

MINUTES
CHATHAM COUNTY BOARD OF ADJUSTMENT
JUNE 02, 2003

The Board of Adjustment ("the Board") of the County of Chatham, North Carolina, met in the Agricultural Auditorium Building, 45 South Street, located in Pittsboro, North Carolina, at 9:00 AM on June 02, 2003.

Present: Chairman Tommy Emerson; Vice Chair Carl Outz; Commissioners Margaret Pollard, Bob Atwater, and Bunkey Morgan; County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Paul Spruill; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Sublett

The meeting was called to order by the Chairman at 9:05 AM.

PLANNING AND ZONING

Zoning Board of Adjustment:

Pilkington Appeal on Junk Yard Enforcement Actions: Public hearing to receive public comments on an appeal to the Zoning Board of Adjustment by Jimmy and Betty Pilkington on Junk Yard Ordinance enforcement actions of the Land Use Administrator on property along the Pittsboro-Goldston Road (SR #1010)

Chairman Emerson asked to be excused from voting on this matter due to a possible conflict of interest.

Commissioner Morgan moved, seconded by Commissioner Pollard, to excuse Chairman Emerson from voting on this matter. The motion carried four (4) to zero (0).

After the Board excused the Chairman, he left the meeting room.

Commissioner Morgan moved, seconded by Commissioner Pollard, to recess as the Board of Commissioners and convene as the Zoning Board of Adjustment. The motion carried four (4) to zero (0).

The Vice Chair presided over the meeting and administered the oath to those in attendance who wished to make public comments.

Todd Roper, Attorney, stated that the Pilkingtons have been cited for the current junk yard ordinance; that there are two phases to the Pilkington business: 1) a garage where they repair and paint automobiles on the front portion of the property; 2) an automobile graveyard where scrap cars are stored for automobile parts on the back seven acres; that he believes that there is a misconception as to what is being seen on the front portion which is where automobiles are being repaired and put back into service; that there is no violation on the front phase; that by ordinance definition of a "garage", there can be no more than twelve inoperable cars; that the cars located there are being repaired and made road worthy; that there have never been more than twelve automobiles at one time located there; that the land is not near any residences; that it is not affecting

any subdivisions or neighbors; that it sits in a hole; that there are only three places from which wrecked cars can be seen from the state road; that the "graveyard" is approximately two football fields off the main road; that the areas are not easily viewed; and that trees were planted as required, but many did not survive due to the drought. He asked that if the Board found the Pilkingtons in violation of the ordinance, that they grant a variance from it due to the fact that a fence and/or vegetative screening will not resolve the issue due to the distance off the state road, that screening will not help, and that there is no one who is negatively impacted by it.

Video tapes and pictures were shown and a narrative given on the videos showing how the property looks at the date of the video.

Michael Pilkington and Angela Birchett, Chatham County Land Use Administrator, were sworn to provide accurate testimony.

Keith Megginson, Planning Director, asked the Pilkingtons what year the trees were planted, who actually owns the land, and if it is all one tract of land.

Michael Pilkington replied that the trees were planted in April, 2001, that the property is owned by his father, and that it was all one tract of land.

The Planning Director stated that the first correspondence was sent well before the year 2001; that under the ordinance, a junk motor vehicle is partially dismantled or wrecked or cannot be self-propelled or moved in a manner that was originally intended or is more than five years old and appears to be less than \$100 in value; that any of those factors qualifies as a junked vehicle; that because the land is in one ownership and one piece of property, they look at it as one junk yard; that it is why the letters were written and mailed in 1999 with regard to bringing the property into compliance; that it is the owners responsibility to make the vegetative screening live or replace it so that it will provide an opaque cover; that the closest comparison of businesses would be that of Marsh Brothers in Snow Camp on Silk Hope Road; that they have a huge area that is fenced where they sell parts to various dealers across the state; and that it is a matter of equity as to how folks are treated, especially since they are close to a public road.

The Land Use Administrator testified as to the sequence of events leading to the Junk Yard Ordinance violation.

The County presented evidence at the time of the investigation showing the condition of the property at the time it was sited in violation of the ordinance.

The County Attorney advised the Board that a decision must be made based on the condition of the property at the time the action was rendered.

Audio tapes of the recorded hearing are in the office of the Clerk to the Board of Chatham County Board of Commissioners.

Commissioner Morgan moved to accept the recommendation of the staff that the Pilkingtons were in violation of the ordinance, but due to their improvements and corrective action, that the Board take no action on their violation and to ask staff to return and visit with the Pilkingtons and work with them on the matter.

The County Attorney advised that the Board may want to recess the hearing, ask both parties to return to the Board in the future with additional evidence, and to render a decision at that time as to whether the Pilkingtons are in compliance and whether to grant a variance for the future.

Mr. Megginson, explained that there was no variance form filed; that the Board typically has to make five findings where the applicant addresses each of the five issues so that the Board can then address them; and that that is one reason to recess the hearing and consider the options.

After further discussion, Commissioner Morgan withdrew his motion.

Commissioner Pollard moved, seconded by Commissioner Morgan, based on the testimony provided, to support staff action, to deny the appeal, and to find the Pilkingtons in violation. The motion carried four (4) to zero (0).

Commissioner Morgan moved, seconded by Commissioner Atwater, to adjourn as the Board of Adjustment and reconvene as the Chatham County Board of Commissioners. The motion carried four (4) to zero (0).

Carl Outz, Vice Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners