LANCASTER COUNTY
BOARD OF ZONING APPEALS
REGULAR MEETING
NOVEMBER 10, 2016
MINUTES

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

Others Present: - Penelope Karagounis, Planning Director; Elaine Boone, Planner II; Nick Cauthen, Planner I; Kenneth Cauthen, Zoning Officer; Amy Bowers, Zoning Officer; Dwight Witherspoon, Zoning Officer; Gavin Witherspoon, Zoning Officer; Mika Garris, Administrative Assistant/Zoning; John Weaver, County Attorney;

Others Absent: Judy Barrineau, Secretary; LaVilla Brevard, BZA Board Member; District 6 – Vacant Seat; No members of the press were present.

The following press were notified of the meeting by email or by fax in accordance with the Freedom of Information Act: The Lancaster News, Kershaw News Era, The Fort Mill Times, and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building the required length of time and on the County website.

Penelope Karagounis – You will be approving the October agenda first since we did not have a quorum required to conduct the meeting on October 11th.

Approve the Agenda
Terry Graham 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 September 2016 minutes and Don Brouwer seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Reid Rushing called the meeting to order.

Staff introduced themselves and Penelope Karagounis swore them in.

Penelope Karagounis - 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 Tony Barrett. The applicant is requesting a variance from Chapter 5 Density and Dimensional Regulations, Section 5.1 minimum lot size requirements of the Lancaster County Unified Development Ordinance in order to subdivide his property and add a manufactured home. BZA 016-013

Nick Cauthen – Presented the statement of matter.

Reid Rushing – If the applicant agrees with the statement of matter as read please come forward and sign.

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

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

Tony Barrett – Yes, 963 Shiloh Unity Road, Lancaster SC – Originally when I bought this the papers showed 2.14 acres but I was under the impression that nine tenths of an acre was required. So when I closed this out I found out it was 1.888 acres and the lawyer had checked and notified me of this. He was going to check and see what happened to this other little section of land; somewhere over the years it had gotten taken off. When I went to apply for a permit for a septic tank I found out there was a one acre minimum so I'm trying to divide this up. I bought the property under the impression that I would be able to add a second manufactured home. There are other mobile homes all around this area. There are a few brick homes down the road. I don't think it would effect how the property looks. The mobile home I want to put on this property is newer than just about everyone in the area. This is the same mobile home I requested a variance for about four or five years ago so my granddaughter could remain in the Buford School District. Since then she has been assigned to a different school district and we want to keep her in the Buford School District. Meanwhile, I just recently moved her up to Shiloh Unity Road where I own property and have a mobile home on a rented lot. I know they can't stay there the rest of their lives so I was hoping I could get a variance this time. This is the same mobile home that I applied for a variance to move up to Zion Road now. Hopefully this will bring things back together.

Reid Rushing – The public portion of this meeting is now closed.

Reid Rushing – Has staff received any calls or letters?

Nick Cauthen – There is one letter that I passed out from Mr. Dennis McAteer stating his opinion. We also received four additional telephone calls from people living in the area that are in opposition to the variance. The main reason given was due to the condition of the property. They all stated that they didn't feel like the property was kept up.

Reid Rushing – Have all measurements been verified?

Kenneth Cauthen – Yes.

Terry Graham – When you bought this property what was the size of it?

Tony Barrett – It was showing on the paper work 2.14 acres but when we started the closing process that is

when we discovered it was 1.888 acres. The guy who owned it is deceased and his wife sold a portion of it. We never knew how that was done.

Terry Graham – So at closing you knew it was less?

Tony Barrett – Yes, when I originally bought the property it was in very bad shape. There was trash piled up all over the place. We got it cleaned up and this year it got a little behind because of the guy that is living there; his wife has been in and out of the hospital most of the time at Duke. His son does air conditioning work and he had asked about keeping the whole units until he disposed of them. He couldn't get in the backyard because last year when it was so wet and it didn't dry up until around January of this year so he put those in the front yard. Since then all that has been taken care of and cleaned up.

Frances Liu – When did you purchase the property?

Tony Barrett – It was around April 30th of last year.

Frances Liu – I'm just looking at the plat here that was recorded on 11-13-2000 showing 1.888 acres.

Tony Barrett – When I bought the property what was shown to me was the tax notice and anyway it came out at 2.14 acres. That is what I was shown and since then it is still listed that way on the records. I got my new tax bill and it is still showing the 2.14 acres.

Frances Liu – You didn't look at the plat until closing?

Tony Barrett – I made a deal with this guy that had the land two years prior and he just showed me the paper work.

Frances Liu – You said the property has been cleaned up? In the memo that we received it said the front yard has trash and the grass on the back was only cut one time all summer. Can you speak to that?

Tony Barrett – The resident that lives there, his wife has had a double lung transplant and so she has been in Duke most of this year. He has an 11 or 12 year old son at Buford Elementary so he has been trying to take care of him and run his job too, so it got behind. We've talked several times about it and before I even applied for this variance we talked about it. He was struggling to get it done. I even went over and cut his grass a couple of times myself. He kept the front cut but out back he didn't. I went over and cut it in May and I thought he had kept it up. It is caught up now and I had to help him out. He is struggling and at the same time I went through a couple of surgeries and I wasn't able to get over there and follow up like I should. I did give him permission to put those AC units in the front until he could dispose of them. It just got out of hand. He didn't expect his wife to be hospitalized that long.

Reid Rushing – In a note here it says I searched it and the section taken out originally had just been taken out in June. This is dated 10-20-2000.

Tony Barrett – The section after I started checking it out and I finally found out who owned it. It was a guy who lived down in Zion Hill but that was after the fact because it had just been sold in June of this year to another guy.

Reid Rushing – But the original plat that I'm looking at shows that it is 1.888 acres back in 2000. So if you closed on it in the last year or two years then you would have had to have seen the plat that I'm looking at

now.

Tony Barrett – I did see it when we closed. At that time I still thought it was still ok, the point nine acres, but that it's in certain areas on it that point nine is allowed. Some areas are less.

Frances Liu – Do we have areas where point nine is ok for a lot split?

Elaine Boone – We don't have a half acre.

Frances Liu – Not split point nine but is there any place where you can have a lot of point nine?

Elaine Boone – Are you talking about like nine tenths?

Frances Liu – Do we have any place that allows that?

Tony Barrett – There is a list here that shows the different square footage and some areas is two thirds of an acre.

Elaine Boone – The twenty nine thousand and forty square feet.

Nick Cauthen – On page 13 you can see it.

Elaine Boone – Out in that area they have to have septic because there is no sewer. It would have to be twenty nine thousand and forty square feet for like an R-30S.

Frances Liu – Thank you.

Elaine Boone – That would be the least they could go.

Don Brouwer made a motion to **approve** on the basis of the authorization of this variance will not be of substantial detriment to the 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; Harvey Carnes seconded the motion.

VOTE: 2 AFFIRMATIVE 3 NEGATIVE MOTION FAILED

Elaine Boone – Do we have a reason for denying it?

Penelope Karagounis – A motion was made to approve.

Elaine Boone – We need a reason for denying it.

Terry Graham – It will effect the value of the surrounding properties.

The three negative votes came from Terry Graham, Frances Liu, and Reid Rushing.

Variance application of First Land Co. The applicant is requesting a variance from Chapter 4 Conditional and Special Exception Uses, Section 4.1.19 Recycling facilities, convenience centers, and resource recovery facilities of the Lancaster County Unified Development Ordinance. BZA-016-014

Nick Cauthen – Presented the statement of matter.

Reid Rushing – If the applicant agrees with the statement of matter as read please come forward and sign. Penelope Karagounis - Do you solemnly affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

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

David Norman – 3155 India Hook Road, Rock Hill SC – I'm the one that messed this up. I thought this was ok. I don't know where I got confused a few years ago. We did go to DHEC and got approval to start doing this awhile back. I guess when some people complained and realized it wasn't in the right zoning DHEC told us to stop about three months ago. We are crushing the material there now and 50% of it came from Kmart that was torn down in Lancaster County. The other 50% came from DOT road. We do this in Rock Hill behind the Galleria Mall and as a use for the property while we are waiting to develop it. This is not intended to be long term use. We are willing to put a fence up to kind of blind the material. We can't move back any further really because we don't want to get off the concrete because it keeps everything so clean being able to do it and dropping it on the concrete. I think when the concrete is crushed I was told 350 feet back from the road. We could put the old material at the back and then crush toward the front which would be fine. I've got some pictures of the material once it is crushed. There have been about 20 individuals that have gotten concrete. It ranges from mobile home guys to farmers. We get more calls on this than I do in Rock Hill now. We've probably had 30 people call wanting us to bring this stuff but we stopped I guess three months ago from taking any materials. I guess if you do deny this that I will have some time to finish crushing the concrete which would take about three weeks. I think the material looks alright once it is crushed. I would like time to be able to sell it instead of having to haul it or move it somewhere off the site. I think I was told it was about 10,000 tons that would have probably had to go into the landfill. I don't really know where they would have taken it. Lancaster County doesn't have a place right now I don't think that will take concrete. I will be glad to answer any questions.

Reid Rushing – The public portion of this meeting is now closed.

Reid Rushing – Have we received any calls or letters?

Nick Cauthen – There were a number of letters that I passed out tonight. We received a few calls in addition to the folks that wrote those letters asking what the posted sign was for. You have a copy of the three letters mailed in.

Reid Rushing – I've gotten ahead of myself. There is a gentleman that has signed up to speak, a Mr. Ray Gordon.

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

Ray Gordon – Yes, 4128 Gladstone Lane, Charlotte NC – As property owners of land directly across from this site, my family and I would like to express objection to it. This facility plans to crush and recycle concrete and asphalt materials. We would like to know if the permit was granted to allow this dumping of concrete and asphalt. They have also moved in some crushing machinery there. It is just a little bit from the road itself. We also feel like this would create an unsuitable environment for people and wildlife in this community. We feel that dust and odor from this processing will contribute to pollution and make unfavorable living conditions for our property; additional noise from heavy equipment and recycling procedures and an increase in traffic will create an unpleasant neighborhood. Also, I have a niece with cerebral palsy in this area and she is terrified of noise. She almost goes into a rage when she hears loud noises. This will also cause a decrease in our property value should we decide to sell in years to come. We ask that you please consider our request when you make this decision. I also have another letter that was written from a neighbor. The letter reads this notification of opposition to the variance application for recovered material in order to crush recycled concrete and asphalt materials on the west side of the

Charlotte Highway north of Waxhaw Village Road. My wife and I own land on Highway 521 across from the property applying for the variance. We object to the approval of the variance for the following reasons. Our main concern is the noise, we have a daughter with cerebral palsy and she cannot handle such noise. She totally freaks out. This would create an undesirable environment and unfavorable living conditions for our property and the value should we decide to sell. An increase in traffic, excessive noise, and dust would also be an issue. If the board fails to comply and gives approval of this variance we will object to any extension granted in the future for such variance. This is signed by Clyde and Myra McAteer. The trucks will have to come out into the road and they will have to go south on Highway 521 and the nearest turn around is right over the crest of this hill. Any of these trucks going north, it's going to be pretty dangerous I'm sure. Is it supposed to be 500 foot from the highway?

Nick Cauthen – The variance is for 500 feet from any residential district. So the closest district would be to the south which is only 50 feet from that; so that is what the variance request....

Ray Gordon – It would border that but ours would be directly across the road.

Nick Cauthen – That would be less than 500 feet also.

Reid Rushing – The public portion of this meeting is now closed.

Reid Rushing – Has staff received any calls or letters?

Nick Cauthen – Just what I stated earlier.

Reid Rushing – Has a site check been done?

Kenneth Cauthen – We did notify Mr. Norman that it was a conditional use and you had to meet certain distant requirements. It is zoned even though it's a residential district, it is zoned for it but you had to meet those strict conditions in order to put a recycling operation there. Gavin Witherspoon in our office goes by it twice a day and to our knowledge they haven't hauled any more back in there, it's just going to be a matter of getting it out. It's a temporary use permitted by DHEC and we were never notified that it was going there. It has got to be removed some way and I know that involves maybe more noise and traffic but there is no other way to get it out of there. Mr. Weaver correct me if I'm wrong, the board can set conditions on a variance? (I cannot hear a response)

Terry Graham – It says on this applicant that there was a letter from DHEC dated 2-17-16. I did not see that. Is that in our packet?

Nick Cauthen – We never received a letter.

Terry Graham – Did we not get a DHEC permit?

David Norman – I did but I thought I grabbed the package when I walked out of the office but I ended up with something off of Ralph's desk. We had gotten the DHEC temporary crushing permit and I did show it to Kenneth.

Kenneth Cauthen – I saw a copy of the permit and I believe we actually have it.

Terry Graham – Is it on file here or who has it? What is the date on it and what does it say?

Kenneth Cauthen – I meet them up there and I saw the permit. I don't think we have a copy of the permit. It was about the time he stated, a temporary permit. We didn't see that until late August.

Elaine Boone – Even though he has a permit from DHEC, he is also required to meet any zoning requirements from Lancaster County. That is something that should have been done first before anything came from DHEC.

David Norman – I messed up. We do use water when we are crushing so we try to keep the dust down to a minimum. If it is blowing the wrong way we just shut down. We have been doing it for probably seven years behind the Galleria Mall in Rock Hill. We do take precautions on the dust.

Reid Rushing – What kind of time frame are you looking at to complete the crushing of what is there now?

David Norman – I can be finished with the crushing unless something tears up which happens but I can be finished with the crushing in a month. I would like to have some time on selling the material. It just seems like most of the jobs people are calling about are just for individuals and it's not any real big jobs.

Reid Rushing – Who normally would purchase something like this?

David Norman – We've sold them for DOT roads and city roads in Rock Hill. We do parking lots. It is DOT approved to crush and run material which is what we are making mostly now because it normally goes the quickest. We own all the land around it so we have a road going out to Waxhaw Village so you can turn and go across Hwy. 521 and go left. You wouldn't have to go down and do a U-turn. We are trimming the pine trees around it right now and that is they way I have the logging trucks going.

Reid Rushing – DHEC granted you the variance but you didn't realize that you had to go through zoning to make sure you were following all of their restrictions?

David Norman – This has been so many years ago I thought I talked to somebody about it. I know I talked to Jeff Catoe about it just to see if he thought there was a need.

Reid Rushing – You don't have to go through the same process in Rock Hill?

David Norman – No sir. It is a mobile crushing unit so that is why we don't have to do anything.

Frances Liu – You have stopped crushing since you heard from….

David Norman – No, I've quit taking any more material. I won't let anybody else haul concrete in.

Frances Liu – Even after talking and finding out that you are not supposed to be doing this you are continuing to crush?

David Norman – It cost me so much to move the machinery in there that we didn't start crushing until just the last three weeks.

Frances Liu – That would be yes you continued to crush even though you knew you were not supposed to be crushing?

David Norman – Yes, I was trying to get rid of the material. I didn't get paid for any of this material. We take this material for free and crush it and sell it. That is where we make our money. We don't charge for the dumping of the material. We crush it and then sell the material.

Frances Liu – I'm just troubled by being told you can't do it so let's hurry up and keep doing it rather than get rid of it. You said you wished there would be some conditions on selling the material. How much time would you need to sell the material?

David Norman – I would like six months. I can get it looking good and get it piled up in the back. I would like to have six months at the least.

Reid Rushing – So you are looking at six months possibly to sell it and you are looking at a month to finish crushing of what is on site now?

David Norman – Yes sir that is not seven months. I'm selling the material now.

Reid Rushing – If you don't crush it, how would you dispose of what you have on site? I guess bring a loader in and dump trucks to haul it off.

David Norman – That would be tough. Like I said, I didn't charge Springs or DOT to drop off any material at this site.

Frances Liu – There is no offense to having all this stuff on the property? It's just the grinding? If you can have all that sitting there with no offense....

Terry Graham – We have letters where people stated they drove by there and you see a pile of rubble along a major highway is a problem.

Frances Liu – But it's not an offense?

Elaine Boone – For this type of use is the 500 foot separation so he can only meet the 50 feet of it and that is the reason he is asking for the 450 variance. It is a legal use but he has to be approved through this board and conditions that it has with chapter 4 in the current ordinance.

David Norman – Are you measuring from our property line?

Kenneth Cauthen – It's from the use to the nearest pile. One of the separation requirements was 300 feet from the center line of the road. It's a four lane highway and the ordinance doesn't say if it is a four land highway is it measured from the center of the median or would it be the center of the nearest lane? We had to think about how it would be interpreted in court. We thought it would be the nearest center of the road so we measured from the west bound lane because it is nearer to the use.

David Norman – The 50 foot is from the road....

Kenneth Cauthen – The 50 foot part is from the use to the southern boundary of the property. I saw the measurements of 400 by 600 foot tract; so that 50 foot that you have is to your southern property line. You will need a 450 foot variance.

David Norman – But we own all the land around it.

Kenneth Cauthen – That doesn't matter, it's from the property line to the nearest residential zoning district, the south side of your property.

David Norman – So from that property line is where I have to be 500 feet.

Kenneth Cauthen – Yes. I don't know if it will make a difference but when I met them on site they did state that they would be willing to put up a fence as a temporary use until they could get it out of there. It's up to the board.

Reid Rushing – From what I'm hearing I don't know that the fence will help. It is the noise and the dust that is creating the biggest problem.

David Norman – We didn't get cranked up until we could get the water turned on.

Terry Graham made a motion to deny based on it will have substantial detriment to the adjacent property or to the public good.

Frances Liu – Do we want to put some conditions now in the motion because once we deny it do we go back if we want to put any conditions in? Do we want to give them time to crush the material etc?

John Weaver – There is a motion to deny it and if there is a second to that then the motion to deny is on the table. Then at that point there can be conditions put on it to amend the motion to deny before you vote. So there will only be one vote and then if there is a motion to amend, then you have to have a second to that. Then you vote on the amendment and then you vote on the motion as amended.

Reid Rushing – We have a motion to deny do I hear a second.

Terry Graham made a motion to deny based on it will have substantial detriment to the adjacent property or to the public good; Frances Liu seconded the motion.

John Weaver – The motion is now on the table. If there are motions to amend that by setting conditions, now is the time to do that.

Frances Liu – I would suggest we all discuss how we all feel about conditions before we get into a motion.

John Weaver – Let's say somebody wants to put a condition so the condition is the motion to amend and if there is a second, then you vote on that amendment; if that amendment passes then its part of the motion to deny.

Terry Graham – So I could make a motion to amendment it?

Reid Rushing – That is what he said.

Terry Graham – I make a motion to give them 30 days as a time limit.

Frances Liu – Can we still discuss at this point? There is no second yet. Can someone suggest a different time line?

John Weaver – Mr. Graham has made a motion to give him 30 days so there has to be a second on that before there is discussion. If it does not get a second then any of you are free other than the chairman, to make a motion to amend some other thing and see if you can get a second on that. So he has made a motion to grant him 30 days, is there a second to that?

John Weaver – No second, then it is off. Now if anybody else has any additional motions, you can do that now.

Frances Liu – Would we do two separate amendments? One for the grinding and one for the amount of time to sell, or would it be all in one?

John Weaver – You can do it all at once.

Frances Liu – But we can do it in two?

John Weaver – You can do it in two.

Frances Liu – The gentleman said he could do it in three weeks so....

Reid Rushing – That is just the grinding though.

Frances Liu – Right, just the grinding. I make a motion to give him three weeks and Don Brouwer seconded the motion.

John Weaver – Are there any other motions?

Frances Liu – I made my motion and now we need one on how long he has to sell it.

Don Brouwer – I make a motion that we give them six months to sell the material.

John Weaver – Is there a second to that?

Harvey Carnes – I will second that.

John Weaver – So now what you have are the following conditions: 30 days to complete his grinding from the day if all this passes and six months from the day to get it all sold and if I assume if not, he will be responsible for moving it on his own if it's not sold in six months.

Frances Liu – The gentleman said he has accepted no more materials so does that have to be....

John Weaver – He has voluntarily agreed to that already so that is already part of the deal.

Penelope Karagounis – Mr. Weaver, three weeks not 30 days.

John Weaver – Three weeks I'm sorry.

Reid Rushing – Initially it was to deny it; do we not get a vote on that?

John Weaver – The fact is what you are really doing is, you are granting him a temporary variance.

Reid Rushing – If we go with what they have suggested, that is exactly right.

John Weaver – That is right.

Reid Rushing – We would be granting a variance. The initial motion was to deny the variance so how did we get from denying the variance to the situation of giving him a temporary variance?

John Weaver – I'll take the blame. I have four daughters and a wife; I take a lot of blame. So I think it would be appropriate to vote on the motion to deny and if that does not pass, then it would be a motion to approve subject to those conditions. If it does pass then the rest of the stuff doesn't matter.

Frances Liu – I'm confused, if it does pass then the rest of the stuff doesn't matter?

John Weaver – If the motion to deny passes then there is no variance to grant because the variance that he has requested has been denied.

Frances Liu – But I thought it was all one vote.

John Weaver – That was my procedural error by allowing all that three weeks and six months stuff to go forward before the vote of Mr. Graham was taken.

Frances Liu – I see.

Reid Rushing – Terry Graham has made a motion to **deny** and Frances Liu seconded the motion.

VOTE: 3 AFFIRMATIVE 2 NEGATIVE MOTION CARRIED

The two negative votes came from Don Brouwer and Harvey Carnes.

John Weaver – So the motion to deny has been approved.

Penelope Karagounis – So now we will move to the November 10th agenda.

Nick Cauthen – Sign World has withdrawn both applications on the November 10th agenda.

Reid Rushing – So the only thing we have is the Catawba Regional Council of Governments for November agenda.

Approve the Agenda
Don Brouwer made a motion to approve the agenda and Frances Liu seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Variance application of Catawba Regional Council of Governments (CRCOG). The applicant is requesting a variance from Chapter 5 Density and Dimensional Regulations, Section 5.1 minimum lot size requirements of the Lancaster County Unified Development Ordinance in order to subdivide property. BZA-016-015

Nick Cauthen – Presented the statement of matter.

Reid Rushing – If the applicant agrees with the statement of matter as read please come forward and sign.

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

Cole McKinney – I do.

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

Cole McKinney – I am with the Catawba Regional Council of Governments at 215 Hampton Street in Rock Hill, SC. As Nick pointed out we received 5.6 million dollars from SC Housing for the explicit purpose of demolishing derelict and blighted houses in four counties and Lancaster is one of those. We are also doing work in Chester, Lancaster, and Union SC. Almost immediately when we received the grant fund we entered into discussions with Mr. Willis and Ms. Karagounis on Starnes Street property because we knew that had been a long standing goal of the County to demolish those structures. I've got reports that I believe Mr. Cauthen acquired during asbestos testing and so forth on the structures. We've gone through those and we do know that they do contain asbestos. We estimate that the demolition cost for each one of those structures is going to be somewhere in the neighborhood of ten to fifteen thousand dollars. Additionally the state is requiring us as part of the program to completely clear and re-green the property. There is a lot of trash and debris on the property. We will have to remove all of that. Any under brush outside of trees that are over about four to six inches will have to be removed as well. So there is a lot of work that goes into meeting the requirements for the program. The problem is we only get $35,000 per property irregardless of the amount of structures that are on there. So if there is one structure on there or eight like we have here, we still only get $35,000 per lot. So the only way that we could really meet the fiscal challenges was to subdivide this up into eight individual lots. We realize that the lots don't make a whole lot of sense. They are very unorthodox in nature but it was really the only way that we could get that done. We partnered with the owner of the property ACAM Investments and Rich Russell is here tonight who represents them. They fronted the cost for the surveys and etc., in order to get the property subdivided up in a manner in which we could then individually submit those eight individual lots to the state for approval and inclusion in the program; thereby getting us enough money to be able to tear them down. Likewise, we as the development corporation and the council of governments have no interest in maintaining ownership of these properties once we are done with them. One requirement of the program is that we hold the property for a period of three years. The reason for that is the money is coming to us by

the Department of Treasury and SC Housing in the way of a three year forgivable mortgage. There will be a note mortgage placed by SC Housing and Department of Treasury on the property that in the first year one third of that is forgiven and the second another third and then the third another third. The development corporation will take ownership of the property. At that time once we have deed to the property, we will convey it to the county. We met with Mr. Willis on the prospective of recombining it because we do realize that the lots that we are proposing in this as Mr. Cauthen stated, a means to an end to get them certified under the program. They would not be something that we would look to develop in the future. Thank you

Reid Rushing – The public portion of this meeting is now closed.

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

Steve Willis – I do, 522 Briarwood Road Lancaster, SC – I just want to support the Council of Governments request. I realize it's sort of unusual when the County is asking you to approve a non-compliance situation but our goal is to make them non-compliant for about three or four months and then we are going to make them non-existent. We want them gone. I don't know if you have been down there. If anybody wanted to take a look we can take you tonight or I will take you down there in the day time. Its typical old shot gun houses that have been vacant for a number of years now. They are a traditional crack house, you go in and have to be careful where you step for all the needles and beer cans and beer bottles. It is pretty bad. Crime down there runs fairly heavy up to and including homicides on the property. County Council is very excited about the possibility of going in and helping clean up the entire Brooklyn neighborhood. This would be one heck of a good start. As Cole indicated, we have agreed if accepted into the program and the houses are demolished, we have to maintain the property for a period of three years. At the end of that we obviously have to go back to council because it would be county property and you have to go through three readings for an ordinance and public hearing and all that in order to handle county property. Council is looking at possibly having some group like Habitat come in and at that point you recombine all the parcels to make sure you meet all the setbacks and all the requirements to build something like a habitat home back down there and eventually help revitalize the Brooklyn neighborhood. We are not interested in just clearing it off and leaving it empty forever. The first step is we have to make the houses go away. Ages ago when I was a volunteer fireman we used to go down there with about five gallons of gasoline and some matches and we would have practice fires. It would take us about 30 minutes and we could have cleared the whole area. DHEC won't let you do that anymore as you've heard. The requirements now for lead base paint abatement, asbestos abatement, it is getting pretty expensive and that is funding that we just don't have to turn Kenneth loose to go down there and demolish them on our own. This grant program is something that is really going to be a godsend for that whole neighborhood and we would certainly appreciate your consideration.

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

Mark Ellis – 1995 Beacon Road, Lancaster SC – I'm in agreement with Mr. Cole and Mr. Willis. We are cleaning this area up and it has been a very bad area for many years. I know they are cleaning up some other houses down there right now. I am totally 100 percent for that. I have a lot of property in that area. The only thing that I'm concerned about is, I have heard rumors from the surveyors that they want to put some kind of housing apartments. I'm kind of against that but with the habitat putting in some kind of housing for somebody to better the community; I'm 100 percent with that. That is the only concern that I would have after the years, that it would become a Pardue Street or Carolina Courts. We don't need that since we are spending thousands of dollars to clean this up as it is. Thank You

Steve Willis – Obviously as indicated, three years hence will be up to council because by state law the only way you can dispose of county owned property is an ordinance and a public hearing. Current council has discussed habitat and I'm not aware about apartments. I would stress what the current council has said but the ultimate decision will rest with the council seating three years hence.

Reid Rushing – Has a site check been done?

Kenneth Cauthen – We have been down there more times than I can count and this is our number one priority and it has been for a long time. Thanks to asbestos we have already spent our budgeted amount for demolition and the fiscal year started July 1st. That is how expensive it is. This is the only way we can get that mess cleaned up. There is an awful lot of trash. There is one place probably as big around as that open area there, beside the path where they go from Crenco down through the neighborhood. They are beer bottles and wine bottles are probably piled up two feet high. It is very expensive and this is the only way to get it cleaned up.

Frances Liu – I guess I have a question for probably Mr. Weaver. Can this variance be granted with conditions that would hold council to doing what the intent of this is? I know council is talking about habitat and so forth. We don't know what another council would do. Can we put conditions on this variance that it must be split into individual lots again or apartments cannot but our intent was to get this demolished and affordable housing put in its place?

John Weaver – No ma'am. If it was a present council I would say that but as to a future council I would not. You may recommend, a recommendation is exactly nothing more than that but a command. As to a future council I would not recommend that.

Frances Liu – So conditions cannot be attached to this variance?

John Weaver – No.

Frances Liu – My main concern is that somewhere down the line someone is going to profit from this. I think the demolition is great and I think it's a wise plan to come up with getting the individual lots and so forth. I'm just wondering how someone is going to make a profit out of this.

Cole McKinney – We don't have a mechanism by which to develop the property so we will have approximately 160 properties spread out across four counties at the end of these three years. We do have with some folks a first option for lack of better term to buy them back from us. But short of that we will dispose of them just through ordinary means by putting them on the market for sale is essentially what will happen at the end of these. We will take ownership of them at the end of those three years. We do have by way of the letter with the county for this particular property a mechanism by which we would convey it back to the county for them to do what they wanted to with it. We did that simply because we knew that this was an enormously problematic area that needed to be cleaned up and that the expense associated with cleaning it up was so profound.

Reid Rushing – So in three years the property will be turned back over to the county and take ownership of it?

Cole McKinney – It will be a dollar. We have to convey it someway but that's it.

Frances Liu – Then the county can sell it to whoever they want to?

Cole McKinney – Yes once they have it they can recombine into a lot and do what they want to with it at that point.

Frances Liu – So there is no guarantee that it would be low cost…

Cole McKinney – We don't have anything to do with the development of it, just the mitigation of the issue that is there.

Terry Graham – But it will be county property at the end of three years?

Cole McKinney – Yes that is the way we have the agreement set up right now should the council accept it.

Steve Willis – The current council has indicated that they would accept it. Current council can't bind a future council. Let's say you have one seventh of the vote in three years so.....

Cole McKinney – One other additional comment on that also. The only way that we get out from underneath the three year hold period, if it's for what the Department of Treasury terms as for the greater public good. I'll give you an example of that. In Chester we've got a property that we are purchasing that is adjacent to a fire station so once we tear down the house we'll give it to the City of Chester and they will incorporate it into the foot print of their fire station. That is way that we can get out from underneath that. Should something arise during that three year period where a habitat or something like that wanted to come in and develop the property, we could submit a plan back to the Department of Treasury showing that was taking place on that. We could mitigate and get out from underneath that three year period. That is the only way that we do that. Nonetheless, it would still be conveyed back to the county.

Frances Liu – Now for the greater good, would that include a park?

Cole McKinney – Sure.

Frances Liu – I see with all these framed houses, there is no gathering place, no park and no green space.

Cole McKinney – I don't know if you've been in that area but there is an enormous and Mr. Cauthen and Ms. Karagounis can testify to this and Mr. Willis; there is an enormous amount of property down there that needs to be demolished frankly. I think I gave you a map in your packet. We've got approximately twelve other houses that are in and around this as well. If the county were to develop that into a park and propose a plan to develop that into a park, we could certainly get that out from underneath the three year hold period and convey it to the county to do that.

Kenneth Cauthen – I want to add and this has been discussed many times. This is one of the sheriff's high priorities also because of the crime in there and he has always been interested in getting those blighted houses cleaned up but this spot in particular.

Mark Ellis – During this three year period who is going to maintain and keep this property clean? Who is going to keep the grass cut?

Cole McKinney – We will clean all of that off and we'll also clear any of the underbrush away because there is a lot of underbrush in areas where people can get back up in and conduct bad activity. We have a memorandum of understanding with the county and I know this isn't in the city but also with the city as well, for them to maintain those properties during that three year hold period. Again, we are a non profit organization and we don't have the means by which to do that so the only areas within those four counties that we are doing work in are areas that we have those MOU's in place and we do have those in place.

Reid Rushing – Once you clean the property off you'll seed and straw it?

Cole McKinney – Yes sir.

Reid Rushing – Then it's left up to the county and the city to maintain the property?

Cole McKinney – Correct, for that three year hold period.

Reid Rushing – You just made the statement that if the county had some type of indication that they were going to make a park out of, then you could do away with that three year hold period?

Cole McKinney – Correct, so they would come to us and I will tell you with other ones that we've done I have to have some sort of plan in place. So it would have to be a plan that the county had come up with and I could send that to Treasury and get us out from underneath that three year hold period.

Reid Rushing – That is good to know.

Terry Graham made a motion to **approve** because there are extraordinary and exceptional conditions pertaining to this particular piece of property; Don Brouwer seconded the motion.

VOTE: 5 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

John Weaver – Can I take just a moment because if that gentleman (David Norman) is confused I want to be able to explain to him as well as the five of you. We have on the table right now a motion to deny and that was passed 3 to 2. I don't suggest that you should do anything beyond that. There is a means, legally means under Robert Rules of procedure where you can change your vote if you want to. I don't suggest that you should or should not. If one of the three of you the majority, decided that you wanted to make a motion to reconsider; you could reconsider that vote tonight but only tonight. The motion to reconsider and start all over again would have to be made by one of three of the majority. It could be seconded by anybody but if there is a motion to reconsider and if there is a second and if there are three votes to reconsider what was done, then you can start again and perhaps alleviate some of that confusion. That is what the law is and the decision rests with the body.

Reid Rushing – Do any of the majority want to change their vote? No one wants to change their vote so we are good. The next order of business is calendar of meeting dates for 2017. Do we need to make a motion to approve or deny the dates that we have here in front of us?

Penelope Karagounis – Yes go ahead.

Reid Rushing – We probably could talk about this vacant seat that has been empty for a year and half now or two years; one of the council members that hasn't filled this district.

John Weaver – The administrator and I have brought that to his attention on more than one occasion.

Reid Rushing – To me it takes more drastic measures than that because we have been dealing with this for a year and a half and we still don't have any response from it.

Terry Graham – Is there not a way to have an at large or somebody else if you can't find somebody in your district? Is there any procedure for that?

John Weaver – Not which can be done at this point. I'm sure what it says is one from each district and is what our county ordinance states. Does state law say that also?

Penelope Karagounis – We had an issue a number of years ago with Planning Commission where we did not have a seat for somebody from Kershaw and there was a proposal to do a text amendment to get like an at-large and that failed. So to answer your question, it has to be from that district.

Terry Graham – Did that go to the council or is that a state law?

John Weaver – County, if the state law says you have to have seven and one from each district, then there is nothing we can do. If our county ordinance says that, you can change that.

Terry Graham – Is the BZA a county ordinance for the district?

John Weaver – There are state laws that control the BZA. As to whether or not you can have at large members, I'll have to research that. If it doesn't say in the state law and you decide you want to do it, the county can do that.

Reid Rushing – What district are we missing?

Penelope Karagounis – Kershaw, Jack Estridge.

Reid Rushing – There is not anybody in Kershaw, there is bound to be somebody down there.

Frances Liu – Do they even know that they are wanted?

Penelope Karagounis – Well that was the thing with the Planning Commission. Once there was a big story in the newspaper that they are about to take away your representation from the Kershaw area then we had someone come and volunteer.

Frances Liu – Brian Carnes put a simple story in the Gateway and I responded to it but I've never seen anything where the BZA is even looking for anybody.

Reid Rushing – Needless to say it has created hardships for this board because for instance, Frances is not going to be here in January and if Harvey happens to be sick in January then we will postpone another meeting just like in October when there were not enough to have the meeting.

John Weaver – We will make an additional effort.

Frances Liu – Can you look that up if we can do a text amendment, if we are not bound by state law. I would be the first one to push for that.

John Weaver – I won't be you that does it.

Terry Graham – I can certainly do something with that.

John Weaver – I will advise them as to whether or not that is an option.

Frances Liu – We were going to discuss if the Sign World is coming back and the only reason I'm asking is, I did a lot of research and a lot of work on that on the Sign World for Hobby Lobby.

Penelope Karagounis – It is coming back basically not as Sign World. The guy that is developing that site at Jim Wilson, he wants an interpretation regarding this; you are going to hear the actual developer discussing the interpretation of the code.

Reid Rushing – It will be his interpretation of the code though.

Kenneth Cauthen – Yes he has a different interpretation.

Penelope Karagounis – That is one of your obligations, to listen to them and see if you agree with his interpretation or if you agree with the County's.

Terry Graham – So the variance will be the same as far as…

Penelope Karagounis – It is going to be about his interpretation and how he doesn't feel that he needs a variance. That is our only case in December.

Kenneth Cauthen – He is wanting a big increase in his signage. We did it for Walmart, Food Lion, Harris Teeter, and Publix.

John Weaver – The law says that you are allowed one continuance which we have already given him. He was advised that his options were to show up because he had already been granted one continuance and you did not have the authority to grant another one. Or the applicant could withdraw their application, if the application is withdrawn by that applicant; there is a six month waiting period. From what I've heard tonight it is going to be a new applicant, it can't be the same one, it can't be Sign World, Inc. or whoever.

Reid Rushing – He is not asking for a variance.

John Weaver – There is no application as of right now. He withdrew the application. The only way anybody other than Sign World can get back here is to file a new application. Now if Sign World wants to come back, they can come back in about May or June.

Frances Liu – We don't have an application to consider?

John Weaver – You do not at this point.

Frances Liu – We have no cases and we are past the time frame.

Reid Rushing – When does the time frame end?

Penelope Karagounis – We have an application.

Nick Cauthen – We have an application that is appealing an action of a zoning official.

Frances Liu – That doesn't come to us though.

Penelope Karagounis – Yes it does.

John Weaver – Who has filed the application?

Nick Cauthen – Michael Kaney with Lennar commercial.

Kenneth Cauthen – The last time Sign World was not prepared and they didn't have a clue what was going on.

Nick Cauthen – These are the three things that an applicant can come to this board for; an action of a zoning official, a variance....

Penelope Karagounis – This board also has special exception. We haven't had a special exception permit. That is another duty that the Board of Zoning Appeals handles. You have variances, special exception permits, and then also the interpretation of a zoning official.

Reid Rushing – This will be an interpretation.

Penelope Karagounis – That is correct.

Frances Liu – I wasn't here in September. What was the disposal of the case?

John Weaver – There was great confusion by both the county and the applicant as to what the applicable law was and we went scrambling around gathering books all over the building. I suggested that by mutual agreement there should be a continuance and he agreed to that.

Frances Liu – So he is appealing...

John Weaver – If the applicant who filed that appeal is not a Sign World representative then he has no standing to appeal his interpretation.

Penelope Karagounis – It is the developer.

John Weaver – That is not Sign World. Sign World filed the application did he not?

Penelope Karagounis – Yes.

John Weaver – Is this person who has taken an appeal, is he Sign World?
Unable to hear response.

John Weaver – Well then I might as well be the one who is appealing it. He doesn't have any standing. He was not the applicant. The person that appeals is the person that lost with his decision. Does that make sense? If I get a speeding ticket and I'm found guilty, you don't have the right to appeal my conviction to another court because you don't have any standing. You don't have any skin in the game. That man probably does have skin in the game but he is not the applicant. The thing for him to do is to file a new application in his name.

Nick Cauthen – That is what he did.

John Weaver – Well that is different than what you said an appeal.

Nick Cauthen – I meant he was appealing the action of a zoning official. I was just going off the form basically he is appealing the interpretation of Kenneth Cauthen.

Kenneth Cauthen – So basically what you are talking about, he needs to file a new application and state how much signage he needs and that would be a variance.

John Weaver – So a new person has come to you and you have said no.

Kenneth Cauthen – I told him no a long time ago.

John Weaver – Rather than talking about this, this is a staff decision to make and if its appropriate that it come to this board in December it will. That is not for ya'll to decide.

Reid Rushing – When does this application have to be in to ya'll by?

Nick Cauthen – It came in this afternoon.

Frances Liu – But not an application?

Nick Cauthen – Yes.

Terry Graham – I think it needs to be reviewed by staff to see if it's in order.

Penelope Karagounis – Basically the application from Sign World because they don't own the property; they had Michael Kaney give them permission to actually do the variance. So now, the application is from Michael Kaney. Michael Kaney even though he wasn't Sign World, he gave permission to Sign World.

John Weaver – Sign World was his representative and as their representative they got it continued and as their representative they were told if they didn't show up they would lose their opportunity. If the representative lost an opportunity, then.....unable to hear clearly

Penelope Karagounis – Then that looks like we are not going to have a meeting in December.

John Weaver – I'll research it and advise the applicant.

Don Brouwer made a motion to **approve** the calendar meeting dates for 2017 and Frances Liu seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Terry Graham made a motion to adjourn and Frances Liu seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Respectfully Submitted,

Reid Rushing
Chairman

Penelope Karagounis
Planning Director