MINUTES
Town of North Wilkesboro
Board of Adjustment
February 11th, 2021
6:00 p.m.

Members Present: Casey (Chair), Matthews, Alternatives Church and Nichols via Zoom
Also, Present: Meredith Detsch (Planning Director of North Wilkesboro), applicant William Hamby and Jim Isley, Daniel Johnson Town Attorney on Zoom.

Chairwoman Casey called the meeting to order at 6:39 pm.

The Chair asked the board members to state their name in order to determine a quorum. In addition to Casey; Matthews was present in person and Church and Nichols were participating on Zoom. Casey declared that a quorum was reached. The Chair asked for a motion to dispense of the minutes of the meeting held on November 12th, 2020. Matthews moved to approve the minutes as presented and Nichols seconded the motion. The vote was called by Chair Casey and it was unanimously voted (4-0) to approve the November 12th, 2020 minutes.

The Chair asked to approve the agenda and for any additions or deletions to the agenda. Hearing none Matthews moved to approve the agenda as submitted and Nichols seconded the motion. The motion passed unanimously 4-0.

The Chair explained that the Board of Adjustment is tasked to uphold the Town's Zoning Ordinance, the Comprehensive Plan and all laws per the Town. The purpose of tonight is to hear the evidence and consider the impacts of the Conditional Use Permit proposed on the property through a quasi-judicial process. We now open the evidentiary hearing for Trucks and Cars Case Number 2020-2-1. The applicant has requested a Conditional Use Permit extension for a Non-Franchised Dealership of Motor Vehicle Sales, Rental, and Leasing. The property is located at 1524 Statesville Road. The board's discretion is limited. The board must base its decisions upon competent, relevant, and substantial evidence in the record. A quasi-judicial is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion.

Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have the right to fully participate. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals, may serve as witnesses when called by the board. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert withesses. These topics include projections about impacts on property values and projections about increased traffic. Individuals providing expert opinion must be qualified as experts and provide factual evidence Witnesses must swear or affirm their testimony. At this time, we will administer the oath of all individuals who intend to provide witness testimony.

Since the quorum had been made, now it was time to swear in all representatives that wished to speak. The Chair stated the Supreme Court has required that the Board base its decisions only on testimony given under oath, so anyone expecting to testify must come forward and be sworn. Swearing in of all individuals that wish to speak included Meredith Detsch the Planning Director and applicant William Hamby. They came forward to be sworn by placing their hands on the bible. The Chair asked, "Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth so help you God?" All individuals stated, "I do." The Chair reminded everyone that everything said tonight will be entered into evidence.

Chair Casey stated the parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any board member have any partiality to disclose and recusal to offer? Hearing none we will continue with the hearing.

The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside the hearing. That may include site visits as well as conversations with parties, staff, or the general public. Does any board member have any site visits to disclose?
Casey disclosed she had visited the site today. Casey asked if any board member have any conversations or other communications to disclose. Hearing none we will continue with the hearing.

Casey called upon Meredith Detsch to present the hearing.
Detsch presented the Conditional Use Permit for William Hamby and went through all exhibits. Detsch explained the item before the board this evening was to consider a Conditional Use Permit at 1524 Statesville Road, Parcel ID 2200405, PIN 3878-51-3617 for a non-franchised motor vehicle sales. The Zoning Ordinance allows non-franchised dealerships in the Highway Business zoning district if a petitioner obtains a conditional use permit from the Board of Adjustment per Article VI Zoning Districts 6.7 Table of Uses, "Motor Vehicle Sales, Rental & Leasing" additional conditions in Article 11.2-16.

Exhibit 1- Conditional Use Application
Exhibit 2- Recorded CUP July 23rd, 2020
Exhibit 3- Power Letter July 10th, 2020
Exhibit 4- Zoning Map
Exhibit 5- Letter to adjoining properties
Exhibit 6- Mailing list of recipients of letter
Exhibit 7- Proof of mailings
Exhibit 8- Sign posted on property 1/29/21
Exhibit 9- NCDOT letter from previous application
Exhibit 10- Zoning Ordinance requirements for Motor Vehicle Sales, Rentals, and Leasing
Exhibit 11- Zoning Ordinance requirements within the Corridor Overlay District

After explaining all exhibits and entering all evidence into the record Meredith gave an update to the request before the board tonight. Mr. Hamby wishes to sell the property in the future but for tonight's request he is seeking an extension to his approval. The Conditional Use Permit expired around January 10th per the original conditions set out in the July approval based on six months after the power was turned on.
Casey asked the applicant, Will Hamby, to present evidence and legal arguments in support of the request. Casey remaindered him that any evidence and argument must focus upon the applicable standards and for the record your name, address, and relation to the case.
Mr. William Hamby of 1219 Hinshaw Street explained he bought 1524 Statesville Road and annexed the property into the Town limits. Mr. Hamby explained he could not get asphalt poured at this time but did get the curbing put in recently. He also added the landscaping would need to be done in the spring as you cannot acquire any plants this time of the year, about twenty-five percent of sales are done in those two months. He has also been in negotiations with the neighbor Mr. Bailey over a property line dispute that he notated on the survey. Mr. Hamby is requesting phase three of the site improvements to be removed and given more time to complete phases one and two. Lisa Casey asked Mr. Hamby about the parking situation as she has concerns about eliminating parking areas as the lot is full of cars now and they are parked all over the grass and even behind the building which are not designated parking areas. Casey also mentioned to him that he needed a handicap space immediately. Also she added the other proposed uses may need additional parking and what is shown on his site plan is limited. Mr. Hamby explained that January and February were when he had the most inventory and most sales out of the year. Discussion of the other phases of the lot were discussed and how he would finish the phases and potentially sell

the other side of the building. Casey explained her concern of the current state of the property and asked when the parking would be completed? Mr. Hamby read a quote he received from Carl Rose for asphalt paving dated February 9th, 2021 a copy was not provided for evidence. Casey explained she was concerned with the timeframe of everything not being completed and Mr. Hamby told her and the board he couldn't get the asphalt done until after the curb and gutter were installed which had been delayed. Mr. Hamby explained he wanted to get complete as soon as possible to sell the property. Mr. Hamby's previous property at 1865 Statesville Road was discussed. Matthews asked for the sale of the property to be explained again and Mr. Hamby stated he wanted to sell the property for the best profit whether that's one unit or subdivide it into many. Matthews asked what he needs in order to sell the property. Mr. Hamby explained he wanted an extension on the Conditional Use Permit to finish the paving and shrubbery. Casey asked if the property was already listed and Mr. Hamby said no. They are discussing how to list it and figure out the property line dispute. Nichols commented that the survey completed back in August and should have been aware of the property line dispute. Mr. Hamby and Casey discussed the property line situation. Matthews asked when he needed the extension by. Mr. Hamby said April but staff cautioned the board as April is a rainy month and paving may be challenging. Casey asked how many times the board needs to keep offering extensions. Nichols commented that they can do conditions with the approval. Casey said the board's options is to either give him an extension or deny the request. Church made a motion to extend the Conditional Use Permit until May 1st. Matthews seconded the motion. Before the vote the board discussed the different phases that would be required to be completed as of May 1st. Discussion of eliminating curbing and landscaping was discussed. Mr. Hamby is requesting to eliminate phase 3 which includes the parking, curbing and landscaping on the right side of the building per the previously approved site plan. The board can amend the motion or approve the original site plan layout. By eliminating that area of the site plan he cannot park on the east side of the building. Mr. Hamby stated that people park on that side now and Casey told him it's private property and he can restrict that. Church amended his motion to eliminate the phase three of the parking lot and phase 1 and 2 and the buffer have to be completed and add all must be completed by May 1st and if not staff will issue a cease and desist. Nichols seconded the motion. The vote was called and it passed unanimously 4-0.

The next item on the agenda for the meetings schedule for the year but Detsch noted that they skipped the elect chair and vice chair on the agenda. Nichols moved to elect Matthews as the vice-chair again and Casey as the Chair. They agreed and the motion passed.

Detsch presented the meeting schedule and notated that Veteran's day fell on their normal meeting date. The Planning Board moved the meeting to Tuesday November 16th since the 18th was a Board of Commissioner's meeting.

Staff reports were presented. They had discussed the staff report during the Planning Board meeting and the board had no additional comments.

Chair Casey asked for a motion to adjourn Nichols moved to adjourn and at pm moved to adjourn and seconded the motion. The motion passed 4-0.

Meredith Detsch, Planning Director
Board of Adjustment Secretary

Frieda F Matthews

Lisa Casey, Board of Adjustment Chair or
Frieda Matthews, Board of Adjustment Vice-Chair