

Members:

Ed Donaldson, Chairman
Melree Hubbard Tart, Vice-Chair
Horace Humphrey
Joseph Dykes
Randy Newsome



Alternates:

William Lockett Tally
Carrie Tyson-Autry
Yvette Carson
Vickie Mullins
(Vacant)

Cumberland County Board of Adjustment

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

MINUTES
MARCH 21, 2013
7:00 P.M.

Members Present

Ed Donaldson, Chairman
Melree Hubbard Tart
Horace Humphrey
Joseph Dykes
Randy Newsome
Vickie Mullins(non-voting)

Absent Members

None

Staff/Others Present

Patricia Speicher
Melodie Robinson
Angela Perrier
Robert Hasty, Jr. (Assistant
County Attorney)

Chair Donaldson called the meeting to order at 7:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

CHAIR DONALDSON: I want to do something a little different and have everyone introduce themselves since we have new people on the board. You are an alternate right now aren't you Ms. Mullins?

MS. MULLINS: Yes sir.

CHAIR DONALDSON: Who are we missing?

MS. SPEICHER: No one, but for the record, could we first call the roll?

CHAIR DONALDSON: Yes, we can do that. I was doing it more for the audience's benefit. Go ahead.

1. ROLL CALL

Ms. Speicher called the roll and stated a quorum was present. Ms. Speicher stated that Vickie Mullins was present and would be sworn in this evening as an alternate non-voting board member. Ms. Speicher stated we could start the introductions beginning with Mr. Hasty.

MR. HASTY: I'm Rob Hasty, the new Assistant County Attorney.

CHAIR DONALDSON: Introduced himself and the other board members to Mr. Hasty and to the audience.

2. CHAIR DONALDSON SWORE IN THE STAFF

3. OATH OF OFFICE

Ms. Speicher issued the oath of office to alternate board member Vickie Mullins.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE JUNE 21, 2012 MINUTES

A motion was made by Mr. Humphrey and seconded by Mrs. Tart to approve the minutes as submitted. The motion passed unanimously.

6. ABSTENTIONS BY BOARD MEMBERS

There were none.

7. PUBLIC HEARING DEFERRAL(S)

MS. SPEICHER: The staff is requesting a deferral [P13-01-C] because we didn't have enough information to process the application.

CHAIR DONALDSON: What are you asking us to do?

MS. SPEICHER: To defer it today indefinitely because we still have not received anything.

CHAIR DONALDSON: Okay, based on that we will defer it indefinitely.

8. BOARD MEMBER DISCLOSURES

There were none.

9. POLICY STATEMENTS REGARDING APPEAL PROCESS

Chair Donaldson read the Board's policy regarding the appeal process to the audience.

10. PUBLIC HEARING(S)

Opened Public Hearing

- A. P97-36-C:** REVOCATION OF A SPECIAL USE PERMIT (NEÉ SPECIFIED CONDITIONAL USE PERMIT) OF AN AUTOMOBILE REPAIR AND/OR BODY WORK, IN AN A1 AGRICULTURAL DISTRICT ON 7.11+/- ACRES, LOCATED AT 1921 JOE HALL ROAD (SR 2246); SUBMITTED AND OWNED BY SAMUEL W. AND ELENE WEST.

MS. SPEICHER: Presented the zoning, land use and photos of the site to the Board.

CHAIR DONALDSON: I don't see a date. Is this what you are talking about was the original application, back in 1997?

MS. SPEICHER: Yes sir.

CHAIR DONALDSON: I didn't see a date on there. Give me a moment. Does anyone from the board have a question?

MRS. TART: I have a question for staff. What constituted this? What prompted this action?

MS. SPEICHER: This was in response to a citizen complaint. A property owner on Joe Hall Road called it in.

CHAIR DONALDSON: Can you go back to the slides to the pictures of the property? Mr. Humphrey, Mr. Newsome, any questions?

MR. HUMPHREY: No.

MR. NEWSOME: No.

CHAIR DONALDSON: When he was served with this notice, did he respond to it immediately and come down and try to talk to you all about it, what has been the issue?

MS. SPEICHER: I have not met Mr. West until this evening; however, I do know that Code Enforcement can probably address the trips they have made out there.

CHAIR DONALDSON: So you don't know what they have talked to him about do you, other than he needs to get it straightened out?

MS. SPEICHER: Right. I know that what they told me was about the accumulation of the junk all the way through the back of that property. I did include in your packet a statement that was notarized and was submitted to me from Code Enforcement, signed by Mr. West. It is the second page in your package, behind the site profile. I should say it is the second page of the packet for this case.

CHAIR DONALDSON: Okay. Are Mr. Samuel West and Elene West in the courtroom?

MS. SPEICHER: Yes sir. Mr. West signed up to address the board.

CHAIR DONALDSON: Okay. Mr. West come up please.

MS. SPEICHER: Just to answer something you mentioned earlier, I do have the front page of the application.

CHAIR DONALDSON: That is okay, I just didn't see it on the one from 1997. Mr. West? (Samuel West)

KENNETH WEST: Stated that his dad Samuel West can't hear well.

CHAIR DONALDSON: Mr. West, can you hear me?

SAMUEL WEST: Not good.

CHAIR DONALDSON: Swore in Samuel West.

CHAIR DONALDSON: Mr. West, I'm looking at a document here that was signed by you on October 15, 2012 where you consented to the revocation of the specific conditional use permit, is that true?

SAMUEL WEST: Yes sir and if I might say a few things, I would appreciate it.

CHAIR DONALDSON: Yes sir, go right ahead.

SAMUEL WEST: I have no objections to this but, how this started is I called George. He didn't come out there because he got a report on me. I called George personally. He came out there to see what I was doing. At that time he agreed to let me tear down two mobile homes that were put together and put a double wide in its place. That is how this started. If you bear with me a second, I can try to set this straight. There was nothing said about the shop and in the process I was not storing any junk cars out there. Sometimes when we did work on a car, there might be two or three cars or four or five cars. Sometimes you don't get all the parts right away or the people don't pick the cars up right away. But there were no junk cars out there. There was a bus out there that I had lumber and other stuff stored in. In the meantime while my shop is shut down, I'm cleaning up all of this stuff. I had to put a stop on this because I had to make a couple of stops to Wake Med. I'm not giving you a poor excuse, because I hate them. I had to go to Wake Med to take some shots. I already had a back and spine operation plus I stayed paralyzed for three years. I am trying to help my grandbaby to get a place to stay and all of a sudden George says you are not tearing down fast enough. I said, "George, do you realize how bad in shape I am in and you agreed to give me a reasonable amount of time. I want them torn down as fast as you do." In the process I got them torn down and I went back down to his office and I said, "George, that part is cleaned up, but I'm still in the process of cleaning up some more." In the meantime while I'm doing that my wife had a massive heart attack, it almost killed her. She stayed on life support for almost thirty-three days. She's back home again as of last Saturday, and she's doing fairly good. I wouldn't kick against this permit if George hadn't told a story that I was storing junk cars on it. I had one car on there which needed a transmission that my son was working on. Just as quick as he got a transmission for it, it was going to be gone. Other than that, if he's got any questions, that it was discussed that I was already doing... that I sent for him. George didn't send for me. George didn't do this on his own, I sent for George. He should not be trying to revoke my permit. I would have given it to him willingly if he had not told a story on me. That is all I'm trying to do is to set the record straight. Don't accuse me of something that I didn't do. I've got about \$300.00 worth of permits laying on the dash of my truck; the health department, everything; electrical permit, plumbing permit, taxes is paid on it. Everything is laying on the dash of my truck and I meant to bring it in to show it to you all and came off in such a hurry and forgot it. I bought it and showed it to him (George) down there and he agreed. So if you are going to accuse me of something, accuse me of something that I did. On top of that, they sent Bambi or somebody down with a camera standing on top of a car and running around my yard and I happen to come from around the back still cleaning up some more stuff I was hauling to the dump, taking pictures, and I come home and there are two people around my back yard calling themselves County Inspectors. Well, come to my front door, I don't have any

sign at the gate that says you can't come in. I have a sign that says no trespassing. I didn't mind, I would have showed them. I told George he was welcome to come out and look. He asked when can he come and I said tomorrow would be fine because I was on the way to the hospital to see my wife. He said that would be fine. I said don't come before ten o'clock because I can hardly move before ten o'clock in the morning. I'm wired together like the six million dollar man you might as well say. George said ok and he showed up and I carried him back there and I said George do you see those stairs right there? George said yes. I said you see that deputy? Come over here, I want you to vouch for this. I said you go up those stairs at your own risk; they were put there temporarily until I can build a landing. In the meantime it turned into a storage place instead of an office that was supposed to be for me in case I got sick while I was up there and could lie down for a few minutes. There is a bathroom up there but it is not hooked up. There is a sink up there but it is not hooked up. There is not a septic tank at that end. There is a septic tank in the other end of that shop and a handicapped sticker and a back door entrance and it was all approved by the fire department. Everything I've got is legal and clear. That is the only reason why I am kicking against this permit. Other than that, you all could have had it. It wouldn't have made any difference. My son here has cancer; he can only do a little bit at a time. This has been a bad year for me. A real bad ten years, but this year has really been bad. I don't mean to hold up all of your time, but I'm going to ask you all if you have anything in your heart, don't look at sympathy, I don't want it, but look at the truth, look at what was told. I don't mind, anyone of you are welcome to come to my house, but come to my door. You are very welcome. I say come to my door because if you go anywhere else, that German Shepard might take the seat of your pants out. Other than that, I rest my case.

CHAIR DONALDSON: Have you closed the business down?

SAMUEL WEST: Well, you might as well say it is closed. I would still like to leave it in case my son can do a little bit. In case my son can change brakes or a tune-up once in a while. What he makes up there wouldn't buy groceries, but for a person who can hardly work at all, a few dollars is better than none.

CHAIR DONALDSON: Are there any questions? Mrs. Tart? What is your name sir?

KENNETH WEST: Kenneth West.

CHAIR DONALDSON: Are you his son?

KENNETH WEST: Yes.

CHAIR DONALDSON: Would you mind being sworn in because I want to ask you a few questions?

KENNETH WEST: Okay.

CHAIR DONALDSON: Swore in Kenneth West.

CHAIR DONALDSON: Do you live on that property or do you live somewhere else?

KENNETH WEST: I live right down the street.

CHAIR DONALDSON: Okay. Since this started up with Mr. Hatcher coming out there giving you all the notice, have you all moved anything out of there?

KENNETH WEST: Yes sir.

CHAIR DONALDSON: What have you all moved out?

KENNETH WEST: The little bus that was sitting there, we got rid of it and all the little debris around the yard. It looks fantastic, no debris, no junk, nothing.

CHAIR DONALDSON: When were these pictures taken?

MS. SPEICHER: They were taken at the end of February.

KENNETH WEST: That vehicle right there is my brother-in-law's truck. If you flip back to show the other car, that is the one I was waiting on for the transmission; it is gone. There are no vehicles sitting on that property nowhere.

CHAIR DONALDSON: What about the camper that was there? The travel trailer?

KENNETH WEST: Oh, that is across the road.

CHAIR DONALDSON: I thought that was on the property.

KENNETH WEST: No, that is across the road.

CHAIR DONALDSON: What about the other debris and the other stuff, has it been taken out of there?

KENNETH WEST: Everything's gone.

CHAIR DONALDSON: Is this maroon car gone?

KENNETH WEST: Yes sir; that is the one I was waiting on the transmission for.

CHAIR DONALDSON: What about the white car on the other side of it?

KENNETH WEST: Yes sir; that is gone too.

CHAIR DONALDSON: Do you all intend on using this property for auto repair or not?

KENNETH WEST: We would like to do a little bit. We are not going to have any debris around, just a little bit of light stuff, no major work.

CHAIR DONALDSON: These pictures were taken a month ago, so you've done all of this work in the last month?

KENNETH WEST: Yes sir. It looks great out there. Even George, when he came out there last week, even he said it didn't look like the same property out here.

CHAIR DONALDSON: My next question is this: Your father has signed a statement dated back in October stating he didn't object to the conditional use permit being revoked, but he's telling me now what you are telling me, that he wants to withdraw that consent, is that true?

KENNETH WEST: Yes sir.

CHAIR DONALDSON: Is that true Mr. West? (Samuel West)

SAMUEL WEST: I'd like to keep it just in case I am able to let somebody help him in the shop and one other thing while we are on the subject. If they are accusing me of storing two vehicles, I'm not going to call names before this board, but the two vehicles I had belonged to two county inspectors that they asked me to move temporarily for them because they were in an area that some people on the Sheriff's Department had a lot of property and they were (inaudible) again. In the meantime, they have been gone, but that was before all of this here.

CHAIR DONALDSON: Mr. West, I don't think the issue is the cars.

SAMUEL WEST: As a matter of fact, he was the one who told me how to go about it, him and the other guy, how to get my shop legal and I did.

CHAIR DONALDSON: The issue is not the cars that you have there temporarily that you are working on; the issue is junk cars that needed to be hauled off if there is no work on them or they are not repairable, okay? No one expects an automobile repair place not to have cars parked there while they are waiting to be repaired. The issue is cars that are not going to be worked on in the future or basically have been abandoned by the owner and they need to be moved out to a suitable place.

KENNETH WEST: We didn't have any junk cars on the property, only a little school bus and we got rid of it. That building right there, we are going to tear it down.

SAMUEL WEST: I was tearing that down.

CHAIR DONALDSON: I understand that. One man's junk is another man's treasure.

SAMUEL WEST: You can see that the lumber is already being separated. It was attached to those two trailers that I tore down. That was my next project, to tear it down and sell the lumber. I gave people doors off of the trailers. I gave door knobs, the sink and was trying to get rid of the stuff as fast as he wanted me to get rid of it.

CHAIR DONALDSON: Does anybody from the board want to say anything?

MR. NEWSOME: I have a question for staff. Has anybody from inspections been out and looked to see the progress that has been made, some kind of report; that they are satisfied with the progress that has been made?

SAMUEL WEST: George has been out.

CHAIR DONALDSON: My suggestion is we defer this for about sixty days and let them go out there and inspect it, take new pictures and we'll come back here in sixty days and make a decision based on what happens between now and then.

MS. SPEICHER: And that the property owner updates the site plan reflecting the additional garage that he has built.

CHAIR DONALDSON: Yes, which he didn't get a permit for, did he?

MS. SPEICHER: No.

KENNETH WEST: We got permits for that building.

CHAIR DONALDSON: You did?

MS. SPEICHER: If I could, for the record, what Mr. West was saying about George showing up for the mobile home - that a citizen didn't call. I would like to clarify that. Quite often what happens when one activity is going on at someone's property, and George very well could have been out there prior to the mobile home being pulled.

CHAIR DONALDSON: But he saw something else?

MS. SPEICHER: Well, I myself got the phone call from the property owner on Joe Hall Road and I turned the case in.

CHAIR DONALDSON: Mr. West, what we are going to do is set this over for two months. Give me a date. (to Ms. Speicher) We are going to set it over for two months and you and your son continue to work and clean it up. We will have a new inspection and they will go out there and look at it and give us some pictures of what it looks like and we will make a final decision then, is that alright with you?

SAMUEL WEST: That sounds fine to me.

KENNETH WEST: When George was there last week, he took pictures along with everything.

CHAIR DONALDSON: We don't have them before us so the staff will take care of this and they will get word over to the inspectors.

SAMUEL WEST: I invited him.

CHAIR DONALDSON: The staff will get in touch with the inspection part and tell them exactly what we want. Give me a date in sixty days (to Ms. Speicher).

MS. SPEICHER: May 16, 2013.

CHAIR DONALDSON: Mr. West, we will be back here on May 16, 2013. Somebody from the staff will give you a document or send you something in the mail, okay.

MRS. TART: Would it be appropriate for Mr. Hatcher to be here at the meeting?

MS. SPEICHER: I will do everything in my power to ensure that he is here.

CHAIR DONALDSON: At least have some photos. If he wants to do a written statement that he has been out there, that would satisfy me.

MRS. TART: Me too.

MR. HUMPHREY: I think that is a workable solution, give them two months, go back out and bring it back in.

MRS. PERRIER: I was supposed to visit the property today, but I had a meeting and we were short staffed and I didn't get a chance to go. I'm sorry.

CHAIR DONALDSON: That's alright. This will give him sixty days to sort out any loose ends but you do have to get the site plan straightened out and you can come down here and talk to the staff and they will tell you exactly what you have to do to get that straightened out for that building you built in there afterwards, okay?

KENNETH WEST: Okay. Which building is that?

MR. HUMPHREY: The one I think he talked about that he says he has the permit for.

CHAIR DONALDSON: He's got a permit, but apparently it wasn't in the site plan, was it?

KENNETH WEST: We got all of that.

CHAIR DONALDSON: Well, they will tell you what you need to do. It is a fairly simply process, alright?

KENNETH WEST: Alright.

CHAIR DONALDSON: Does anybody else want to be heard on this matter? You are all free to go, thank you.

MRS. TART: Do we need to vote on a continuance of this?

CHAIR DONALDSON: I don't think so. Do we need to vote on a continuance of this?

MS. SPEICHER: No.

MR. HUMPHREY: By consent?

CHAIR DONALDSON: Yes, we'll do it by consent.

MR. HUMPHREY: Mr. Dykes?

CHAIR DONALDSON: Well, there is nobody else left in the courtroom.

There was a unanimous consent among the board members to hear the case again in 60 days on May 16, 2013.

P01-12-C: REVOCATION OF A SPECIAL USE PERMIT (NEÉ SPECIFIED CONDITIONAL USE PERMIT) OF A DAY CARE FACILITY, IN AN R10 RESIDENTIAL DISTRICT ON A .83 +/- ACRE; LOCATED AT 4210 CAMERON ROAD (SR 1131); DARRYL A. AND TONIA A. BONNER (OWNERS)

MS. SPEICHER: For the board's information, P01-12-C, We did send notice letters last summer to the property owners and at that time they agreed to close out the special use. They were not going to run the day care. By the time we could get it before you, the property was sold again and we have not heard from them or the current property owners. They were notified. This came up as part of the road project, the realignment on Camden Road and the widening of Elk Road. One of the inspectors had turned this in and told us at that time it was just a vacant building.

CHAIR DONALDSON: So we don't know if it is being used as a day care or not?

MS. SPEICHER: It is not being used as a day care. It is being used as a religious worship facility, which is fine, it is allowed in that district. That's what it originally was. We had no returned phone calls. We have called them, we have left messages, and we went out to the site.

CHAIR DONALDSON: Does anybody know who the registered owner is?

MS. SPEICHER: We got the registered owner from the Tax Office and from the Register of Deeds, and that is who we mailed the last letter to, but we haven't heard back from them. A Special Use, generally if it is not active for a period of at least one year, the ordinance requires staff to bring it, and for this particular one, we know it has not been a day care for a minimum of five years.

CHAIR DONALDSON: Based on that, does anybody want to make a motion to revoke it. Does anybody have anything to say about it? That is what you want us to do, is to revoke the special use, right?

MR. NEWSOME: I move to revoke the special use.

MRS. TART: I second the motion.

CHAIR DONALDSON: All in favor of revoking the special use please signify by saying aye.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUPHREY	YES	
DYKES	YES	
NEWSOME	YES	

MS. SPEICHER: If it becomes an issue, we'll make you aware of it, we'll bring it back.

11. RECOMMENDATION FOR NOMINATION OF ALTERNATE BOARD MEMBER

CHAIR DONALDSON: How many do we need?

MS. SPEICHER: We need a recommendation for a nomination. You have the current applicant list in your packet.

CHAIR DONALDSON: So, Mr. McHenry, Mr. McManus and Ms. Ortiz?

MS. SPEICHER: It is not mandated that you have to make a recommendation; we just like to give you the opportunity to.

CHAIR DONALDSON: So we can just abstain on the whole thing and the Commissioners will choose somebody of their own liking?

MS. SPEICHER: Exactly.

CHAIR DONALDSON: Mr. Humphrey, do you have anything you want to say?

MR. HUMPHREY: Even though we would send a name there, the County Commissioners could still name whoever they so desire?

MS. SPEICHER: Yes sir.

MR. HUMPHREY: If we didn't send anybody they would do it anyway?

MS. SPEICHER: Yes sir.

CHAIR DONALDSON: As a general rule, if we send one over there, they normally approve it don't they? I know they have some discussion among themselves.

MS. SPEICHER: In most cases, not every case.

CHAIR DONALDSON: I understand. Does anyone want to recommend anybody or as an alternative we don't recommend anybody and let the County Commissioners choose?

MRS. TART: I move that we not recommend anyone and leave it to the County Commissioners.

CHAIR DONALDSON: Mr. Dykes, what are your feelings on it?

MR. DYKES: I agree.

MR. HUMPHREY: I don't know anybody on the list.

MRS. TART: I don't either.

CHAIR DONALDSON: Mr. Chestnut has been on this list off and on for over a year, but he doesn't want to come in as an alternate. I need a motion to abstain and let the County Commissioners pick who they want to.

MR. HUMPHREY: I make a motion.

MRS. TART: I second the motion.

CHAIR DONALDSON: All in favor; please signify by saying aye.

	IN FAVOR	OPPOSED
DONALDSON	YES	NONE
TART	YES	
HUPHREY	YES	
DYKES	YES	
NEWSOME	YES	

12. DISCUSSION

MS. SPEICHER: Thank you to everyone who attended the training today.

13. UPDATES(S)

There were none.

14. The meeting adjourned at 7:40 p.m., motioned by Mrs. Tart and seconded by Mr. Humphrey.