

VANCE COUNTY BOARD OF ADJUSTMENT

The Vance County Board of Adjustment met at a **SPECIAL** and duly advertised meeting on **October 26, 2017** at 4:00 p.m. in the Commissioners Meeting Room of the Vance County Administrative Building at 122 Young Street in Henderson, NC.

MEMBERS PRESENT

J. Thomas Shaw III – Chairperson
Ruth Brummitt – Vice-Chairperson
Phyllis Stainback
Ruxton Bobbitt, Alternate
Alvin Johnson Jr.
Logan Darensburg
Blake Haley

STAFF PRESENT

Sam Hobgood, Director of Planning
Angie Blount, Planner
Jonathan Care, County Attorney

MEMBERS ABSENT

Agnes T. Harvin

Chairperson Shaw called the October 26, 2017 **SPECIAL** meeting of the Vance County Board of Adjustment to order at just past four o'clock. Chairperson Shaw called for an approval of the minutes from the last two meetings, October 12, 2017 and September 14, 2017, both meetings regarding the modifications for the Dogwood Creek Landholdings. Chairperson Shaw asked if there were any corrections to the minutes, he reminded the board that the September 14th meeting was presenting the modifications, and that the October 12th meeting was a continuation there of. Mrs. Stainback advised page 7, first paragraph, that the word should be department, not board (minutes from 09/14/2017 meeting), and paragraph three, last sentence, "however the board sees fit", and page 7, last paragraph, Mrs. Reavis' name. Mrs. Stainback continued, page 8, first paragraph, Mrs. Reavis' name spelling.

Chairperson Shaw asked if there were any more corrections to the September 14th minutes, and asked if there were any corrections to the October 12th minutes. Mrs. Stainback asked Chairperson Shaw to clarify an inquiry he made of Mr. Perkinson at the October 12th meeting. Chairperson Shaw advised Mr. Sam Hobgood, Director of Planning and Development, to change the inquiry from "had they changed the lines from a two phase line to a single phase line", to "had they changed the lines from a single phase line to a three phase line". Mr. Hobgood asked what page this could be found, to which Mrs. Stainback advised page 6, third paragraph. Mrs. Stainback advised there may be more corrections.

Chairperson Shaw asked if there were any more corrections or additions to be made to the minutes from the previous two meetings, to which Mrs. Brummitt moved to accept the changes, which was seconded by Mr. Johnson. Chairperson Shaw announced that the move had been made and seconded, and asked if there was any more discussion. Chairperson Shaw asked for those in favor to indicate by saying aye, and those who oppose by saying nay. Those voting aye were unanimous. Chairperson Shaw announced that the minutes were approved.

Chairperson Shaw announced the next item of business would be declaring the public hearing open in the BOA case # 20171026-1. Eastern Minerals, Inc., is the property owner, Vance Construction Company is the applicant, and that it is for a variance request from the front setback from the right of way line on U.S. Hwy 1. Chairperson Shaw identified the property as tax parcel number 0453 05017.

Chairperson Shaw explained the order of proceedings and then asked for anyone who planned to speak to please come forward and be sworn. Chairperson Shaw then opened the hearing and announced that the board would hear testimony from the County staff.

BOA CASE NO. 20171026 - 1; Eastern Minerals, Inc. (property owner), Vance Construction Company (applicant) – Variance from the front right of way line on U.S. Hwy 1 (tax parcel 0453 05017).

Exhibits as follows:

Exhibit 1. Application

Exhibit 2. Site Plan

Exhibit 3. Aerial View

Exhibit 4. Minutes from Boa CASE # 20150514-1, 09/14/2017, 10/12/2017

Findings

1. The request is for a reduction in the front setback from the required in LI (light industrial) from 75' to 43.28'.

THOSE SPEAKING FOR THE REQUEST

Bob Kemp, Vance Construction Company

Gary Tucker, Eastern Minerals Inc.

Staff Comments

Angie Blount, Planner for Vance County Planning and Development took the podium and addressed the board. Mrs. Blount advised they were present to hear a request from Vance Construction Company on behalf of owners Eastern Minerals Inc., for a variance to reduce the front building setback. Mrs. Blount explained the required front setback from the right of way line is 75', Vance Construction Company is asking to reduce it to 43.28'. Eastern Minerals Inc. are proposing to build a warehouse structure that would be critical to their business operations which would require them to be close enough to the railroad spur to be able to load and unload freight. Mrs. Blount explained that placing the building at any other location on the lot would not be an option, as they have to be close enough to utilize the spur. Mrs. Blount added that the hardship was not the fault of Eastern Minerals, Inc., as part of their property was taken when U.S. Hwy 1 was built.

Chairperson Shaw thanked Mrs. Blount and asked if there were any questions for staff.

Mrs. Stainback asked how far would the variance extend to which Mrs. Blount explained that 75' is the minimum distance according to the Vance County Zoning Ordinance, for a commercial setback in this zoning district, to which Mrs. Stainback replied she wanted to know in relation to distance, or parallel to the railroad, to which Mrs. Blount asked if she were talking about how long the building would be.

Mr. Tucker of Eastern Minerals advised that this would be the first in a series of four buildings.

Mr. Sam Hobgood, Director of Planning and Development, advised that he could answer Mrs. Stainback's question. He advised that Eastern Minerals was proposing approximately a little over 800' to be completed in different phases. Mrs. Stainback asked if it was two phases, to which Mr. Hobgood replied it would be more like four phases. Mrs. Stainback asked if they were approving all of the phases today, to which Mr. Hobgood advised that was correct, but that the phase they were approving today would be the closest to the Right of Way line. Mrs. Stainback then asked for confirmation that they were approving the distances for all of the phases, to which Mr. Hobgood advised that was correct.

Mr. Bob Kemp of Vance Construction Company advised from the audience that the building at its closest will be 43.28', but as it is built parallel to U.S. 1, it will actually meet the 75' setback as it goes along.

Mr. Bobbitt asked if the existing spur would be extended, to which Mr. Kemp advised it was already there.

Mrs. Brummitt commented that the board had approved something like this variance the previous year, to which Mr. Kemp advised the spur was put in in 2013.

Chairperson Shaw commented that the board had dealt with this issue once before for one expansion, to which Mr. Kemp advised they had, and had asked for a variance because they had come within 2' of the Right of Way line, but reiterated that the common factor in all the requests was the railroad track, having to be within distance to utilize the spur.

Mrs. Stainback asked if this was the end of the variance requests for this particular project, to which Mr. Kemp advised it was.

Mrs. Brummitt asked to be shown on a map the location of the last variance.

Mr. Bobbitt asked staff if there was a review committee consisting of fire department personnel which would assess the situation of the structures from a fire safety standpoint. Mr. Hobgood advised that there was not a committee, but that the fire marshal does review the plans for the building along with the building inspectors for compliance. (side conversations going on without benefit of microphones.)

Chairperson Shaw asked that the gentlemen from Eastern Minerals, Inc., and Vance Construction Company who were speaking to board members from the audience, to identify themselves to the board and speak for the benefit of the entire board.

Bob Kemp of Vance Construction Company stepped to the podium and identified himself, as did Gary Tucker and identified himself as the plant manager for Eastern Minerals, Inc.

Chairperson Shaw asked them to relay to the entire board what they were explaining in side conversations.

Mr. Kemp explained the question that was posed to them regarding the last variance, was whether or not they were within 2' of the right of way line. Mr. Kemp explained that the railroad has been there since the 1970's, but that U.S. 1 was built in the 1980's and that the state took the land, which reduced the distance Eastern Minerals Inc. had to U.S. 1, making it hard for Eastern Minerals, Inc. to expand. Mr. Kemp stated he was asked about the plans for expansion, which included the construction of four buildings in phases.

Mrs. Stainback asked for clarification of whether this was at the back section, to which Mr. Kemp advised it was.

Mr. Kemp asked the board members to refer to their copies of the plans, and that they would notice that as the phases are implemented. The setback becomes closer to 75' as it goes along.

Mr. Bobbitt asked if the existing spur is on the Eastern Minerals Inc. property, to which Mr. Kemp replied that it was. Mr. Bobbitt asked if any of it was within the D.O.T. right of way, to which Mr. Kemp advised that it was not.

Mr. Tucker explained to the board that a 9' distance between the railroad spur centerline and the building was required to allow for loading and unloading of freight. Mr. Tucker advised that Eastern Minerals Inc. is looking to expand its warehouse space and adding production facilities in that area of the property. Mr. Tucker advised he had been with Eastern Minerals Inc. for 25 years and that they service the animal feed industry. He advised requirements are constantly changing and that one of their largest customers is across the street, now called Nutro, which used to be called Mars, Petcare and

Illams. He advised the new warehouse is for a product that Eastern Minerals, Inc. will be warehousing and distributing for Nutro. He concluded with Eastern Minerals Inc. would be adding jobs to the area.

Mrs. Stainback asked how many jobs would be added, to which Mr. Tucker replied on this particular expansion no more than two due to it being a warehousing operation. He added that in the future they would be adding production facilities so they can manufacture product for other companies, he predicted the addition of possibly five or six jobs, but that they will not require a lot of man power beyond possible fork lift operators.

Mr. Kemp advised that the cost of this project was approximately six million dollars.

Mr. Bobbitt asked if the building was sprinkled, to which he was told it was not required.

Chairperson Shaw asked if there were any more questions from the board pertaining to the Variance request for Eastern Minerals, Inc. He then asked if there were any opponents of the variance who would like to speak. He then asked if the planning staff had any further comments, to which Mr. Hobgood stated staff did not. Chairperson Shaw asked if anyone had any more questions before moving forward. He advised that being none, he asked the board if they were ready to move to discussion. Since there was no discussion, Chairperson Shaw read off each condition for variance.

Discussion and Decision

Chairperson Shaw asked if anyone would like to make a motion pertaining to the variance, to which Mr. Johnson made a motion to accept the request for a variance as stated. Chairperson Shaw asked if that was to include the findings of fact, to which Mr. Johnson advised that was to include the findings of fact.

Mr. Bobbitt wished to add that they had heard testimony referring to the 9' distance between the railroad spur and the proposed building described as critical in the loading and unloading of containers, and one of the reasons vital to asking for the variance. He concluded that the request fit the criteria for receiving a variance.

Chairperson Shaw announced to the board that the motion had been heard, and asked for a second. Mrs. Stainback seconded the motion. Chairperson Shaw asked if there was any further discussion. Chairperson Shaw asked for a vote. Those in favor were to signify by saying Aye, those opposed were to say Nay. Chairperson Shaw announced the motioned carried 7-0.

Chairperson Shaw declared BOA Case number 20171026-1 closed. He then asked the board if there was any other business. He then asked Staff if there was any other business to be discussed, to which Mr. Hobgood advised there was not.

Chairperson Shaw adjourned the October 26, 2017 meeting of the BOA.