



# BOARD OF ADJUSTMENT

## MINUTES

### Town of Carrboro

301 W. Main Street Carrboro, North Carolina 27510

**A p r i l 1 6 , 2 0 0 8**

MEMBERS PRESENT		TOWN ATTORNEY	STAFF
David Collins	Sriv Navaratnam	Bob Hornik	Marty Roupe
Catherine DeVine		Beth Trahos	Jane Tuohey
John Gant			
Mark Brantley			
Richard Ellington			
Robert Kirschner			
<b>Absent/Excused:</b> 1 (Thomas Arnel)			

### MINUTES APPROVAL

MOTION MADE BY BOB KIRSCHNER AND SECONDED BY CATHERINE DEVINE TO APPROVE MINUTES FROM JANUARY 30, FEBRUARY 13, AND MARCH 19, 2008 MEETINGS. VOTE: AYES 7 (David Collins, Sriv Navaratnam, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Thomas Arnel)

PUBLIC HEARING of Zoning Decision Regarding Land Use at 8812 Old NC 86 Cont'd

Chair asked Mr. Hornik, Town Attorney to speak regarding a settlement agreement that was entered into between Ms. Brockwell and Ms. Alston regarding some buffers and other conditions and agreements regarding property lines and agreements reached on the operations at the Brockwell property. A survey plat was not available now it is now available showing the areas that were discussed in the settlement area showing the terms that the parties have agreed to, Mr. Hornik also gave a proposed order for the board's consideration showing terms of the settlement agreement so it will set the benchmark from which enforcement can be carried out more easily if needed. All board members, staff member and attorneys have a copy of the order and it was entered into the official record. Mr. Collins asked if there were any members of the public who wished to speak on this issue, hearing none:

MOTION MADE BY RICHARD ELLINGTON AND SECONDED BY BOB KIRSCHNER TO CLOSE THE PUBLIC HEARING. VOTE: AYES 7 (David Collins, Sriv Navaratnam, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Thomas Arnel)

MOTION MADE BY BOB KIRSCHNER AND SECONDED BY SRIV NAVARATNAM TO AFFIRM IN PART AND MODIFY IN PART THE DEVELOPMENT REVIEW ADMINISTRATORS DETERMINATION DATED SEPTEMBER 28, 2007, AS SET FORTH IN THE DRAFT ORDER PREPARED BY THE BOARDS COUNCIL . VOTE: AYES 7 (David Collins, Sriv Navaratnam, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Thomas Arnel)

Mr. Collins asked Mr. Hornik if this order is adopted in its current form, is it in compliance with all provisions on the LUO at this time. Mr. Hornik said yes it is.

Mr. Ellington asked to see the plat; Mr. Hornik said that the order is referred to and incorporated by reference into the order itself. Mr. Rooks has a copy of the plat which has been initialed by the appellant. Mr. Hornik stated for the record that both Ms. Parsons and the Blackwoods have signed copies of a letter giving their acknowledgement and consent to the terms of the agreement. Mr. Roupe showed the Board the area by Ms. Alstons' house where a 20 ft buffer has been added and an additional 100 ft buffer as described in the agreement. Then the Calvander corner another area was shown were the trucks are stored and general parking around the house. Mr. Rooks asked Mr. Roupe to show the area to the north which shows where foreign stuff not material has been removed. Mr. Hornik said that the plat is a legal description of the area where the legal non conforming use may continue to exist. The issue was the extension of the area where the legal non conforming use was conducted beyond that which existed on the day the new zoning ordinance came into effect, a fixed base is now in place for making a determination was not there before so it will provide us with a fixed benchmark.

Mr. Gant asked about transport across the property. Mr. Hornik said that he didn't know that there was an issue about this; Mr. Gant wanted to confirm that there is no limitation implied to get from one area to another. Mr. Collins pointed out page 4 paragraph 6, Mr. Hornik said that the intention for this language was for the piles stored closest to the property line, the approach for the piles would be from the east side so the piles would provide a buffer between the work and the neighboring properties. There may be times when work has to be done around the back of the piles, the idea is except for these rare circumstances the approach to the piles from the heavy equipment would be from the east side.

Mr. Gant then asked about the time from the decision until the solution is implemented. Mr. Hornik said that some piles have been moved and a fence has been erected. Mr. Rooks said there was a huge pile by Ms. Alston, this is being removed now, and has nearly been removed. So Mr. Gant said that there is no time set or no time granted. Mr. Collins asked about a time frame and Mr. Gant asked if there is a need to address the time frame issue. Mr. Collins asked Mr. Rooks if

there was an amendment to have a compliance time line, what would be a reasonable time line for date of effect of the order; Mr. Rooks said that within the week they will be compliant within the 100 ft buffer. Mr. Hornik suggested that the order is effective immediately, but they provide a 30 day time period for compliance.

Mr. Hornik proposed to add a paragraph 10 to page 5 as follows:-

10. The Appellant shall have thirty (30) days from the date of this Order within which to comply with the requirements of paragraphs 3, 4 and 5 and the balance of this Order shall be effective immediately.

Mr. Rooks asked about paragraph 6 and if it could be included as well so it now reads:-

10. The Appellant shall have thirty (30) days from the date of this Order within which to comply with the requirements of paragraphs 3, 4, 5 and 6, and the balance of this Order shall be effective immediately.

**MOTION MADE BY BOB KIRSCHNER SECONDED BY JOHN GANT TO ADD AN AMENDMENT PARAGRAPH 10 AS DESCRIBED BY TOWN ATTORNEY. VOTE: AYES 7 (David Collins, Sriv Navaratnam, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Thomas Arnel)**

Mr. Roupe wanted to make clear for the record that all the terms represented in what Mr. Hornik drafted today are equal to what Ms. Alston has seen before and that nothing has changed. Mr. Hornik said that the terms were tightened up. Mr. Hornik said that paragraphs 3 – 8 on page 4 are the 6 points in the settlement agreement.

Motion before the board made previously has been amended to add a paragraph 10. VOTE: AYES 7 (David Collins, Sriv Navaratnam, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Thomas Arnel)

## **OLD/NEW BUSINESS**

Mr. Roupe said that there is a special exception and a minor variance application in the works but they are not here yet.

Mr. Ellington wanted to remind the Board about the appreciation dinner next Thursday, April 24<sup>th</sup>, 2008.

There being no other business, MOTION MADE BY CATHERINE DEVINE AND SECONDED BY JOHN GANT THAT THE MEETING BE ADJOURNED. VOTE: AYES 7 (David Collins, Sriv Navaratnam, Mark Brantley, Robert Kirschner, Catherine DeVine, John Gant, Richard Ellington). NOES 0; ABSENT/EXCUSED 1 (Thomas Arnel)