



## Stanly County Planning Board June 13, 2016 - Meeting Minutes

### **Call to Order**

Chair Robert Loflin called the meeting to order on June 13, 2016, at 7:00 p.m. in the Commissioner's Meeting Room at 1000 N First Street, Albemarle, North Carolina.

### **Stanly County Planning Board Members Attending**

Robert Loflin, Jr. - Chair  
Terry Smith – Vice-Chair  
Kevin Brickman  
John Eckman, III  
Ned Stallings  
Bob Davis

### **Planning Board Members Absent:**

Frank Sparger

### **Stanly County Planning Department Staff Attending**

Michael Sandy, Planning Director  
Bob Remsburg, Planner I  
Tim Swarringen, Code Enforcement Officer

**Others Present:** See sign-in sheet

Chairman Loflin asked the Board to review the minutes of March 14, 2016. He asked if there were any corrections to the minutes. Hearing none, he asked for a motion to approve.

**Motion:** Terry Smith made a motion to approve the March 14, 2016, minutes as written.

**Second:** John Eckman seconded the motion.

**Action:** The Board unanimously approved this motion.

Chairman Loflin called on Bob Remsburg to present the first hearing, Item 1, CUP 16-01.

**Item 1 – CUP 16-01 Rex Greg and Gina Slack request to amend CUP 07-01 to remove condition #9 – “Construction on applicant’s house located on Lot 10 in the Running Creek Estates Subdivision will begin within one year of issuance of certificate of occupancy for business.” This Conditional Use Permit is for Lot 11 of the Running Creek Estates Subdivision and is located at 28727 Hunters Lane, Albemarle. (Tax Record Numbers 29041 and 29042).**

Bob Remsburg, Planner I, presented that this request is due to an inquiry raised concerning the non-fulfillment of a Conditional Use requirement tied to the building of a commercial structure on Lot 11 of the Running Creek estates subdivision. The requirement added by the Planning Board in 2007 mandated that the owner construct their house on Lot 10 within 1-year of the issuance of a certificate of occupancy for the business. The certificate of occupancy was issued

in 2007. No home has been constructed on Lot 10 and no concerns or complaints were received by the Planning Department until March of 2016. All other Conditions for CUP 07-01 have been met except several of the annual letters required by item 8 have either not been received or cannot be found. A horse barn has been constructed on Lot 10 which is in compliance with the Stanly County Zoning Ordinance. The owners have requested that the requirement for constructing their residence on Lot 10 be removed. To do that requires that the Board of County Commissioners adopt a new Conditional Use Plan for the M1-CUP as granted in 2007 for Lot 11. These lots are in Stanly County's zoning jurisdiction. All adjoining properties are zoned RA with the exception of a lot on the east line of Lot 10 which is in the City of Albemarle and is zoned R-20.

Mr. Loflin invited Gina Slack, property owner to come forward and speak to their request to remove a provision of the Conditional Use Permit. Mrs. Slack presented a petition and a map showing the location of her property and those nearby property owners who signed the petition supporting her request. She explained that the Certificate of Occupancy was granted in July 2008 and that her husband was diagnosed with cancer about the same time. After the first year, she met with Michael Sandy and indicated that due to the illness of her husband, the building of a home would be delayed. The Planning staff responded indicating that they should still work toward the goal but that there would be no issue with the failure to meet all requirements until someone raised it as an issue. Letters were sent annually indicating that S&S Saw Service was still in business until after several years, she forgot and contacted Mr. Sandy after the due date. He indicated that she should simply contact the Planning Department if anything ever changed concerning the status of the business. Mrs. Slack explained that her husband's medical condition has continued to be a challenge with various bouts with cancer. The business of S&S Saw Service and the torque converter work continues and employees 5 people with a business exceeding \$300,000 each year.

Mr. Loflin invited any others in favor of the amended Conditional Use permit to speak. Mr. Michael Walker from Lot 9, 28770 Hunters Lane, spoke in favor of allowing the change in the permit. He has lived on Hunters Lane adjacent to the Slack property since 2001. He indicated that he saw no problem with this in 2007 and still don't. The Slacks are on the property almost every day and are good neighbors. He indicated that the Slack family had helped him raise his daughter as a single parent. He confirm that Mr. Slack had cancer and has struggled with the illness for a number of years. He ended by saying that the Slacks are good neighbors.

Mr. Loflin then invited anyone to speak against. Mr. Tony Miller, Lot 12, 28761 Hunters Lane, indicated that, in his opinion, the business should not have been allowed and should not have been built. He said that illness and death are a fact of life and should have no bearing on the decision of the board. He indicated that there was now a shooting range on the property and that people had paid \$100 to get a concealed-carry permit, but he didn't know for sure. The noise carries into the valley and affects him and his wife.

Mrs. Slack asked to reply. She indicated that there was a firing range on the property, but the only money collected was from those who had paid for a concealed carry class conducted by a third party at another location, but using their firing range just for the shooting portion. Each participant was giving \$5 to help offset the cost of road maintenance for Hunters Lane. Rock came from Vulcan and Mrs. Slack helps to spread the rock on Hunters Lane which is a private

road. The class shooting times vary based on weather and season but generally do not occur before 11:00 AM or after 6:00 PM. The firing range is also used by neighbors for no charge.

Mr. Loflin recognized Jerry Burleson of 28139 Parker Road, Albemarle who owns adjoining farm land. Mr. Burleson indicated that he had known the Slack family for many years and knows them to be good, honest people. Greg (Slack) has been gracious and looks after his property.

Mr. Loflin then called for any others opposing the Conditional Use and recognized Phil Burleson of 160 Woodcroft Drive, Angier who owns adjoining farm land. Mr. Burleson indicated that he was here opposing the Conditional Use in 2007 on the grounds that this was a commercial use in a residential/agricultural area and should not have been allowed. He could sympathize with the medical situation but felt that there was a need for the Slacks to follow through on the original Conditional Use. Mr. Burleson sought clarification on how the residential structure could be built on commercial land and whether a shooting range was permitted. He has livestock on the adjoining property and wants to make sure the correct procedures are being followed. There have been a lot of issues with firing ranges in the Angier area. He asked what business was in operation at the Slack property. Mrs. Slack responded that the same businesses that were placed in operation in 2008; S&S Saw Service and the torque converter business. Mr. Burleson questioned whether fire and safety access was addressed to get to this property and why there have been loud engine sounds coming from there.

Mr. Loflin invited Tim Swarringen, County Code Enforcement Officer, to speak of any reports of violations on the Slack property. Mr. Swarringen reported that there had been no formal complaints. He may have had a phone call a few years ago, but nothing further and nothing written. Mr. Swarringen indicated that personal firing ranges are allowed in Stanly County. A violation occurs whenever the owner charges for use of the range turning it into a commercial operation. Mr. Sandy clarified that the Board of County Commissioners has directed the Planning Department to only address formal written complaints regarding possible zoning violations.

Mrs. Slack indicated that the shooting range was in the R-A portion of Lot 11 and the only funds received have been donations toward the road maintenance. The Slacks do store a drag racing car at their business and run it occasionally as a hobby. There is no sound from the torque converter business.

Mr. Loflin asked if anyone else wanted to speak against. Mr. Lanny Burleson from Salisbury who owns nearby farmland spoke against. He indicated that this was the family farm and that he is there every day. He was concerned that this was an example of spot zoning. His concern was that the emphasis in 2007 was on the Slacks building a home so they would be right at their business. This had been a key point in getting the Conditional Use Permit approved by the Board of Commissioners. The point of zoning was to keep business separate from residential.

Mr. Loflin asked if anyone else wished to speak for or against. Dr. Keith Andrew came forward and indicated that he lives on Noritake Trail near the Slack's property. He said that noise from the Slacks was not a problem and that he would favor the modification to the Conditional Use.

No one else from the audience wished to address this case, so Mr. Loflin requested that the board discuss the issue or ask any questions. Mr. Sandy was asked if this was in a growth area to which he responded that it was. Terry Smith asked what would happen if not approved to remove the requirement. Mr. Sandy responded that it would be treated as a code enforcement issue. The owner would receive a Notice of Violation from the Planning Department followed by a second notice from the County Attorney. This is at least a 60-day process. After that, the owner would be fined for each day not in compliance. Kevin Brickman asked Mrs. Slack how often she and her husband were on the property and where they were living. Mrs. Slack responded that they are there 7-days a week, spending more time there than at home. They live off of St. Martin road about 8-minutes from the business. She added that the Millingport Fire Department had recently conducted a response time practice using their property bringing their crews and equipment. They had no issue getting there. There are no trespassing signs and cameras on the property as well as no trespassing signs on the entrance to Hunters Lane to discourage traffic.

Chairman Loflin asked if there were any further questions from the Board. Hearing none, he invited the members of the board to propose a motion to recommend approval or denial of the request.

**Motion:** Terry Smith made a motion to recommend approval of CUP16-01 to the Board of County Commissioners.

Second: Kevin Brickman

Action: The Board unanimously approved this motion.

Chairman Loflin called on Bob Rensburg to present the second hearing, Item #2, ZA16-04.

**Item 2 – ZA 16-04 Ron and Sheila Bales request to rezone approximately 2.5 acres of a 23.32 acre tract located at 24285 NC 49 Hwy S., Richfield from RA-Residential Agricultural to GB-General Business. A portion of the property is currently zoned RA and a portion is zoned GB. The 2.5 acres is located adjacent to and south of the present GB district extending to NC 49 Hwy. (Tax Record Number 8384)**

Bob Rensburg, Planner I presented that this rezoning is in accordance with the Stanly County Land Use Plan. This property is located on NC 49 approximately 1,500 feet northeast of Matton Grove Church Road. 4.7 acres of the property is zoned General Business with the remainder zoned as Residential Agricultural. Properties to the north, east and west are zoned Residential Agricultural and property to the south along NC 49 is zoned Highway Business. An M-1 Light Industrial district is located at the Matton Grove Church Road intersection beginning 1,100 feet away from the property. The owners, Ron and Sheila Bales have requested adding 2.5 acres of their property to the General Business section to allow an expansion of the business.

Approximately 5,100 vehicles per day travel this section of NC 49. This highway is designated as a North Carolina Scenic Byway. That designation is for tourist purposes and does not carry any development restrictions. Water is available from the Pfeiffer-North Stanly Water Association. There is no sewer service available. This property is not located in a regulated floodplain. Planning staff recommends approval as this project is located in a growth corridor along a moderately traveled road with other business property located nearby.

Mr. Loflin invited Ron Bales, property owner to speak concerning why he has requested the rezoning. Mr. Bales presented his payroll records to the Board showing his contribution to the Stanly County economy. He indicated that the rezoning was needed to allow him to display vehicles for sale from his business, CCR Truck Sales. The original rezoning in 1993 did not include the road frontage. He has lived here since 1988. Currently, Mr. Bales, his wife, sister, granddaughter and great-grandchildren live on the property as an extended family. There will be no change to the entrance on the property.

Mr. Loflin invited board members to ask any questions of Mr. Bales. Terry Smith, asked about the area to be rezoned. Mr. Sandy helped clarify the area showing a map. Mr. Loflin asked if this property was both for home and business. Mr. Bales responded that his family lives there but that the business was only on the area zoned for business. Kevin Brickman asked if there were to be any changes or improvements to the lot. Mr. Bales indicated that there would be no changes.

Mr. Loflin invited any who opposed the rezoning request to speak. Dr. Jim Link came forward and gave Board members an aerial view of the Bales property showing the members what neighbors look at. He spoke on behalf of neighbors on all four sides. Dr. Link had acquired his property in 1982 and Mr. Michael Sells in the 1960s. It is rolling hills and hardwoods. When Mr. Bales acquired the adjacent property, he removed the barn and put up the large metal building which is there now. Dr. Link read a statement which reviewed the 1993 decision by the Board of County Commissioners and their desire to be pro-business which created this spot zoning situation. Dr. Link claimed that in its current condition it was actually a salvage yard and now has become a truck sales lot. Based on Mr. Bales past behavior, it is apparent that he will continue to fail to work within the zoning laws.

Next to speak was Mr. Jim Scarboro, attorney from Concord representing Dr. Link. Mr. Scarboro shared that the current use on the property per the 2015 images from Stanly County GIS indicate that there is much debris on the area zoned for General Business. Mr. Scarboro shared the use section from the Stanly Zoning Ordinance with the Board members for both General Business and for M2-Heavy Industrial. He asked members to review the list and see where open storage is permitted. Mr. Scarboro claimed that Mr. Bales was presently in violation of the General Business district by having open storage. Open storage is only allowed in the M2-Heavy Industrial district. Mr. Scarboro believes that Mr. Bales's business has evolved beyond the zoning ordinance. Mr. Scarboro expressed concern that the Stanly Planning Board would consider any zoning request for a straight rezoning district which would allow any of the uses. That is no longer done in Cabarrus County as nearly all rezoning requests are based on conditional uses. He gave Board members copies of General Statute 153A.321 which describes the role of the Planning Board which calls for all zoning to be compliant with the County's Comprehensive Plan. Mr. Scarboro then presented Board Members with a copy of the 2009 proposed Sustainability Map from the 2010 Land Use Plan found online. He indicated that the rezoning should be consistent with the sustainability area shown on the map. According to the map key, the area in beige, including the areas along NC 49 were Sustainability areas and that rezoning to business would be inconsistent with the Land Use Plan. Michael Sandy interjected that the online map has an error which has not been corrected. The beige areas are actually

Growth areas while the white sections of the map are the Sustainability areas. He apologized for the confusion and indicated that he had attempted to get this changed in the past and will try again.

Dr. Link spoke again indicated that he had tried to stop the rezoning in 1993 and that they had tried to be good neighbors and not complain.

Mr. Loflin asked if anyone else wished to speak against. Richard Cosgrove came forward. He indicated that he lives about 1,500 feet from the Bales property. He had convinced the Commissioners in 1993 to not rezone the area of the Bales property that fronted NC 49 and that he had raised the complaint because he knew that the area in front of the business was zoned RA and should not have vehicles for sale on display. He asked that the Board recommend that the Commissioners leave the property zoned as it currently stands.

Mr. Loflin invited Tim Swarrigen to come forward and report on any complaints received on the Bales property. Mr. Swarrigen indicated that a written complaint was received on April 27 which he investigated the following day. He found that there were 6 unlicensed vehicles in the portion that is presently zoned Residential Agricultural and that there was open storage in the General Business section. He has photos in the case file. He proceeded with a Notice of Violation for the vehicles and the open storage. This led to Mr. Bales requesting the rezoning to allow the vehicles to be displayed.

Mr. Loflin invited the Board to ask Mr. Swarrigen any questions. Terry Smith inquired whether the violations in open storage have been investigated since. Mr. Swarrigen replied that he had not investigated further awaiting the rezoning process. Mr. Bales added that the crane parts were part of his inventory as a licensed dealer since 1992. All items are for sale.

Mr. Scarboro asked if the notice of violation included the open storage. Mr. Swarrigen replied, yes. Mr. Sandy reminded everyone that under the direction of the Board of Commissioners, the Stanly County Code Enforcement is strictly complaint driven and investigation occurs after a complaint is received.

Dr. Link indicated that the neighbors had been dealing with this for a long time and needs to be dealt with now. He expressed frustration that no lawyer in Stanly County was willing to speak before the Planning Board.

Terry Smith asked Mr. Sandy what was permitted for open storage in the General Business district. Mr. Sandy indicated that the contractors could have open storage of spare materials kept on their storage yards associated with the business office. Bob Davis asked if any violations currently exist on the property. Mr. Sandy replied that staff would need to investigate. Mr. Bales indicated that the trucks which had been on display had been moved back into the GB district and that the materials on the lot were inventory, not junk.

Chairman Loflin asked if there were any further questions from the Board. Hearing none, he invited the members of the board to propose a motion on to recommend the approval or denial of the request to the County Commission.

**Motion:** Bob Davis made a motion to send this case to the Board of County Commissioners with a recommendation to approve ZA 16-04.  
There was no second, so the motion died.

**Motion:** Terry Smith made a motion to send this case to the Board of County commissioners with a recommendation to deny ZA 16-04 because the property was in violation of zoning compliance.

**Second:** Kevin Brickman seconded the motion.

**Action:** The Board unanimously approved this motion.

**Other Business:** Michael Sandy invited Bob Remsburg to present a proposal for an amendment to the Zoning Ordinance. Mr. Remsburg reviewed a list of definitions which would replace the existing Section 1300 of the current ordinance. Mr. Remsburg expressed that these definitions were more comprehensive than the current definitions and would help as other updates are made to the ordinance. This list is alphabetical and any additions to the list as the ordinance is amended would be inserted so alphabetical order could be maintained.

Chairman Loflin asked if there were any further questions from the Board. Hearing none, he invited the members of the board to propose a motion on to recommend the approval or denial of the request to the County Commission.

**Motion:** Kevin Brickman made a motion that the definitions as presented to be Zoning Amendment ZA 16-05 and to be presented to the Board of County Commissioners with a recommendation to approve ZA 16-05.

**Second:** Bob Davis seconded the motion.

**Action:** The Board approved this motion.

Mr. Remsburg also presented a proposed revised portion of the Stanly County Zoning Ordinance covering Articles I-IV. This included a new section dealing with exterior lighting and a revised sign ordinance section to come into closer compliance with the Reed-Gilbert decision by the U.S. Supreme Court. Board members received copies of the new Articles for their review. Discussion of the revised Articles will occur at the next Planning Board meeting

### **Adjournment**

Chairman Loflin asked for a motion to adjourn. A motion to adjourn was made by John Eckman and second by Bob Davis. The meeting was adjourned at 8:30 p.m.

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Chairman

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Clerk