

MINUTES
CHATHAM COUNTY
ZONING BOARD OF ADJUSTMENT
AUGUST 13, 2014

The Zoning Board of Adjustment (the “Board”) of the County of Chatham, North Carolina, met in the Chatham County Historic Courthouse, 1 Hillsboro Street, Pittsboro, North Carolina at 9:00 AM on Wednesday, August 13, 2014.

Present: Chairman Walter Petty; Vice Chair Brian Bock; Board members Pamela Stewart, Mike Cross and Jim Elza; County Manager, Charlie Horne; County Attorney, Jep Rose; Clerk to the Board, Lindsay K. Ray, and Deputy Clerk to the Board, Lisa Gentri.

Attorney for the Appellant:
Nick Robinson
Bradshaw & Robinson, LLP
128 Hillsboro Street
Pittsboro, North Carolina 27312

Attorney for Chatham County Planning Board:
Greg A. Heafner, PA
1510 Twisted Oak Drive
Chapel Hill, North Carolina 27516

Witnesses for the Appellant:
Will Copeland
2551 Holland Chapel Road
Apex, North Carolina 27523

Witnesses for the Planning Board
Angela Birchett, Zoning Administrator (Staff)
Karen Jones, Assistant Tax Administrator (Staff)
Frances Wilson, Tax Administrator (Staff)

Matt Vincett, Water Quality Forester
North Carolina Forest Service (Western Sandhills D-3)
Forestry Nonpoint Source Branch
1616 Mail Service Center
Raleigh, NC. 27699-1616

Bill Grigg, Private Citizen
407 Hogan Farm Road
Apex, North Carolina 27523

The meeting was called to order by the Chairman at 9:00 AM

The Zoning Board of Adjustment (the “BOA”) met to hear whether the above named Appellants were in violation of the Zoning Ordinance (the “Ordinance”) of Chatham County, Section(s) 5 Conditional Zoning Districts; 10; 10.3 R-1 Residential District; 17, 17.1, 17.2, 17.3, 17.4 Conditional Use Permit Standards; 20.2 Certificate of Zoning Compliance; and all other parts of the Ordinance not stated herein that would pertain to the proper permitting of existing uses on Tax Parcels No. 17795 and No. 17828, and to affirm or reverse the Chatham County’s Planning Board’s (the “Planning Board”) Notice of Violations against the named above Appellants.

The Appellants claim that “*the Zoning Ordinance has no applicability whatsoever to the bona fide farm uses at issue because the State Statutes, the Chatham County Zoning Ordinance and*

applicable case law regarding nurseries/greenhouses categorically exempt bona fide farm uses from zoning regulations. Chatham County Planning Department has exceeded its authority in issuing a Notice of Violation in this matter and in requiring the Copeland's to spend resources and time defending the exempt activities.” (See Tab K, Page 84 of Appellant's evidence notebook)

The Chatham County zoning enforcement officer asserts that Appellant's violated the Zoning Ordinance of Chatham County, Section(s) 5 Conditional Zoning Districts; 10; 10.3 R-1 Residential District; 17, 17.1, 17.2, 17.3, 17.4 Conditional Use Permit Standards; 20.2 Certificate of Zoning Compliance, among other parts of the Ordinance.

1. The Ordinance allows for a personal home-owner's use of inert debris landfilling materials not be required to obtain a Conditional Use Permit (“CUP”) if the area to be filled is less than two (2) acres in size. Based on the site visit, the activity appears to have covered more than two (2) acres. The Ordinance also states that commercial inert debris landfills or any that exceeds two (2) acres in size are required to obtain a CUP. The tract is also listed under Land Use for a Forestry Operation. It appears the majority of the forested area under that plan has been removed. The acres not included in the forestry exemption are zoned R-1 Residential with no agriculture use/s or land deferments noted. There is nothing on file in the tax record supporting a bona fide farm exemption or other agricultural use/s on the parcel. The Ordinance states that any land currently under the forestry plan that is removed, must file a transfer application so that acreage can be disqualified for the deferment. It is the Planning Department's position the forestry use does not cover other types of agricultural use/s and therefore are looked at independently.
2. Transferring in of land clearing and inert debris from other sites for purposes of operating a grinding and mulching operation. Under the Zoning Ordinance, this is considered an industrial Use. No CUP or Rezoning has been approved by the Board of Commissioners to allow the activity.
3. There appears to be a recorded stream that exists or existed on the property that fed the pond on the tract/parcel. It is not clear at this time if the activity has removed or damaged the stream.
4. (See Planning's evidence notebook, Tabs 4 & 5)

After witness testimony and deliberation in closed session, Vice Chairman Bock moved to reverse the Notice of Violation on both parcels. Commissioner Stewart seconded the motion. The motion passed four (4) - one (1) with Commissioner Elza opposing.

Notice of Violations reversed.

There being no further business, the hearing adjourned at 1:08 PM.

