

AGENDA

VANCE COUNTY
BOARD OF ADJUSTMENTS

SPECIAL MEETING

October 26, 2017

Commissioners Meeting Room
Vance County Administrative Building
122 Young Street, Henderson, North Carolina
4:00 P.M.

1. Call to Order
2. Approval of October 12, 2017 minutes
3. Declaring Public Hearing Open
4. Hearing of Case (order of hearings include comments from planning staff, then applicant and witnesses, and then opponents)
 - ***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. 1(Tax Parcel 0453 05017).***
5. Discussion and Decision
6. Declaring Public Hearing Closed (Completed after each individual case)
7. Instruction of Appeal Process (Board's decision may be appealed to Superior Court within 30 days)
8. Other Business
9. Adjourn



Planning and Development Department

156 CHURCH STREET, HENDERSON, NC 27536
(252) 738-2080 / FAX 738-2089

Staff Report 10/26/2017

Owner:
Eastern Minerals,
Inc.

Applicant:
Vance Construction
Company

Parcel ID:
0453 05017

Location:
170 Eastern
Minerals Rd

Current Zoning:
LI – Light Industrial

Public Hearing:
Special Meeting
10/26/2017

Prepared by:
Angie Blount

Description of Variance Request:

The applicant is requesting a variance from the minimum setback requirements as per section 3.2.11 of the Vance County Zoning Ordinance. The front building setback requirement is 75' for LI (Light Industrial) zoning, the applicant is asking to reduce that to 43.28' from the Right of Way line.

Exhibits as follows:

- Exhibit 1.** Application
- Exhibit 2.** Site Plan
- Exhibit 3.** Aerial View
- Exhibit 4.** Minutes from BOA case no. 20150514-1, 09/14/2017, 10/12/2017

Findings of Fact

1. The request is to reduce the front building setback from 75' to 43.28'
2. The property is owned by Eastern Minerals, Inc.
3. The property is located along U.S. 1 Bypass and is accessed off Eastern Minerals Road; more specifically identified as tax parcel 0453 05017.
4. The property consists of 16.191 acres.
5. The application requesting a variance was filed 10/12/2017.
6. The property was posted 10/13/2017.
7. The adjoining property owners were notified 10/13/2017.
8. The legal notice was run 10/17/2017.

Staff Comments

The applicant is proposing to build a structure critical to business operations which would require access to the existing railroad spur in order to load and unload freight. For this to be accomplished, the structure will need to be built closer to the right of way line than the minimum setback requirement of 75'.

Placing the structure on any other location on the lot would place it too far away from the spur to utilize. This hardship is not the result of the applicants own actions. This business location existed in 1985 and in 1989 NC DOT took land for U.S. 1, which reduced the distance from the right of way on the applicants' property.

VANCE COUNTY BOARD OF ADJUSTMENT

The Vance County Board of Adjustment met at a regular and duly advertised meeting on **October 12, 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
Agnes T. Harvin
Phyllis Stainback
Ruxton Bobbitt, Alternate
Alvin Johnson Jr.
Logan Darensburg

STAFF PRESENT

Sam Hobgood, Director of Planning
Angie Blount, Planner

MEMBERS ABSENT

Ruth Brummitt – Vice-Chairperson
Blake Haley

Chairperson Shaw called the October 12, 2017 meeting of the Vance County Board of Adjustment to order at just past four o'clock. Chairperson Shaw announced that this meeting is a continuation of last month's meeting, case number 20170914-1, in which Cypress Creek Renewables asked for an amendment or modification to their Conditional Use Permit that was granted on 06/11/2015.

BOA CASE NO. 20170914-1; Dogwood Creek Land Holdings (property owner), Cypress Creek Renewables (applicant) – Modification on site plan from original

Exhibits as follows:

- Exhibit 1. Site plan for vegetation at Point of Interconnection
- Exhibit 2. Site plan for added berm with vegetation
- Exhibit 3. Minutes of September 14, 2017 meeting

Findings

1. The request is a continuation of the September 14, 2017 meeting in which Cypress Creek Renewables were asking for modification to their CUP issued 06/11/2015 involving a change in the Point of Interconnection.
2. Cypress Creek Renewables will also present two site plans with proposed berm, vegetation and replanting's to replace trees and vegetation removed in error.

Staff Comments

Chairperson Shaw asked if there were any comments from staff. Sam Hobgood, Director, Vance County Planning and Development, took the podium. Mr. Hobgood asked that board members speak into the microphone so that the minutes could be heard clearer on the recording.

Mr. Hobgood stated that this meeting was a continuation of the September 14th meeting in which Cypress Creek Renewables had asked for a modification to the Conditional Use Permit. Mr. Hobgood advised board members they should have revised site plans from Cypress Creek Renewables labeled Exhibit 1 and 2. Mr. Hobgood advised the board that based on those exhibits, it was the opinion of staff

that Cypress Creek Renewables had either met or exceeded the requirements listed in the Vance County Zoning Ordinance pertaining to solar farms. Mr. Hobgood pointed out that their proposal of replanting a buffer all the way around and the addition of re-seeding the NW corner. He also referenced their proposal of the addition of a 10' to 12' berm which would be located in front of the Reavis property at the SE corner. He also referenced their inclusion of 12' trees added to the buffer. He stated that Cypress Creek had presented what the board had asked for. Mr. Hobgood asked if the board had any questions for staff.

Mrs. Harvin asked if Mr. Hobgood had seen any reference to the drip irrigation on these plans. Mr. Hobgood advised that the drip irrigation had already been approved on their original plans, to which Mrs. Harvin agreed that it was approved on the original plan, but expressed concern that it was not on this plan. Mrs. Harvin stated that since the buffer had been extended, she felt that the extension of the drip irrigation should also be shown on the plan. Mr. Hobgood advised he did not know to what extent the drip irrigation was shown on the original site plan in 2015. Mrs. Harvin advised it was supposed to have been where ever there was a buffer, and now that the buffer has been extended, she wanted to be assured that the drip irrigation would be as well. Mr. Hobgood advised that it could be a condition placed on Cypress Creek by the board. Chairperson Shaw commented that a motion could be made to place that as a condition.

Mr. Bobbitt commented that when the board first heard the original request from Cypress Creek Renewables, he felt it was one of the most sophisticated plans that the board had seen to date, and that to the best of his recollection, it did include irrigation and that it may have been approved at that time, but he also felt the irrigation needs to be on the plan.

Chairperson Shaw asked if anyone had any more questions for Mr. Hobgood. Mrs. Stainback asked if there were any variation in the height of the berm in front of the Reavis home. Mr. Hobgood replied that the plans were for 125' wide and 12' tall, and that Cypress Creek also proposed 12' and 6' tall trees. Mrs. Stainback commented she knew what they were proposing regarding trees. Chairperson Shaw thanked Mr. Hobgood and announced that the board would now hear from the applicants.

Chairperson Shaw asked if there was anyone who wished to speak during the public comment portion of the meeting who was not at the last meeting, to come forward to be sworn. Chairperson Shaw administered the oath to those members of the public who came forward.

THOSE SPEAKING FOR THE REQUEST

Phillip Martin, Cypress Creek Renewables
Cory Zandt, Project Manager for Cypress Creek Renewables

PUBLIC COMMENT REGARDING THE REQUEST

Sandra Reavis, 3430 Glebe Road
Ronnie Perkinson, 4201 Glebe Road
John Price 3775 Glebe Road
Nancy Reavis, Resident, Glebe Road

Philip Martin with Cypress Creek Renewables took the podium. He stated that he was here at the last meeting to present modifications to Cypress Creeks Conditional Use Permit regarding the change in the location of the point of interconnection, and that they were back today to present plans for replanting the removed vegetation and proposed buffer and berm. Mr. Martin advised Mr. Zandt had been

working with the Reavis family across the road from the new POI and Mr. Price at the East of the property. Mr. Martin stated that per the board's comments regarding the absence of the drip irrigation on the plan, they would be glad to add it as a condition so that the board may consider it. Mr. Martin advised that Cypress Creek has plans to irrigate everywhere that has a buffer, as they want to keep the plantings alive. Mr. Martin advised that as shown on the plan, they are proposing a 12' berm with 12' and 8' trees and 2' shrubs added to the section on Glebe Road. He advised the rest of the site would consist of a 35' wide buffer that would include 12' and 8' tall trees and the drip irrigation system. Mr. Martin advised in the back they are proposing reseeding with saplings according to recommendations from the U.S. Forestry Service.

Mrs. Harvin expressed her approval.

Mr. Martin also advised they would be placing opaque slats on the gates of the existing fence so that it creates a visual buffer. He advised they are also planning to hydro seed the berm so that they can have grass within a couple of weeks.

Mrs. Stainback asked if there would be trees in front of the berm, to which Mr. Martin advised there would be trees in front of the berm and also on the berm.

Mrs. Stainback commented that her knowing where the berm is, and looking at it from the Reavis property, she would be inclined to see around it and still be able to see into the solar farm. She asked whether the berm could be made wider, commenting that 125' was not that wide, and asked if the gate was to the left of the berm.

Mr. Martin advised that was correct, the gate is to the left of the berm, and that it has a very dense buffer, because of the size they are trying to plant now.

Mrs. Stainback asked if they were planting the size trees he had mentioned earlier, to which Mr. Martin replied that they were.

Mrs. Stainback asked if they were planting Crepe Myrtles, to which Mr. Martin advised they were, and also evergreen shrubs. Mrs. Stainback commented that Crepe Myrtles didn't cover a whole lot, and asked if they were mainly for aesthetic purposes, to which Mr. Martin advised they were and that the evergreen trees were more for the density as they begin to grow together and provide coverage. Mr. Martin advised if they need to they can place slats or green screen on the fence for extra coverage. He advised Mr. Zandt had been working with the adjacent property owners and seem to have come to some mutual agreement about their proposal.

Mrs. Stainback commented that it was shocking to see what it looks like now compared to what it looked like previously. Mrs. Stainback asked how long it would take to grow to a height that would completely screen the area, to which Mr. Martin advised that the Vance County Ordinance for Solar Farms requires the growth to be at 8' within 3 years, and that the smallest tree they are planting is 8', so they are starting out at what the requirement would be at 3 years.

Mrs. Stainback advised that the board would need a guarantee that the site would be maintained. Mr. Martin advised the board was welcome to place any stipulation they wished in order to avoid any mistakes. Mr. Martin stated it is their top priority to make sure everyone is satisfied. Mr. Martin commented that they created this situation and they want to remedy it.

Mrs. Stainback commented that she had noticed where the project date of completion was the end of the year, to which Mr. Martin replied that it was. Mrs. Stainback stated that they would need to move fast and asked how long it would take to get all of their equipment in there, to which Mr. Martin replied it would take them two months. Mrs. Stainback commented that if the weather cooperates they could

meet the deadline. Mrs. Stainback then asked when they would put in the buffer, to which Mr. Martin replied if they are approved today, they would start planting trees the next day. Mr. Martin commented that they would begin the trees first, as their priority is to shield the neighbors. Mrs. Stainback asked about the slats in the fence, to which Mr. Martin confirmed the fence would have slats in it. Mrs. Stainback asked about the left hand side near the gate, was it to be extended, to which Mr. Martin advised the buffer would take care of those areas. Mrs. Stainback asked if Mr. Martin had visited any of the houses to see what the view was from each. Mr. Martin asked Cory Zandt to come to the podium. Mr. Zandt stated his name and that he is the project manager for Cypress Creek Renewables. He advised he had been working with the Reavis and Price families regarding the construction of the buffer. Mr. Zandt clarified that the 120' width is measured front to back, in the direction of North and South, and that the actual width of the berm goes from the property line to the location of the gate. Mrs. Stainback asked what that distance was, to which Mr. Zandt replied to the right of the driveway it would be bermed at 12'. Mrs. Stainback asked how much of the berm work is done, to which Mr. Zandt replied it was about 75% complete, he estimated the dirt work for the berm should be finished by the end of the week and then they would begin seeding it to protect it from erosion. Mrs. Stainback commented that the berm looked very high, and asked what the height was yesterday, to which Mr. Zandt replied it was at about 12'. Mr. Zandt explained that the determining factor for Cypress Creek was not from the property line up, but more from the elevation under the ridge, to which Mrs. Stainback commented it looked like they had accomplished that. Mr. Zandt advised they were using laser levels to insure they get the height required to shield.

Mrs. Stainback asked about slats to the left of the gate, that her concern was whether or not the solar farm could be seen from the houses. Mr. Martin advised the buffer from the left side had been reviewed and approved from before and that they would be continuing that on around, but advised that could again be a stipulation that the board could place on Cypress Creek and that they would abide.

Chairperson Shaw asked if there were any more questions or comments, he thanked Mr. Martin and Mr. Zandt and then asked if there were any opponents that would like to speak today that had not spoken before.

Sandra Reavis, resident of 3430 Glebe Road stepped to the podium. Mrs. Reavis asked whether the stumps and brush left in the corner of the property were going to be removed. She was advised by Mr. Martin of Cypress Creek Renewables that they would be removed. Mrs. Reavis then commented that the berm looks good, except for an area past Jason Reavis' home. Due to a slant in the topography, she is able to see the farm, and was there anything Cypress Creek could do about that. She commented that they had done a great job shielding the neighbors view, but that she could still see it. Mr. Zandt advised that they could extend the dirt and that the area was also going to be planted in trees. She advised that she could see all the way to the back from her living room, but that Cypress Creek had done a great job so far in front of Jason's house, but that she could still see all the way back. Mr. Zandt advised that they could make sure that it loops around and includes that area. Mrs. Harvin asked Mrs. Reavis to clarify if she was asking that the work turn a corner, to which Mrs. Reavis replied she didn't know what it needed in order for her not to see it, that maybe the berm needed to go around a little way and keep the 12' buffer going around the corner, to which Mr. Zandt and Mr. Martin agreed it could be done. Mrs. Reavis announced that was all she had. Chairperson Shaw thanked Mrs. Reavis and she withdrew from the podium.

Mr. Bobbitt asked if Cypress Creek had an estimate of what was added to the proposed site plan, as in feet, length wise, to which Mr. Zandt advised probably another 30'.

Nancy Reavis, resident located directly across from the new POI, took the podium. Mrs. Reavis stated she just wanted to comment that Cypress Creek Renewables had really worked with them on this issue,

and that Cory Zandt had been outstanding to work with. She stated that he had approached them, left his business card, and has done anything they asked. He has worked very hard to make them happy. She stated that he had made a bad situation better and that they could not have asked for anything more. She stated that they have had to call him late at night with issues, and that he addressed them immediately. She concluded with a thank you to Cypress Creek.

John Price, resident adjacent to Kelly Solar Farm site, addressed the board. He stated that he was at the last meeting. He stated that he is not an advocate of solar farms, especially one that borders his property, but he wanted to commend Mr. Zandt of Cypress Creek, commenting that he had been very cooperative in trying to accommodate the neighbor's requests. Mr. Price stated that he had two particular requests, the first one being a 12' brick wall between his property line and theirs, but they couldn't do that, but instead they are doing the trees and the berm the best that they could. He stated the other complaint he had was that the logging people had pushed trees and stumps into his line. He stated he called Mr. Zandt the previous week and he came to look at it, and has assured him that those will be removed. Mr. Price commented that Mr. Zandt has been very cooperative and feels the board should take that into consideration. Chairperson Shaw thanked Mr. Price and asked if there was anyone else who would like to speak. Chairperson Shaw swore in Ronnie Perkinson.

Mr. Perkinson took the podium. He stated his name and that he lived at 4201 Glebe Road, about a half mile east of the site. Mr. Perkinson stated he would like to commend Cypress Creek Renewables for the work that they are doing regarding the berm. He advised they have stopped short of what he had requested they do the first time he spoke about it in public comment, which was to build a berm all the way around the site. Mr. Perkinson advised his concern now, is that he has lost 38 trees because of the power line that had to go through the area to service the solar farm. He advised he did not pursue a complaint because he knew the power company probably had the right of way until he found out it was not 30' but 60'. Mr. Perkinson expressed that if they continue on a 60' right of way they would be on his doorstep. Mr. Perkinson told the board he considers the powerline an eyesore, but realizes it is necessary to the existence of the solar farm. He advised the board he does question the amount of right of way they should have had. Mr. Perkinson added that he was able to persuade the power company not to place a pole in his yard.

Chairperson Shaw thanked Mr. Perkinson and advised him he would need to contact Duke Energy regarding the right of way. Mr. Bobbitt asked if there were any trees taken outside of the right of way. Mr. Perkinson replied he could not tell as he had not been given a definite answer on how much right of way the power company actually had. Mr. Bobbitt asked if anyone knew if that was a 60' right of way through the area, and whether or not the road itself is in the right of way. Mr. Martin with Cypress Creek Renewables stated that Duke Energy communicated to them that their right of way extended 15' onto Cypress Creeks' property line and that it was 30' from the road center and then an additional 15', which was a total of 45' from the road center which was their part. Mr. Bobbitt questioned if that was from the road center, to which Mr. Martin replied yes, that it was and that their right most boundary of their easement, was a 45' easement all together. Mrs. Stainback asked for Mr. Martin to repeat the information regarding the easement, to which Mr. Bobbitt offered clarification. Mr. Bobbitt stated that most of the time in a rural area, a 60' right of way is the standard, measured 30' from the center line on both sides, to which Mr. Martin agreed that it was. Mr. Martin added that based on the way Duke Energy wanted to run power lines to the property, they added another 15' on the edge of the Cypress Creek property so that they could run those lines. Chairperson Shaw commented that Mr. Perkinson lived half a mile up the road from that area, pointing out Mr. Perkinsons concern for the trees that were taken in his area. To which Mr. Martin agreed. Mr. Darenburg asked who the owner of the 38 trees was. Mr. Perkinson replied that the trees belonged to him. Mr. Darenburg asked if he had gotten reimbursed for the loss of the trees, to which Mr. Perkinson replied he had not. Mr. Bobbitt commented that he agreed the right of way question probably needed to be addressed to Duke Energy, but that he

understood there was opposition to taking the trees on site as they were being cut. Mr. Johnson advised that the state does not always have 60' of right of way, he advised on older county roads it was what they maintained but that there really was not 60' of right of way. He commented he knew of a situation where the right of way was only to the ditch and a water line was put in on private property, and the property owner was reimbursed for it because the state did not have the right of way they thought they had.

Mr. Bobbitt asked that everyone's attention turn to Exhibit 1 which shows Glebe Road as a 60' public right of way. He then reiterated that Mr. Perkinson should talk to Duke Power regarding the loss of his trees.

Chairperson Shaw asked if there were any more comments. Mrs. Harvin asked Mr. Martin of Cypress Creek Renewables where the powerlines were for the solar farm located, just at the Point of Interconnection, was it one pole or all of the poles? Mr. Martin replied (barely audible) that it would run along the face of the berm. Mrs. Harvin asked if it were the road side or behind it, to which Mr. Martin advised it would be roadside and that they had to push the berm back to make room for them. Mrs. Harvin then commented that none of this is underground, to which Mr. Martin replied everything on their site up to the powerlines was underground. Chairperson Shaw asked Mr. Perkinson if they had changed the lines from a two phase line to a single phase. (His Response could not be understood due to side conversations happening among the board members.) Mrs. Harvin inquired of Mr. Martin of Cypress Creek about the placement of the powerlines, Mr. Martin explained to her about having to move the berm back to make room. Mrs. Harvin asked if this was typical and Mr. Martin replied that it was. Mr. Bobbitt made comment again about Mr. Perkinson taking the matter of his tree removal up with Duke Energy. Chairperson Shaw advised Mr. Perkinson to pursue the matter with Duke Energy, as the Board of Adjustment could not address it. Mr. Perkinson asked Chairperson Shaw if he had a contact number for someone at the top at Duke Energy as he stated he did not want to start at the bottom. Chairperson Shaw advised he could not help with that. Chairperson Shaw advised perhaps Planning Staff could help. Mrs. Harvin advised Mr. Perkinson to go to his County Commissioner, that the Commissioner may know who to call. Mr. Darensburg asked who benefited from the cutting of the trees (Perkinson's trees) and was Cyprus Creek the recipient, and if so they should pay for part of it.

Chairperson Shaw asked if Staff had any follow up, to which Mr. Hobgood replied he did not. Chairperson Shaw asked Mr. Martin of Cypress Creek if he had any further comments or anything to add, to which he indicated he did not. Chairperson Shaw asked the Board if they were ready to go into discussion of the matter. He asked if the board needed a checklist, to which Mr. Hobgood replied they did not need a checklist for this decision since it was a continuation from an earlier meeting.

DISCUSSION

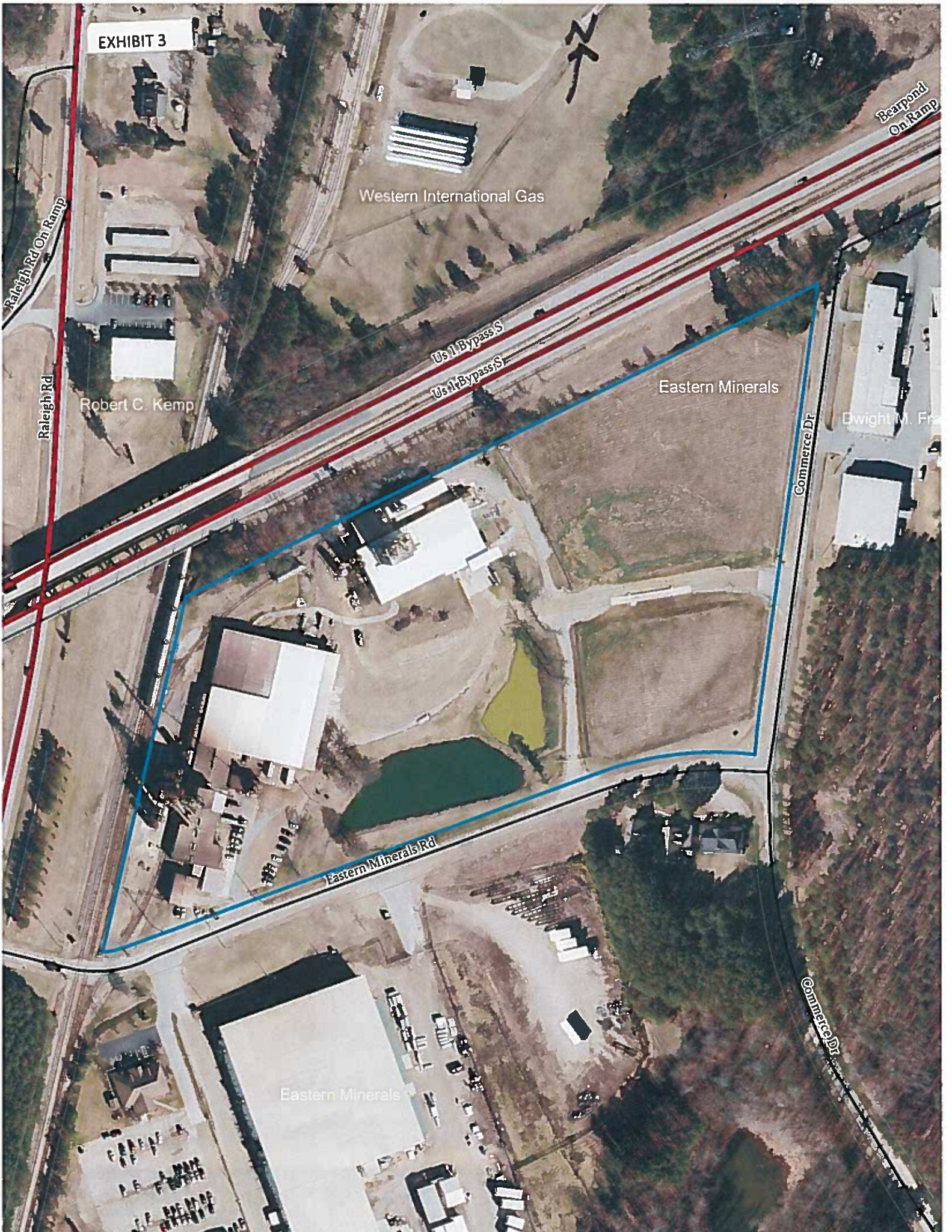
DICISION

Mr. Bobbitt made a motion that the board accept the modification to the plans originally submitted by Cyprus Creek 06/11/2015 for 3335 Glebe Rd., that they accept the change in Point of Interconnection and to include the finding of facts and the maps that have been submitted. He also suggested that they place a condition that the drip irrigation be added to the plan as well as the removal of stumps from both sides of the property and property lines, and that approximately 30' of the berm be added where it turns toward the Price property. The motion was seconded by Agnes Harvin. Chairperson Shaw announced that a motion had been made and that motion seconded and asked if there were any more discussion. Chairperson Shaw asked for a vote. Those in favor were 5. Those that opposed were 1. Chairperson Shaw announced those in favor carried.

Chairperson Shaw asked for a copy of the minutes from the 09/14/2017 meeting and asked if there were any changes or corrections. Mrs. Harvin advised she had several corrections as did Mrs. Stainback. Mrs. Harvin asked if Mr. Hobgood wanted her to go over the corrections with him now or give them to him later. He advised he would take them now, but that there could be no approval due to the minutes being added to the current minutes due to the continuation. Mrs. Stainback inquired about the corrections and was also asked to give them to Mr. Hobgood and they would be corrected at the next meeting. Chairperson Shaw clarified for the board that the corrections would be given to Mr. Hobgood to be added for the next meeting and corrected then. Mr. Hobgood reminded the board about the importance of speaking into the microphone so that the minutes can be heard clearly when played back.

Chairperson Shaw announced since there was no further business, he would now declare this case completed and the meeting closed. (4:38 p.m.)

EXHIBIT 3



Western International Gas

Bearpond
On Ramp

Raleigh Rd
On Ramp

Raleigh Rd

Robert C. Kemp

Us 1 Bypass S

Us 1 Bypass St

Eastern Minerals

Ewight M. Fra

Commerce Dr

Eastern Minerals Rd

Eastern Minerals

Commerce Dr



Vance COUNTY

NORTH CAROLINA

Variance Application

Vance County Planning & Development Department

156 Church Street, Suite 3
Henderson, NC 27536
Ph: (252) 738-2080
Fax: (252) 738-2089

For Administrative Use Only:

Case #	
Fee Paid	
BOA Date	

Property Owner Information

Property Owner: Eastern Minerals is a Corporation

Mailing Address: Eastern Minerals, Inc. P.O. Box 1310

City: Bainbridge State: GA Zip Code: 39818

Phone #: (229) 246 - 3396 Fax #: (229) 246 - 7309

E-mail Address: sales@seminerals.com

Applicant Information

Applicant: Scott Starnes/General Manger & Gary Tucker/Plant Manager

Mailing Address: Eastern Minerals Inc. P.O. Box 226

City: Henderson State: NC Zip Code: 27536

Phone #: (252) 492 - 0831 Fax #: (252) 438 - 2361

E-mail Address: garytucker@eminerals.com

Property Information *For multiple properties please attach an additional sheet.*

Property Address: 170 Eastern Minerals Road, Henderson, NC 27537

Tax Map Number: 0453-05020 PIN (parcel identification #): _____

Type of Petition: Variance

Existing Zoning: LT Industrial

Acreage: _____ Road Frontage: _____

Existing Use: LT Industrial

Deed Reference

- Metes and bounds description attached
- Site plan/sketch of proposal attached



Vance COUNTY

NORTH CAROLINA

Variance Application

Vance County Planning & Development Department

STATEMENT OF JUSTIFICATION

Application submitted for a variance from the Zoning Ordinance as follows: *Please explain below:*

Applicant is asking for a variance from the 75' front setback along US-1 to 43.28', a difference of 31.72'

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. No change in permitted uses may be authorized by variance. Also, the Board may impose appropriate conditions on any variance, provided that the conditions are reasonably related to the variance.

Under the state enabling act, the Board shall vary ordinance provisions when unnecessary hardships would result from carrying out the strict letter of the ordinance. In order to determine whether a hardship is present the applicant shall provide an argument for the following items. In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board to properly determine that an unnecessary hardship exists from carrying out the strict letter of the ordinance.

(1) THERE ARE UNNECESSARY HARDSHIPS THAT WOULD RESULT FROM THE STRICT ENFORCEMENT OF THIS ORDINANCE. The courts have developed four rules to determine whether, in a particular situation, "unnecessary hardships" exist. State facts and argument in support of each of the following:

- a. **The unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)**

The building has to be located along the railroad spur in place for loading and unloading rail cars.

- b. **The hardship results from conditions that are peculiar to the property such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**

This facility will be built in the only place that can fit in with the production flow and rail spur.



Vance COUNTY

NORTH CAROLINA

Variance Application

Vance County Planning & Development Department

- c. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing the property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**

Construction of US#1 made site non-conforming. This was done in 1989.

- d. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The additional facility will operate according to Federal and NC State guidelines for

producing a feed grade product.

Due to site conditions, no damage exists to roadway traffic or pedestrians should structure fail.

Property Owners Signature

[Handwritten Signature]

Please sign in blue or black ink

Date 10/12/17

Applicants' Signature

[Handwritten Signature]

Please sign in blue or black ink

Date 10/12/17



Distance from Corner of Building to US-1 R.O.W.:

1: 43.28'