

LANCASTER COUNTY  
BOARD OF ZONING APPEALS  
REGULAR MEETING  
AUGUST 11, 2015  
MINUTES

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

Others Present: - Penelope Karagounis, Planning Director; Elaine Boone, Planner II; Judy Barrineau, Secretary; Kenneth Cauthen, Zoning Officer; Dwight Witherspoon, Zoning Officer; Amy Bowers, Zoning Officer; Gavin Witherspoon, Zoning Officer; John Weaver, County Attorney; Kara Drane, Consultant-Catawba Regional Council of Governments.

Others Absent: John Neal, Board of Zoning Appeals Member; Nick Cauthen, Planner I; 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**

Don Brouwer made a motion to approve the agenda and Harvey Carnes seconded the motion.

VOTE:                      UNANIMOUS                      MOTION CARRIED

**Approval of the Minutes**

Frances Liu made a motion to approve the June 2015 minutes and Don Brouwer 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?

Penelope Karagounis – 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 Pulte Home Corporation. The applicant is requesting a variance from Chapter 5, Density and Dimensional Regulations in the Unified Development Ordinance (UDO). The applicant has constructed a new home in the Estates of Audubon Lakes Subdivision in the Indian Land community in Lancaster County. The left front corner of the garage has an encroachment of 3'4" into the front setback requirement therefore the applicant is requesting a variance of 3'4". BZA 015-006**

Elaine Boone – 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?

Brent Tweel – Yes, 11140 Malachi Drive, Tega Cay, SC. We made a mistake on a home where it was laid out and the front corner was in the front setback for the garage. When we did the final survey is when it came out that we had an issue. The house was complete and we do have a customer that has three children. One is the age of 18 months, five years, and nineteen; they want to get in the house before they start school. The corner with it being in a cul-de-sac and a thirty foot setback; this is one of the only court yard homes that we have in this community right now. It doesn't affect the view because it's actually the furthest one back in the cul-de-sac. I have letters written from both neighbors on both sides of the home. We did send letters to neighbors on both sides stating that we had built a house in the front setback and if they would agree to allow us to close on the home if approved by the Board of Zoning Appeals board. I've attached the three letters from the neighbors that signed with approval. I also had the Homeowners Association sign as well and write a letter stating they also agreed regarding the setback. The house itself with it being a court yard also affects their storage area above the garage and we would have to limit some of the access of the actual garage. I think if this was on a straight stretch it would be a different situation. It would affect the view of the streetscape but with this being in a cul-de-sac it is actually the furthest point back for the homes in that community. It's not affecting anybody's view from the left or right. It's a beautiful home and like I said, it's one of the few court yards. It's the only courtyard that we have in the estates as of right now that was chosen. We have put some thing in place so that this won't happen again. I've been with Pulte for a long time now but have built in the Audubon, Sun City, and oversee the construction for a majority of our communities. We have two companies that do our staking. ESP Associates is actually out of Audubon and then we are having them come do an all points and then going forward they will check after the box is complete before we go to pour. This will be for all communities going forward so we don't have this mistake again. I feel there is a hardship here with this family. We have them in a Hotel right now and just really want to get them in since their child will be going to Indian Land Schools.

Harvey Carnes – Is this the first time you've run across a problem like this?

Brent Tweel – Yes sir.

Harvey Carnes – How long you been doing this?

Brent Tweel – 15 years.

Terry Graham – How long will it take you to do it if you have to tear it down?

Brent Tweel – Probably a minimum of 30 days because we can't just take the front elevation off; we have to go all the way back and move the garage door out and rip out the driveway and take the metal back from it. The garage door with it being a courtyard is all the way up against the front. We would have to go back past the garage door and take all that down and then shrink the garage. So I would say 30 days at the best; it's not such much the timing of us doing it and I know that's a big factor, but it's more of just where the situation I ran into and trying to get these customers in before the school year. When you look at the aerial

pictures it's the middle home you see here, with it being a courtyard the house and everything else completely sits further back than the other two homes.

Harvey Carnes – When did you notice it was in the setback?

Brent Tweel – The final survey. We had them come out and do the pins for boxing and when they did that survey they had the pins right. So I'm not completely sure how this situation happened but we feel like the pins got knocked down and our concrete company put them back. The house itself and the garage is the correct square footage. I couldn't give you an honest answer on how it exactly happened. We've added an all points pin to our contract for the surveyor's and then we are also having them come out and verify our boxing before we go forward. That is for all our communities.

Frances Liu – Unable to hear due to papers being shuffled while board member speaking.

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

Reid Rushing – Has a site check been done?

Kenneth Cauthen – For cul-de-sacs the setback is back ten feet further anyways; normally on straight stretch of roads the front setback is twenty feet from the back of the curb. When a cul-de-sac is thirty feet and when you drive into the cul-de-sac I couldn't tell that it looked any different than the rest of them. It actually looks better because with a courtyard you are looking at some windows and a brick wall instead of the garage door. This reported by Pulte. They reported it themselves and they didn't try to hide anything.

Reid Rushing – Have all measurements been verified?

Kenneth Cauthen – Yes.

Don Brouwer made a motion to approve due to the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by granting of the variance nor will the granting of a variance impair the purpose and intent of this Ordinance or the Comprehensive Plan.

**No second was made to Don Brouwer's motion.**

Frances Liu made a motion to deny based on there are no extraordinary and exceptional conditions pertaining to the particular piece of property and these conditions do generally apply to other property in the vicinity; Terry Graham seconded the motion.

John Weaver – If the motion is to deny and you do agree with that you answer by saying yes. Yes I deny. If you do not agree with the denial you answer no I do not agree with the denial. A yes means you agree with the motion and the second, and a no means you do not agree.

**VOTE: 5 AFFIRMATIVE 1 NEGATIVE MOTION CARRIED**

The one negative vote came from Don Brouwer.

**New Business: Kara Drane (Catawba Regional Council of Governments)**

Overview of the Unified Development Ordinance – Handouts of information passed out to board members

\*Project Purpose/Timeline/Status

\*Organization of New UDO

\*New Zoning Districts

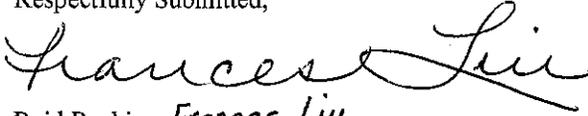
\*Discussion/Questions & Answers

Penelope Karagounis – I would like to welcome Mr. Gavin Witherspoon to the zoning department. He is a new zoning officer for their department and I just wanted to introduce him to everyone.

Don Brouwer made a motion to adjourn and Harvey Carnes seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Respectfully Submitted,



~~David Bushing~~ Frances Liu

Vice - Chairman



Penelope Karagounis  
Planning Director