

Board of Adjustment Meeting Minutes
January 12, 2004

The Siler City Board of Adjustment met on Monday, January 12, 2004 at 9:00 p.m. in the Siler City Court Room at City Hall. Minutes of November 10, 2003 meeting were unanimously approved by a motion from Jeff Brewer and seconded by Larry Mendenhall.

Members Present

Jimmie Pugh, Chairman
Don Tarkenton, Vice Chairman
Leota Thompson
Jeff C. Brewer
Cindy B. Bray
Larry Mendenhall
Richard Caviness
Harold Hart, Alternate
Ethel Coble, Alternate

Members Absent

Staff Present

Jack Meadows, Planning Director
Joel J. Brower, Town Manager
William C. Morgan, Town Attorney

BUSINESS SESSION

Agenda Item III

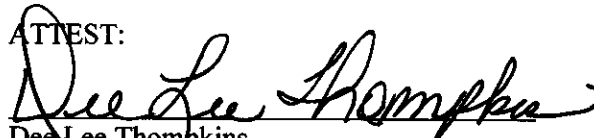
Other Business

Jimmie Pugh, Chairman reported there were no business items to be heard tonight.

Jeff Brewer made a motion for adjournment at 9:01 p.m., a second from Don Tarkenton followed by unanimous consent.



Jimmie Pugh
Chairman

ATTEST:

Dee Lee Thompkins
Recording Secretary

**Board of Adjustment Meeting Minutes
May 10, 2004**

The Siler City Board of Adjustment met on Monday, May 10, 2004 at 7:00 p.m. Jimmie Pugh called the meeting to order and gave the invocation. Minutes of the January 12, 2004 meeting were unanimously approved by a motion from Larry Mendenhall and seconded by Leota Thompson.

Members Present

Jimmie Pugh, Chairman
Don Tarkenton, Vice Chairman
Leota Thompson
Jeff Brewer
Larry Mendenhall
Richard Caviness
Harold Hart, Alternate
Ethel Coble, Alternate

Members Absent

Cindy Bray

Staff Present

Jack Meadows, Planning Director
Joel J. Brower, Town Manager
William C. Morgan, Town Attorney

BUSINESS SESSION

Agenda Item III

**Special Exception Permit Request
A. SEP-001-04 – Rafael Natareno**

Mr. Meadows reported that Rafael Estuardo Barrios Natereno and Anna Patricia Gomez Giron have plans to construct a swimming pool in the rear yard. The subject property is located at 409 South Dogwood Avenue. Mr. Meadows explained the proposed location for the swimming pool will not meet the required side yard-building setback (15 feet) for the R-20 zoning district. Setbacks for swimming pools are measured from the wall of the swimming pool. The applicant is requesting a 50% reduction along the southern property line, thus allowing for a 7.5-foot side-building setback. Mr. Meadows added a sketch plan and petition is attached. The petition shall be sufficient evidence from which the board may (but shall not be required to) make the required findings. The board may also make the required finding based on other competent evidence.

Mr. Meadows stated the application is complete. The proposal meets the development criteria of the Unified Development Ordinance. Staff recommends approval unless the Board finds that the project will:

1. Create a threat to the public, health, or safety,
2. Adversely affect the value of adjoining or neighboring properties,
3. Not be in harmony with the area in which it is located, and
4. Not be in conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the Town Board.

Board action is requested.

Discussion

Planning Chairman Jimmie Pugh declared the public hearing open and there were no public comments.

With no further discussion, Mr. Pugh directed the board to their worksheet to go through each finding.

- I. The application was complete.
Motion made by Don Tarkenton, Jeff Brewer seconded, and majority approved.
- II. **FINDINGS REQUIRED BY SECTION 83**
 - (A) Existing building is a conforming residential use in a residential district.
 - (B) Existing building has existed for at least three years prior to the date of the application for a special exception permit

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- (C) Special exception requested applies only to a setback from a lot line boundary.
- (D) The special exception being requested does not exceed 50% of the required setbacks of section 170(a), nor would it permit any part of a building to be located closer to a lot boundary than a distance equal to one-half of the minimum building separation requirement of the North Carolina State Building Code (i.e.-5 feet).
- (E) The special exception being requested would not permit any part of a building to be located closer to a pre-existing building that the distance equal to the minimum building separation requirement of the North Carolina State Building Code (i.e.-10 feet).
- (F) The special exception, if granted will not create a threat to the public health or safety.
- (G) The special exception if granted, will no adversely affect the value of adjoining or neighboring properties.

A motion was made by Don Tarkenton to approve A thru G of the required findings, Jeff Brewer seconded, and majority approved

III. The permit is granted.

Motion made by Larry Mendenhall, Harold Hart seconded, and majority approved

- V. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by this Board. Any significant deviations from the permit issued will require the submittal of a new application.

Agenda Item V

Other Business

With no further business, Don Tarkenton made a motion for adjournment at 7:10 p.m., a second from Richard Caviness, followed by unanimous consent.



Jimmie Pugh, Chairman

ATTEST:



Dee Lee Thompkins, Recording Secretary

Board of Adjustment Meeting Minutes
June 14, 2004

The Siler City Board of Adjustment met on Monday, June 14, 2004 at 7:10 p.m. Jimmie Pugh called the meeting to order. Minutes of May 10, 2004 meeting were unanimously approved by a motion from Don Tarkenton and seconded by Ethel Coble.

Members Present

Jimmie Pugh, Chairman
Don Tarkenton, Vice Chairman
Leota Thompson
Larry Mendenhall
Richard Caviness
Ethel Coble, Alternate

Members Absent

Jeff Brewer
Cindy Bray
Harold Hart, Alternate

Staff Present

Jack Meadows, Planning Director
Joel J. Brower, Town Manager
William C. Morgan, Town Attorney
David M. Rook, III, Attorney

BUSINESS SESSION

Agenda Item III

A. Appeal – Richard Kernodle

Mr. Morgan, Town Attorney explained that he is involved with the appeal that we are hearing tonight and he will not be acting as counsel to the Board. He indicated further that he had arranged for Mr. David (“Butch Rooks”), an Attorney from Chapel Hill who has previously served as attorney to the Board in similar situations, will be counsel for the Board during the consideration of the Appeal.

Mr. Pugh swore in Jack Meadows, Planning Director, William Morgan, Town Attorney, Richard Kernodle, Tammy Kernodle and Butch Hudson.

Jack Meadows, Planning Director reported to the members that all adjoining property owners of 820 East Third Street were notified of the public hearing and it was advertised in the paper. He then reviewed with them Article XVII-Sign Regulations of the Siler City UDO on the definitions of portable signs and prohibited signs. Mr. Meadows stated that the UDO was adopted August, 1993 and there is a list of all existing portable signs that were “grandfathered”. He asked that the board review the photos, and letters that were included with their agenda packet.

Jack Meadows then reviewed the following events with the members:

July 2003

- Mr. Meadows submitted a notice of violation letter to Chatham Industrial Supply for not obtaining a temporary sign permit for temporary signs located at 820 East Third Street. The temporary signs were located on the prefab carports and stated the cost of the carport. The violation letter is attached.
- Mr. Richard Kernodle (Owner of Chatham Industrial Supply) submitted a letter to Mr. Meadows appealing the decision that he was in violation of the UDO. Mr. Meadows called Mr. Kernodle and explained that the sign in violation was located on the prefab carport. He also explained that a portable sign had been located at 820 East Third Street prior to August of 1993 that he considered to be “grandfathered”. A short time later, he called Mr. Kernodle again to explain that the sign located on the prefab carport would not require a temporary sign permit. The appeal letter is attached.

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Late 2003

- Mr. Meadows received a complaint from a local business owner (complainant). The complainant wanted to know why Chatham Industrial Supply could place a new portable sign at their business and why the Town was requiring the complainant to remove their new portable sign. The complainant further stated that Mr. Kernodle himself told the complainant that portable signs could be purchased at Sam's Club. The complainant removed their portable sign.
- After taking the complaint, Mr. Meadows remembered the letter that Mr. Kernodle sent him that discussed his portable sign. The letter states, "The property already had a sign in the same location that we mounted our new sign.....The reason we replaced it was because the old sign had become damaged and unsightly due to exposure and old age."

Early 2004

- Mr. Meadows received another complaint from a local business owner (complainant B) regarding Chatham Industrial Supply's new portable sign. Complainant B wanted to know why we allowed Chatham Industrial Supply to put up a new portable sign and why the Town was requiring complainant B to make their temporary sign permanent. Complainant B felt that allowing Chatham Industrial Supply to buy a new portable sign for \$300-\$400 at Sam's Club was unfair because to make them put up a permanent sign would cost several thousand dollars. Complainant B removed their temporary sign.
- Mr. Meadows and Mr. Brower, Town Manager visited Mr. Kernodle at 820 East Third Street. They explained that the new portable sign was in violation of the UDO. They further explained that there were options for making the portable sign compliant with the UDO. Mr. Kernodle asked could he remove the new portable sign and replace it with the original portable sign. The determination was that once the old portable sign was removed, its "grandfathered" status was lost. They told Mr. Kernodle they would give him a few days to think about his options.

Mid March 2004

- Mr. Meadows visited Mr. Kernodle and asked if he had a plan of action concerning the new portable sign. He did not have a suggestion. He asked if he could have some more time. Mr. Meadows told him he would give him 30 days.

April 21, 2004

- After 30 days had passed, Mr. Meadows served a notice of violation letter to Chatham Industrial Supply via certified mail. The green card was signed on April 22, 2004. The letter is attached.

May 19, 2004

- Mr. Meadows received an application for appeal from Mr. Kernodle. Application is attached.

May 24, 2004

- Mr. Meadows discovered that the portable sign at Chatham Industrial Supply had been removed and stored inside the business.

Staff recommends the Board of Adjustment affirm the decision of the Director of Planning and Community Development. The decision is that any new or old portable sign is prohibited at 820 East Third Street.

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Mr. Morgan stated that the typical rules applying to non-conforming situations do not apply to the Town's sign regulations.

Jimmie Pugh asked Mr. Meadows if Mr. Kernodle had talked to him about removing or replacing his old sign and being aware of losing its "grandfathered" status. Mr. Meadows stated Mr. Kernodle had not.

Don Tarkenton asked if the ordinance prohibits Mr. Kernodle from making his portable sign permanent. Mr. Meadows explained that Mr. Kernodle could apply for a sign permit to make his sign permanent and meet the ordinance requirements. Mr. Tarkenton stated he did not know what the problem was then. He then asked Mr. Kernodle if that was something he could live with.

Mr. Kernodle explained that he was not the property owner, that he was a tenant, and if and when he moves he would want to take his sign with him and that is why he does not want to make the sign permanent. He also stated that he did not think it was fair that Butch Hudson, owner of the property, lost his "grandfathered" status because he had replaced Mr. Hudson's sign with a new one. The original portable sign had been there since 1982. He also stated that when he opened his business that he got a sign permit for his business and that he thought everything was okay. He stated that last year Mr. Meadows had contacted him telling that he was in violation for not obtaining a temporary sign permit for his prefab carports. Then Mr. Meadows called him and stated he would not need any type of sign permit for his carports. He asked Mr. Meadow then if he had any other problems with any of his other signs and Mr. Meadows told him no. Mr. Kernodle then told about Mr. Meadows and Mr. Brower coming to his business and telling him his sign was in the State's right-of-way and giving him two days to move it. He told Mr. Meadows that if he got a certified letter he would get thirty days to move the sign. Mr. Kernodle stated he moved his sign to the other side of the pole. He then told about Suits Homes having a sign that was in the right-of-way and it being moved and wanted to know if they lost their "grandfathered" status and also wanted to know if Suits' sign was there prior to the ordinance being adopted. Mr. Kernodle also made reference to several other businesses that he thought were in violation of the sign ordinance. He explained that all he did was make a mistake by replacing the old sign with a new sign and because of that Mr. Hudson was going to lose his "grandfathered" status on his old sign.

Mr. Meadows explained that Mr. Kernodle did not lose his "grandfathered" status by moving the sign out of the right-of-way. He lost it when he replaced the old sign with the new sign.

Jimmie Pugh asked Butch Hudson, owner, if he had any problems with making the sign permanent. Mr. Hudson stated that if he makes the sign permanent he is going to meet the town guidelines up one side and down the other and make the sign as big as possible. He also wanted to know how the town would know if a business replaced their existing old portable sign. Mr. Hudson stated that if Mr. Kernodle had not made the mistake of telling Mr. Meadows that he had replaced the old sign we would not even be here tonight. He stated that he had wanted to do a sign with time and temperature for his business but the town's sign ordinance would not allow it. Mr. Hudson explained that he was on the Planning Board when the town ordinance was written but he feels like the sign ordinance needs to be reviewed.

Don Tarkenton asked if the appeal would be void if Mr. Kernodle and Mr. Hudson decide to make the portable sign permanent. Mr. Morgan stated it would not unless Mr. Kernodle withdraws his appeal. Mr. Pugh asked Mr. Kernodle if he was going to make the sign permanent and if so, would he consider withdrawing his appeal. Don Tarkenton explained that all Mr. Kernodle had to do to make the sign permanent is put railroad ties or something similar, dirt and some plants

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and meet the size requirements and he would have a permanent sign. Mr. Tarkenton stated he feels like Mr. Kernodle is trying to make it complicated and is not. Mr. Pugh asked Mr. Kernodle if he would consider making the sign permanent. Mr. Kernodle stated he did not feel like he has a choice. Mr. Tarkenton stated he does have options. The Board will vote either to approve or deny his appeal. If they deny his appeal then he will not have a sign and Mr. Kernodle will still have the option to come and apply for a permanent sign.

Mr. Morgan explained to the board that whether or not Mr. Kernodle withdraws his appeal does not have any bearing on making the sign permanent. What we are here tonight to decide is whether to affirm or reverse Mr. Meadows' decision that Mr. Kernodle lost his "grandfathered" status when he replaced his old sign with a new sign.

After consulting with Attorney Rooks regarding appropriate procedures for voting on the matter, Mr. Pugh asked for a motion to affirm or reverse Mr. Meadow' ruling. Ethel Coble made a motion to affirm Mr. Meadows' ruling. Don Tarkenton seconded. The motion passed by unanimous vote. Ethel Coble made a motion to deny the appeal. Larry Mendenhall seconded, motion passed by unanimous consent.

Agenda Item V

Other Business

With no further business, Don Tarkenton made a motion for adjournment at 8:10 p.m., a second from Richard Caviness followed by unanimous consent.



Jimmie Pugh
Chairman

ATTEST:

Dee Lee Thompkins
Recording Secretary

Town of Siler City

SILER CITY, NORTH CAROLINA 27344-0769

P. O. BOX 769
311 N. SECOND AVE.



PHONE: (919) 742-2323
FAX: (919) 742-2758

RESOLUTION AFFIRMING THE DECISION OF THE DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT FINDING THAT THE PORTABLE SIGN ON THE PREMISES OF CHATHAM INDUSTRIAL SUPPLY LOCATED AT 820 EAST THIRD STREET VIOLATED THE UNIFIED DEVELOPMENT ORDINANCE

WHEREAS, Applicant appealed from the decision of the Director of Planning and Community Development finding the sign located at 820 East Third Street in violation of the Unified Development Ordinance; and

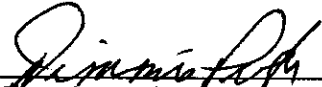
WHEREAS, the Board finds the following facts:

1. There was a portable sign on the premises at 820 East Third Street at the time of the adoption of the Unified Development Ordinance which was treated as a "grandfathered" non-conformity.
2. Applicant subsequently removed the portable sign that was on the premises at the time of the adoption of the Unified Development Ordinance and substituted a new portable sign.
3. The Unified Development Ordinance does not allow the replacement of a non-conforming portable sign with a new portable sign.

WHEREAS, the Board of Adjustment concludes that the decision of the Director of Planning and Community Development finding the new portable sign located at 820 East Third Street in violation of the Unified Development Ordinance is supported by the facts and information received in evidence and by the Unified Development Ordinance;

NOW, THEREFORE, BE IT RESOLVED that the decision of the Director of Planning and Community Development finding the portable sign at 820 East Third Street in violation of the Unified Development Ordinance is **AFFIRMED** and the Applicant's appeal is denied.

This the 14th day of June 2004.



Jimmie Pugh, Chairman
Board of Adjustment

**Board of Adjustment Meeting Minutes
July 12, 2004**

The Siler City Board of Adjustment met on Monday, July 12, 2004 at 7:00 p.m. in the Siler City Court Room at City Hall. Jimmie Pugh called the meeting to order and Ethel Coble gave the invocation. Minutes of June 14, 2004 meeting were unanimously approved by a motion from Ethel Coble and seconded by Larry Mendenhall.

Members Present

Jimmie Pugh, Chairman
Don Tarkenton, Vice Chairman
Leota Thompson
Jeff C. Brewer
Larry Mendenhall
Richard Caviness
Ethel Coble
Harold Hart, Alternate
Arnold Headen, Alternate

Members Absent

Cindy Bray

Staff Present

Jack Meadows, Planning Director
Joel J. Brower, Town Manager
William C. Morgan, Town Attorney

BUSINESS SESSION

Agenda Item III

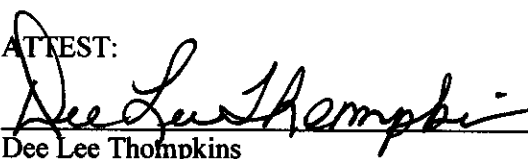
Other Business

Jimmie Pugh, Chairman reported there were no business items to be heard tonight.

Don Tarkenton made a motion for adjournment at 7:05 p.m., a second from Harold Hart followed by unanimous consent.



Don Tarkenton
Chairman

ATTEST:


Dee Lee Thompkins
Recording Secretary