we are recycling what we say we are. Our business is poised for a lot of growth and I think it will be something that this County and this City can be proud of going forward.

Reid Rushing – Say in two years you move this facility and start a truck facility; you said it would be maintenance and upkeep?

Will Simmons – Just a parking lot for roll offs, we will have some mechanics there. We have to grease our trailers and keep things maintained and keep up to SCDOT specs to put them on the road. We have about 400 roll off containers out at different sites now.

Reid Rushing – It's actually going to be a maintenance facility for roll offs, tractor trailers, and containers?

Will Simmons – Sure.

Reid Rushing – You are looking for this to take place in the next two years?

Will Simmons – Next month is a big meeting for us in front of you. We thought we were going to get it in for this month but we just didn't make it. Next month we are looking at site that you guys will be looking at as well. I guess I can speak freely about it. It is the old Springs site, the old cotton mill. We are looking at doing a full build out there on 35 acres. There is a lot to it. The City has the right's to buy it from the current owner and there is a lot of stuff that goes into that. This board will have to look at and discuss next month. We intend to build a full recycling campus there.

Reid Rushing – If everything works the way you are planning; you are basically moving across the street.

Will Simmons – This is right. We project 100 employees and plus. My partner and I Josh started a company in Union County, Monroe NC, called Metal Recycling Services back in 2000. We sold it in 2008 and there were 125 employees there at that time. We went from $25,000 in revenue yearly to over a hundred million in revenue yearly. This all took place in eight or nine years. We sold that business in 2008. We had non-compete for five years that we spent in Georgia. We bought distressed recycling companies and we merged them all together into a company called Scrap Partners, LLC in which we just sold off all of our Georgia operations in September. That company also had over 100 employees when we

sold it. This is going to be a big company here in Lancaster County that is for sure. The city has the rights to buy it and it's in the County and they are looking to annex it into the City. I'm not exactly sure.

Reid Rushing – I thought that was part of the agreement when it was given; that it could be annexed into the city?

Elaine Boone – I wouldn't even bring that in right now.

Will Simmons – I don't know those things either. We have been working with Mitch Norrell and some of the folks at the City and we've met with some of the county people as well. It's just another whole part of it. It should be a good business for Lancaster.

Frances Liu – You are planning on planting Leland Cypress?

Will Simmons – We would be more than happy to plant Leland Cypress. We did do the additional screening on the fence. I think they say it blocks 60 or 70 percent. The problem is you can still see over the fence. If you approve this variance then we thought we could plant some seven or eight foot Leland's that will make it look better out there.

Frances Liu – Is there a landscaping plan?

Will Simmons – There is not a landscaping plan but if you look at that site plan I gave you I included the Leland Cypress at the front of the fence. That could be part of the variance that you want them to be a certain height. We are willing to work with you guys or whomever. We don't want someone to be upset down the road because we hurt their property value.

Reid Rushing – We can add conditions to the variance.

Frances Liu – I'm just thinking how to phrase it.

Reid Rushing – That man sitting right over there can help you.

John Weaver – Would you like for the trees to cover the entire front?

Josh Rozsak - My name is Josh Rozsak and I'm listed on the application as well.

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?

Josh Rozsak – Yes. My name is Josh Rozsak, 201 Belle Meade Court, Waxhaw NC 28173. The Leland Cypress that we have planted at other facilities has been set out five foot staggered; so two rows ten foot apart and staggered every five foot.

Reid Rushing – Will you have enough from that fence to the right of way?

Josh Rozsak – It would be planted on the right of way.

Reid Rushing – Is there enough room from the fence to the right of way?

Josh Rozsak – To the road?

Reid Rushing – Yes, do you have ten foot?

Josh Rozsak – There is enough room.

Reid Rushing – Down there where that old house is at I know you don't have enough room down there. But that is beside the point. If the Leland's can't be planted to help suffice the look of the area, is there something else we could do? When you start down the hill towards the creek where that little house sits down there; that fence is just right on the road.

Josh Rozsak – We could plant one row on the inside of the fence line.

Reid Rushing – We could stipulate that a design is made and brought back before this board. Or it could be sent to the zoning department and let them approve it.

Frances Liu – I don't agree with that. I don't want them to have to jump through more hoops and come back again. They want to be good neighbors and we need to come up with a way to expedite it.

Elaine Boone – Brooklyn Avenue is probably a fifty foot right of way.

Josh Rozsak – Is our fence on the right of way?

Reid Rushing – It's real close to the right of way.

Josh Rozsak - I think we have enough room personally.

Reid Rushing – We are open for suggestions.

John Weaver – You can do conditioned upon landscape design or trees or however you want to describe it being approved by the Zoning Administrator at a subsequent time within 30 days or something like that. It won't have to be a landscape architect from Charlotte. It could be a landscaper who can come up with a plan and present to them and with their approval that would suffice. As this gentlemen stated, you may can plant trees inside the fence if the outside is too close to the right of way.

Frances Liu made a motion to approve subject to the condition that a landscape plan be submitted to the Zoning Administrator for approval within 30 days; LaVilla Brevard seconded the motion.

VOTE: 5 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

New Business: Continuing Education Classes (John Weaver) – As you know state law requires most all boards and commissions, particularly in the planning and the zoning areas to go through minimum training each year. It is requirement to serve on the board. You can be appointed to the board and not do it and just has I stated last time, it's possible a decision you made could be overturned because the people making the decision were not qualified. I think the schedule as been passed out for the classes and they have the records of who has some many hours or who doesn't need to go. Please for the benefit of the county and for those who have appointed you, please ensure that you go through the necessary training and get your certification. That will be reported to the state. I don't really know how that works. I do know you have to have that requirement and those records are kept. That will qualify you to continue with your service through the term of your appointment.

Reid Rushing – A lot of times classes are offered that we are not able to attend due to working a full time job. If it's not offered to me in the evening hours here in Lancaster then I don't get to attend. The county doesn't pay me to drive to Rock Hill or to Columbia for one of these classes. So what do we do?

John Weaver – I understand that inconvenience. I came from Horry County and they sometimes had to go to Charleston or some other area outside the county like Florence. I understand that inconvenience and it would be easy to say you've either got to do or quit. Nobody wants for you to lose the opportunity to serve the citizens but at the same time you need to be certified. I might want to be a lawyer but if I don't pass the Barr I don't get to be one. It may go for a lifetime without anybody ever challenging somebody's certification. But if it was a major deal and it was a lot of money, like this guy, apparently they have a ton

of money tied up in this recycling facility; if they had been denied and they wanted to do something about this and find out someone is not certified it would go right across the street and it would be reversed.

Reid Rushing – You need to talk to the county and make sure the opportunity for us is right here in our county.

John Weaver – You are not the first person I've heard that from. We will try and make that a possibility.

Reid Rushing – If everyone will look at their agenda where under Approve Agenda it also lists "Communications". It says the item on the agenda called communications is an opportunity for any member of the board to state for the record if they have had any communication with the applicant prior to the meeting. Several months ago Mr. Harris called me at home to find out what he needed to do concerning a right of way and before that case started that evening I let the record reflect that he had called me and I directed him to Elaine Boone, Planner II. We did not discuss the case. This gives each and everyone of us the opportunity to have the records reflect that you have been contacted by an applicant and referred them to the planning office. Judy also has a recusal form so if there is a case before us and your cousin is bringing something before this board and you don't feel comfortable voting on that case; you can complete a recusal form and stepped out during that particular case. This one is going to stop everybody. A motion to either approve or deny is made and part of the motion should include the reason for the approval or denial.

John Weaver – Well we didn't do a good job this month. The cases tonight were both approved but no reason was given why for each case. For example, your motion could have been: I make a motion to approve with all those conditions because I believe that you could use number 4; "the authorization of a variance will not have substantial detriment to the adjacent property or to the public good". That is the reason why you are willing to do it. Or you could say, I deny that because I think that none of these variance reasons apply. That is all I'm trying to get you to do so we won't have to go across the street. The little ones like the rezoning of a mobile home; those are not the cases that are going across the street. If you had denied that one, they would just have to live with it. You get a half a million dollar operation and they can find them a lawyer. I don't want to have to defend us. As I understand, everyone of your cases has a sheet on the back that will show those reasons and whoever makes the motion; if you will just briefly recite that, then when she prepares the order then that will be the reason why. Your decision is basically final as long as there are facts in the record to justify your decision. It should not take 30 seconds extra on any case.

Frances Liu- If someone makes a motion to approve before the voting then can someone else make a motion?

John Weaver – One motion at a time.

Frances Liu – One motion and it is denied, then could it be voted on again?

John Weaver – There could be a discussion. For example, you say I make a motion to approve for the following reasons and you have a second from someone and then if you choose, there could be a discussion. Someone could argue the facts and you could withdraw your motion or you could vote it up or down. Once you've done it a couple times it will be second nature. The first time is hard to do a little bit, we find that in council too.

Nomination for Board Member of the Year: LaVilla Brevard made a motion to nominate Reid Rushing and Frances Liu seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Election of Vice Chairman: LaVilla Brevard made a motion to nominate Frances Liu and Harvey Carnes seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

LaVilla Brevard made a motion to adjourn and Frances Liu seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Respectfully Submitted,

Reid Rushing

Reid Rushing
Chairman

Penelope G. Karagounis

Penelope Karagounis
Planning Director