



Town of Youngsville

Board of Adjustment

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MINUTES BOARD OF ADJUSTMENT

MAY 2, 2019

7:00PM

YOUNGVILLE COMMUNITY HOUSE

Chairman Fonzie Flowers called the meeting of the Town of Youngsville Board of Adjustment to order at 7:00 pm. Chairman Flowers initiated a roll call. In attendance were Chairman Fonzie Flowers, Members Terry Hedlund, Joseph Johnson, Larry Wiggins, Graham Stallings, and Catherine Redd, Town Administrator Phillip Cordeiro, Town Attorney Edward Bartholomew, Planning / Zoning Administrator Andrew Thomas, Jr and Town Clerk Emily Hurd.

The first item on the agenda was to approve the minutes from the October 4, 2018 Board of Adjustment Meeting.

MOTION: TO APPROVE THE MINUTES FROM THE OCTOBER 4, 2018 BOARD OF ADJUSTMENT MEETING

The motion was made by Member Hedlund and was seconded by Member Redd. The motion passed unanimously.

The next item on the Agenda was Old Business. There was no Old Business.

The next item on the Agenda was New Business. The first item under New Business was a Conditional Use Application from North Carolina Turf Care Corp for 321 N Nassau Street.

Chairman Flowers asked Attorney Bartholomew to give an outline of hearing conduct. Attorney Bartholomew explained the Board sits as a quasi-judicial unit, meaning they sit as judges, to determine if the Conditional Use Permit is something that can be done under the current ordinances. Anyone wishing to testify will need to have standing in the case, such as adjacent property or be directly affected by this decision. People with no standing will not be allowed to testify. Once all the information has been presented, the Board will discuss the case before moving on to the vote. Approval or denial of the Conditional Use Permit will be based on the answers to questions in the Findings of Fact. Attorney Bartholomew noted Chairman Flowers will not have a vote, as he facilitates the hearing.

Town Clerk Hurd swore in those wishing to testify; Andrew Thomas, Jr., Ryan Tyrell, Janice Pearce, Sally Huegel, Steve Huegel, Angela Weymouth, Wendy Smothers, Mike Smothers, Julie Dove and Jay Dove.

Thomas gave a preliminary statement to describe the case before the Board. He stated the Board was here to consider a Conditional Use Permit application for property located at 321 N Nassau Street for a request for a lawn care / landscaping business.

Thomas read Staff Findings into the record.

Planning Staff FINDINGS

1. Ryan Tyrell signed and filed a complete application with site specific plan exhibit on August 7, 2018 requesting a Conditional Use Permit for a lawn care/ landscaping business (PIN 1852-99-0009).
2. The applicant has a signed agreement to purchase.
3. The property consists of a single lot consisting of approximately 8.00 acres. There is an existing warehouse with two driveways. The applicant intends to use the property for an expansion of a lawn care/ landscaping. Part of the building will be available as flex space.
4. The preliminary site plan illustrates the arrangement of the drives, building, parking, fuel storage and where the mulch will be stored. It is noted that employees will park on-site.
5. The subject property is located at 321 N. Nassau Street in the Mixed-Use District (MU) where service establishments with outdoor sales are permitted as a conditional use per Sec. 309.1.3 (e).



Surrounding Zoning and Land Use:

East: RS, Residential Single-Family, Residence
West: RS, Residential Single-Family, Vacant woodland
South: RS, Residential Single-Family, Residence
North: RS, Residential Single-Family, Residence

6. Andy Thomas and Bob Clark met with the applicant on March 26, 2019, where the applicant indicated a desire to use the property improvements as is. There is an existing drive to the rear of the property. There is a paved area to the north of the building.
7. If the application is favorably considered, the staff recommends the following conditions:
 - any additional lighting to be directed inward towards the site. No increase in lumens beyond the property line.

Member Wiggins asked for clarification on the fencing, as it looked to be in the front yard on the proposed site plan. Member Wiggins stated he did not think our ordinance would allow more than 50% of the side and no fencing in the front. Thomas stated he would need to check the ordinances to confirm.

Chairman Flowers polled the Board as to any conflicts of interest or bias. The Board answered no, unanimously, to not having a fixed opinion prior to hearing the matter that is not susceptible to change. Chairman Flowers asked the Board if there had been any undisclosed ex parte communications and the Board answered no, unanimously. The Board answered no, unanimously, to having a close familial, business, or other associational relationship with an affected person or entity; or a financial interest in the outcome of the matter.

Thomas stated it was allowed if the fence was not more than 75% solid and noted the proposed fencing would be chain link. Member Redd stated the applicant was proposing vinyl slats in the

chain link fence that would make it solid and Thomas stated only if the vinyl slats covered more than 75% of the fencing. Thomas explained extra covering in the fencing could be approved by the Board. Member Redd wanted to confirm that if the fence was not in compliance with the ordinance, could the Board use that as a condition of approval and Cordeiro recommended having the fence comply with the ordinance when constructed as a condition.

Chairman Flowers opened the floor for the applicant to present evidence for his application. Ryan Tyrell summarized their plans for the property. He stated they want to put screening in the front, but the side may also have shrubbery to help. Mr. Tyrell explained his business was currently located on Burt Winston Road and they have been in Youngsville for fourteen years. He stated they were looking for a location where they can grow. Mr. Tyrell stated they were asking for extra outdoor storage for mulch, vehicles, equipment, etc. He noted they wish to comply with the ordinances, therefore they were requesting the CUP. Mr. Tyrell stated he did not think they will be a nuisance to neighboring property. He noted they would make improvements to the building that included painting and landscaping.

Member Redd asked about the lighting and Mr. Tyrell stated the lights were for theft prevention and would illuminate towards the building. Member Redd noted her concern about lighting near the residential area and Mr. Tyrell assured her the lights would face inward. Member Wiggins asked if they would be directional and Mr. Tyrell stated yes.

At this time the application packet, map and Ryan Tyrell's testimony were entered into evidence. The application packet was assigned NCTurfCare1, the map was assigned NCTurfCare2, and Mr. Tyrell's testimony was assigned NCTurfcare3.

MOTION: TO ACCEPT THREE ITEMS OF EVIDENCE: APPLICATION PACKET (NCTURFCARE #1), MAP (NCTURFCARE #2), AND RYAN TYRELL TESTIMONY (NCTURFCARE #3)

The motion was made by Member Wiggins and was seconded by Member Johnson. The motion passed unanimously.

Chairman Flowers opened the floor to ask questions of the applicant. He asked that anyone speaking identify themselves and their relationship to the property.

Steve Huegel, 109 Anderson Park Drive, stated he was an adjacent property owner. He asked to look at the site plans. Chairman Flowers allowed a couple of minutes for neighboring property owners to look over the site plans. Hurd reminded everyone in attendance that information for the Board of Adjustment Hearings was available at Town Hall in the weeks prior to the Hearings.

Sally Huegel, 109 Anderson Park Drive, wanted to clarify the directional lights would face towards the main building and the lumens would not be brighter than they currently are. Mr. Tyrell stated he was unsure of the current lumens and noted they were the lights that were installed by the power company. Thomas stated Staff Recommendations included no increase of lumens off the property.

Mrs. Huegel asked how tall the fence would be and Mr. Tyrell stated six feet.

Jay Dove, 103 Anderson Park Drive, asked how close the fence would be to the property line and Mr. Tyrell stated ten feet. Mr. Dove asked what the hours of operation were, and Mr. Tyrell stated they would start at 7am and end at 6pm. Mr. Dove asked if there would be any late-night trucks and Mr. Tyrell stated no. Mr. Dove asked how many employees and Mr. Tyrell stated there were currently forty-five employees.

Julie Dove, 103 Anderson Park Drive, stated the current lighting already shows into their bedroom and is a concern. She asked if the vinyl slats in the chain link fence would only be for privacy in the front and open in the back by the residential yards and if there would be a buffer for sound. Mr. Tyrell stated other than the crews leaving in the mornings and evenings, it would only be office staff during the day. He explained the ordinance required buffers and he would follow the rules when installing them. Mr. Tyrell explained he wants the lights directed towards the building and current lights won't be used after they burn out. Mr. Dove noted there was one that shines towards the woods and Mr. Tyrell stated he would take care of it.

Mr. Huegel stated he was concerned about the noise level when the crews were leaving and returning. Mr. Tyrell stated they should be quieter than the current manufacturer that has been occupying the building. He explained the mowers would make some noise as they are loaded onto the trailers. Mr. Tyrell reiterated the impact will be lower than the machine shop.

Mrs. Huegel asked about the hours of operation again and Mr. Tyrell stated they would start at 7am and possibly go as late as 7pm, Monday through Friday. He stated there was a possibility of some Saturdays but no Sundays.

Mr. Dove asked if there were plans for children as far as moving equipment and Mr. Tyrell stated there would be no additional impact on Fleming Road as they are currently using area roads already.

Member Redd noted they currently had forty-five employees and asked if there would be more as the business grew and Mr. Tyrell stated yes. Member Redd stated it was a lot of people and inquired about the additional parking behind the building. Mr. Tyrell explained they would take out some of the grassy areas for additional parking. Member Redd asked if there would be ample parking and Mr. Tyrell stated some employees report to the business, some are office staff and others would report to satellite locations.

Wendy Smothers, 108 Anderson Park Drive, asked what size trucks would be onsite and Mr. Tyrell stated they used F550 dump trucks, which is not a large dump truck.

Member Redd inquired about the fuel tanks and Mr. Tyrell stated it was a 1,000-gallon tank. Mr. Tyrell stated everything has been approved by Franklin County. Member Redd asked about fuel odors and Mr. Tyrell stated there was not a heavy odor associated with the process.

Mike Smothers, 108 Anderson Park Drive, expressed concerns about traffic on Fleming Road. Chairman Flowers stated Fleming Road was a NC DOT road and noted that research on the impact to Fleming Road would be done by them.

Mr. Smothers asked if the F550 dump truck required a commercial driver's license (CDL) and Member Wiggins stated CDLs were only needed if the truck was 26,000 pounds. Mr. Smothers noted there was signage for "no through trucks" in the area.

Angela Weymouth, 110 Anderson Park Drive, asked how far the parking in the rear of the building was from the property line and Mr. Tyrell stated it would be located inside the fenced area.

Mr. Smothers asked if there would be any reconstruction and Mr. Tyrell stated not at this time. Mr. Smothers asked if they would remodel the building and Mr. Tyrell stated they would.

Chairman Flowers opened the floor to any persons in support of the application that would like to present evidence. There were no comments.

Chairman Flowers noted Thomas had presented the Staff Findings during his preliminary statement and asked if there was any further information. Thomas recommended as a condition that the lighting be directed inward with no increase in lumens off the property. He also included the approval of a 75% solid fence as a buffer. Cordeiro wanted to clarify the CUP was only needed because of the outdoor storage and Thomas stated yes. Thomas explained they only reason they had to come before the Board of Adjustment was because of the outdoor storage and they can do everything else without the Board's approval.

At this time, Staff Findings and Thomas' testimony were entered into evidence. Staff Findings was assigned Youngsville 1, and Thomas' testimony was assigned Youngsville 2.

**MOTION: TO ACCEPT TWO ITEMS OF EVIDENCE: STAFF FINDINGS
(YOUNGSVILLE #1) AND ANDREW THOMAS JR.S' TESTIMONY
(YOUNGSVILLE #2)**

The motion was made by Member Hedlund and was seconded by Member Wiggins. The motion passed unanimously.

Chairman Flowers opened the floor to any persons opposed to granting the application that would like to present any evidence.

Sally Huegel, 109 Anderson Park Drive, expressed concerns about the look of the business would affect the neighborhood and property values. She asked that they improve the building to better the appearance and Mr. Tyrell stated that was their goal. Mr. Tyrell explained they were only asking for additional outdoor storage as a precaution in case they needed an extra pile of mulch for a project. He stated their vision was to bring the property back to life, which will help improve the neighborhood.

Julie Dove, 103 Anderson Park Drive, noted her property shared the largest border. She expressed concerns about the safety of children who may wander onto the business property, as her young son was curious. Mrs. Dove asked for a better buffer or more solid fencing to keep the neighborhood children and pets out.

Mrs. Dove inquired about the fuel tankers and Mr. Tyrell stated the tanks would be filled during business hours. Mr. Tyrell noted the fuel tanker was not a big tanker truck. He also noted they would follow the ordinance to make sure there was proper buffering between their business and the residences. Mrs. Dove reiterated she would like to have a buffer or approved fence but noted Mr. Tyrell's responses have put her at ease. She stated she still had safety concerns as they were the most exposed. Mrs. Dove asked if background checks were done on all employees as she had concern for her children and Mr. Tyrell stated yes, they did background checks.

Mike Smothers, 108 Anderson Park Drive, asked about the maintenance on the trucks and equipment. Mr. Tyrell explained basic maintenance would be done on the mowers in the building, but the trucks would be taken to a shop for maintenance.

Jay Dove, 103 Anderson Park Drive, asked if anyone had considered what this business would do to the neighboring property values. He stated business is good for everyone but had concerns about his property value being affected. Member Redd noted the building already existed and has been commercially zoned for years. She felt that any improvements to the building would only increase property values. Member Redd stated the Board had to make sure this request met the guidelines, but they were not able to consider any affect it would have on property values. Attorney Bartholomew agreed as there were no experts on property value here to testify.

Mr. Dove also expressed concerns about fuel leaks.

Chairman Flowers opened the floor for rebuttals to opposing testimony. There were no rebuttals.

Chairman Flowers wanted to confirm all evidence had been entered into the record. Hurd stated Staff Findings was Youngsville1, Andrew Thomas Jr. testimony was Youngsville2, the application packet was NCTurfCare1, the map was NCTurfCare2, and Mr. Tyrell's testimony was NCTurfCare3. Added to evidence was the testimony of Sally Huegel, Steve Huegel, Angela Weymouth, Wendy Smothers, Mike Smothers, Julie Dove, and Jay Dove as Opposing Testimony.

MOTION: TO ACCEPT ONE ITEM OF EVIDENCE: TESTIMONY OF SALLY HUEGEL, STEVE HUEGEL, ANGELA WEYMOUTH, WENDY SMOTHERS, MIKE SMOTHERS, JULIE DOVE, AND JAY DOVE AS OPPOSING TESTIMONY

The motion was made by Member Stallings and was seconded by Member Johnson. The motion passed unanimously.

Chairman Flowers asked if there was any more discussion or questions.

MOTION: TO CLOSE THE COLLECTION OF EVIDENCE PORTION OF THE HEARING.

The motion was made by Member Hedlund and was seconded by Member Redd. The motion passed unanimously.

Chairman Flowers opened the deliberation section of the Hearing for the Board. Member Hedlund asked for clarification concerning the outdoor storage being the only reason a CUP was needed, and Chairman Flowers stated yes.

Member Redd asked if the fence would become an issue and Thomas reiterated, they would be able to install a fence that was up to 75% solid.

Member Johnson asked for clarification on what was considered outdoor storage. Thomas stated the mulch and tanks would be considered outdoor storage and Thomas added that anything without wheels would be considered outdoor storage. He clarified that parking was not considered outdoor storage.

Chairman Flowers asked Mr. Tyrell if he had any concerns about the proposed conditions and Mr. Tyrell stated he did not.

The first proposed condition was that all exterior lighting be pointed towards the property and lumens cannot be increased outside of the property line. Cordeiro asked if lumens had already been measured and Thomas stated they have not. Cordeiro stated that would need to be taken care of.

The second proposed condition was that fencing shall be at least 75% impermeable. Thomas read Ordinance 206.10.1 stating that: No fence more than three (3) feet in height, nor retaining wall more than five (5) feet in height which is more than seventy-five (75) percent solid may be placed in any front yard including along the side lot line to the front of any principal buildings, unless approved by the Youngsville Board of Commissioners, as a buffer in accordance with Section 207.6 of this Ordinance. Attorney Bartholomew stated the ordinance sounds like the Board would need to approve the fence if they wanted to go over the 75%. Member Redd asked if the vinyl slats would only be on the front and sides and Mr. Tyrell stated there will be vinyl slats on the front, but the sides would have screening as well as the vinyl slats. When asked, Janice Pearce, 309 N Nassau Street, stated she would rather have landscaping along her property line. After a brief discussion, it was decided that fencing with slats should be installed on the north and east sides of the property. Mr. Tyrell clarified that fencing with slats would be facing Fleming Road and the Anderson Park Subdivision. He also wanted clarification on vegetation versus slats. Chairman Flowers amended the proposed condition to "fencing with slats and/or screening along the north and east sides". Attorney Bartholomew noted the conditions as follows: 1) All lighting must point inwards and lumens at the property line must not be increased from current levels and 2) that fencing with slats and/or screening shall be installed on the north and east sides of the property. Mr. Tyrell stated he did not have any problems with the proposed conditions.

Conditions:

1. All lighting must point inwards and lumens at the property line must not be increased from current levels

Approved? ___5___ Yes ___0___ No

2. That fencing with slats and/or screening shall be installed on the north and east sides of the property

Approved? ___5___ Yes ___0___ No

Attorney Bartholomew read the Findings of Facts.

1. 710.1.1 The proposed use will comply with all of the dimensional and other standards which this ordinance applies to all users? 5 ayes / 0 nays
2. 710.1.2 Access roads or entrance and exit drives are or will be suitable in size and properly located to ensure automotive and pedestrian friendly safety and convenience, traffic flow, and control and access in case of fire or other emergency. 5 ayes / 0 nays
3. 710.1.3 Off-street parking, loading, refuse, and other service areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic glare, odor, and other impacts on adjoining properties in the general neighborhood. 5 ayes / 0 nays
4. 710.1.4 Utilities, schools, fire, police and other public and private facilities and service will be adequate to handle the proposed use. 5 ayes / 0 nays
5. 710.1.5 The location and arrangement of the use of the site, screening, buffering, landscaping, and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts. 5 ayes / 0 nays
6. 710.1.6 The type, size and intensity of the proposed use, including such consideration as hours of operation and number of people who are likely to utilize or be attracted to use, will not have significant adverse impact on adjoining properties or the neighborhood. 5 ayes / 0 nays

Attorney Bartholomew stated the Conditional Use Permit for North Carolina Turf Care has been approved with two conditions: 1) All lighting must point inwards and lumens at the property line must not be increased from current levels and 2) that fencing with slats and/or screening shall be installed on the north and east sides of the property

The next item on the agenda was Reports and Other Business. There was no comment.

The meeting adjourned at 8:05 pm.