

A public hearing of the Zoning Board of Appeals was held Tuesday, February 21, 2023, at 6 p.m. in Council Chambers at City Hall, 155 Johnston Street, Rock Hill SC.

**MEMBERS PRESENT:** Charlotte Brown, Matt Crawford, James Hawthorne, Nathaniel Robinson

**MEMBERS ABSENT:** Rodney Cullum, Stacey Reeves (one vacancy)

**STAFF PRESENT:** Amy Britz, Ryan Hammond, Eric Hawkins, Shana Marshburn

Legal notices of the public hearing were published in *The Herald* on Friday, February 3, 2023. Notice was posted on all property considered. Adjacent property owners and tenants were notified in writing.

**1. Call to Order**

Chair Crawford called the meeting to order at 6:00 p.m.

**2. Introduction of Nathaniel (Nate) Robinson to the board.**

Mr. Robinson introduced himself.

**3. Approval of Minutes of the January 17, 2023, meeting.**

Mr. Hawthorne made a motion to approve the minutes as submitted. Ms. Brown seconded, and the motion carried by a vote of 4-0 (Cullum & Reeves absent).

**4. Approval of Orders of the January 17, 2023, meeting.**

Ms. Brown made a motion to approve the orders as submitted. Mr. Crawford seconded, and the motion carried by a vote of 4-0 (Cullum & Reeves absent).

**5. Appeal Z-2023-02: Request by Deborah Sanders for a variance from the front yard fence standards at 1049 Barrow Ct. The property is zoned Single-Family Residential-5 (SF-5). Tax map number 628-08-02-005.**

Amy Britz, Zoning Coordinator, presented the staff report.

Mr. Crawford asked about the fences that are non-conforming. Ms. Britz stated most of them were installed prior to 2006 permit requirement. Two were in the county. Three abutting corner lots. Those recent without permits were submitted to Neighborhood Services for further investigation.

Chair Crawford opened the floor to the applicant.

Deborah Sanders, 1049 Barrow Court (applicant), stated she has lived on Barrow Court for 62 years. Ms. Sanders provided information about the neighbors and incidents she has had with them resulting in arrests of the neighbor and caused Ms. Sanders to put up the fence. Ms. Sanders also stated the neighbor has turned their property into a garage by working on cars on the property and on the street.

Ms. Sanders presented additional pictures of other fences in the area not meeting the fence standards: 212 Hutchinson St.; N. Jones Ave.

Mr. Hawthorne asked if the issues with the neighbor subsided when the fence was put up even with the gap from the rear fencing. Ms. Sanders responded yes and that it does not allow the neighbor to view her front door.

Chair Crawford asked the applicant to present how the findings can be met. Ms. Sanders stated

Freeman Fence Co was referred to her by someone in the Solicitor's office. As far as she knew he was a legitimate fence contractor.

Chair Crawford asked how is your property extraordinary and exceptional? Ms. Sanders replied her rental neighbor is abusive.

Mr. Hawthorne asked if there are other options. Ms. Sanders stated she could plant Leyland cypress trees if that's what you want. She asked what the difference is in viewing between yards with fencing or landscaping. Ms. Sanders stated Anderson Brown has a bullseye on our house ever since the City had to buy the property for the cul-de-sac.

Chair Crawford opened the floor for public comment.

Mike Sanders, a current resident of Fort Mill, the applicant's son, grew up on Barrow Court, spoke in favor of the request. He asked if this was started from a complaint by a neighbor or is it Anderson Brown's job to ride around and look for violations. Chair Crawford was not sure. He stated the fence was installed after mom was assaulted. Mr. Sanders stated the issues have stopped since the fence was installed. He believes it separates the view between the two properties.

Dylan Barber, who lives with Deborah Sanders, his grandmother-in-law, spoke in favor of the request. He has lived there since 2021. Mr. Barber noted incidents that have happened with the neighbors and stated that they shouldn't have to live with aggression from the neighbors. It has been a night-and-day difference since the fence was installed, reducing site lines between the properties. If the fence could be seen through, it wouldn't be as effective.

Lashawn McCormick of Rock Hill, daughter of Ms. Sanders, spoke in favor of the request. She stated Anderson Brown came out when Ms. Sanders put up a tarp between the houses after the assault. Her mother told him she was going to put up a fence, but he didn't mention she needed a permit. She stated the fence is for safety of her mom. She stated the issues have stopped since fence was installed.

Ms. Brown asked if the 50% obscenity is for the whole property? How is it measured? Ms. Britz responded any part of fence has to be less than 50% opaque in front of the front plane of the house.

Mr. Hawthorne asked how far the fence has to be from the property line. Ms. Marshburn stated it can be on property line.

Mr. Hawthorne asked if it would be a problem if she installs landscaping to block the view instead of a fence. Ms. Britz stated landscaping would be allowed. Mr. Hawthorne asked how is landscaping different than a fence. Ms. Britz stated landscaping could be easily removed in the event of emergency versus having a hard surface that's not easily moved. Ms. Marshburn stated there weren't any landscaping standards for the front yard like there are for fences.

Mr. Hawthorne stated this is a hard issue to vote on with the owner and renter in conflict. Mr. Hawthorne would like to give guidance for options. He stated that extending the Leland Cypress along the side property line would help block the view eventually but it will take time and money.

Chairman Crawford agreed it is an unfortunate situation, though we can't meet the findings to allow the fence.

Ms. Brown stated there are some violations going on and extraordinary and exceptional conditions of having the house next door being used as a garage and the neighbors' behavior not allowing her to enjoy her property. She stated this has deprived the use of the property. She is trying to figure out how to make the findings but can't figure out a way to make all of them.

Ms. Brown asked how we can help the applicant to make sure she isn't being violated and can use her property. She also asked how we can make sure we are not picking on her with all the other fences in violation.

Mr. Hawthorne stated with the evidence of other fences in violation, we have to take all of them on a case-by-case basis. The ordinance is written to give residents guidance on what they can do on their property. He feels like we are constrained by what we can do as a board. He is having a hard time making the findings but thinks there are other things that can be done.

Mr. Hawthorne made a motion to approve the variance. The motion was seconded by Chair Crawford and failed by a vote of 2-2 (Crawford & Hawthorne opposed, Cullum & Reeves absent).

Mr. Crawford noted the Board was unable to make the findings necessary to approve the variance.

**6. Appeal Z-2023-03: Request by Michael Neece for a variance from the buffer requirements at 1356 Ebenezer Rd. The property is zoned Neighborhood Office (NO). Tax map number 596-05-01-029.**

Shana Marshburn, Planner II, presented the staff report.

Chair Crawford asked if the variance is requested only for the buffer along the one side property line. Ms. Marshburn responded yes.

Chair Crawford opened the floor to the applicant.

Michael Neece, 2019 Celanese Road (applicant), stated he feels the four findings for the variance have been met. He added that the parking is required to be behind the house and that there must be a driveway in order to access the parking, and there is no way to provide the buffer on either side of the building.

Chair Crawford opened the floor for public comment and there was none.

Chair Crawford stated that the conversion of property from single-family to commercial and the requirement for parking in the back creates exceptional circumstances.

Mr. Hawthorne made a motion to approve the variance from the buffer requirements. The motion was seconded by Chair Crawford and was approved by a vote of 4-0 (Cullum & Reeves absent).

Mr. Hawthorne presented the findings, noting that there are extraordinary and exceptional conditions due to the location of the house and the requirement for parking to be to the rear, the driveway must be located where the buffer is supposed to be provided along the southern property line; these conditions do apply to other properties in the vicinity; because of the conditions, the application of the ordinance would unreasonably restrict utilization of the land; and authorization of the variance will not result in substantial detriment to adjacent land or the public good and the character of the district will not be harmed.

**7. Appeal Z-2023-04: Request by Michael Neece for a variance from the buffer requirements at 2019 Celanese Rd. The property is zoned Limited Commercial (LC). Tax map number 634-01-03-014.**

Shana Marshburn, Planner II, presented the staff report.

Chair Crawford opened the floor to the applicant.

Michael Neece, 2019 Celanese Road, (applicant), was available for questions.

Chair Crawford opened the floor for public comment and there was none.

Ms. Brown made a motion to approve the variance from the buffer yard requirements at 2019 Celanese Rd. The motion was seconded by Mr. Hawthorne and was approved by a vote of 4-0 (Cullum & Reeves absent).

Ms. Brown presented the findings, noting that there are extraordinary and exceptional conditions because it was formerly a single-family home with an odd-shaped lot with limited room for buffers; these conditions are unique to the property; if the variance is not granted, it would unreasonably restrict use of the property for commercial use in a commercial area; and approval of the variance would not be detrimental to the area.

**8. Appeal Z-2023-05: Request by Michael Neece for a variance from the buffer requirements at 1034 Charlotte Ave. The property is zoned Neighborhood Office (NO). Tax map number 629-24-02-004.**

Shana Marshburn, Planner II, presented the staff report.

Mr. Hawthorne asked where the landscaping would be placed to block headlights shining into the adjoining property. Ms. Marshburn responded that it would be along the current fencing on the property line, in front of the parking spaces in front of the house, if there is room.

Chair Crawford asked if any fencing or buffer will be provided along the side property line behind the house. Ms. Marshburn responded nothing will be provided there and there is some existing landscaping in that area. She added that if the Board found it to be necessary, that it could add the condition that fencing and/or landscaping be added in this area. Ms. Marshburn noted that the presence of the larger trees in this area may make it difficult to add fencing.

Mr. Hawthorne asked if the fencing would need to go to the road. Ms. Marshburn stated that it would not.

Chair Crawford opened the floor to the applicant.

Michael Neece, 2019 Celanese Road, (applicant), was available for questions.

Chair Crawford asked whether the buffer could be planted in areas where there is room. Mr. Neece stated there are large trees and shrubbery in that area and he would not want to damage those to plant additional landscaping.

Mr. Hawthorne asked the applicant whether he had certain plantings in mind for the area in front of the parking spaces in the front yard area. Mr. Neece responded there is only about a foot or eighteen inches from the fence to the property line. He added that he did not want to disturb the heritage tree roots but he could plant some hedges. Mr. Neece stated that a solid six-foot fence would detract from the landscaping, and the existing four-foot fence did not detract from the historical nature of the property.

Chair Crawford opened the floor for public comment and there was none.

Mr. Hawthorne noted that it is a tight property and that he wasn't aware of what was behind Earth Fare before this case.

Mr. Crawford noted that some effort could be made in order to put in some landscaping down the entire property line along the residential property to provide for further buffering.

Mr. Crawford made a motion to approve a variance from the buffer yard requirements with the condition the applicant work with staff to install some landscaping where possible to mitigate establishing the commercial office use adjacent to the single-family residential use. The motion was seconded by Mr. Hawthorne and was approved by a vote of 4-0 (Cullum & Reeves absent).

Mr. Crawford presented the findings, noting that there are extraordinary and exceptional conditions because it is a single-family home in a commercially developing area and there are heritage trees that limit the ability to install buffers; it is unique because most of the other houses in the area have already been converted to commercial uses; and it will not negatively affect the character of the area because most of the other properties in the area are commercial and this will not create any greater impacts.

**9. Appeal Z-2023-06: Request by Paula Tolliver with Christian Brothers Automotive Corporation for a special exception for automotive repair use at 1933 Mt. Gallant Road. The property is zoned Limited Commercial (LC). Tax map number 636-00-00-026 and 636-00-00-027.**

Amy Britz, Zoning Coordinator, presented the staff report.

Mr. Hawthorne asked where the dumpsters are located. Ms. Britz pointed out the locations of the carwash dumpster in the parking lot and Christian Brothers' dumpster against their building on the site plan.

Chair Crawford requested to clarify the previous buffers approved. Ms. Britz noted that the buffer along the northern property line was approved to be reduced to ten feet with a fence. The buffer along the western property line will be forty feet with new fence along with the existing fence that will remain.

Chair Crawford opened the floor to the applicant.

Jason Stough, OnSite Civil Group, 980 Birmingham Rd, Milton GA (engineer for the applicant), was available for questions. There were none.

Chair Crawford opened the floor for public comment.

Charles Durant, 1946 Aldersgate, stated that he lives directly to the west of the proposed building. He asked about noise and any environmental impacts. Ms. Britz stated a cleaning company hired by Christian Brothers will remove fluids from the site. Ms. Britz stated most of the noise would come from the carwash due to vacuums, though they have documentation confirming limited decibels due to their equipment.

Chair Crawford asked if the building shown in the rendering is the one that will be built. Billy Greene Jr, Christian Brothers Automotive, 17725 Katy Freeway, Houston, Texas (applicant), stated the building shown is their prototype and is the one they are planning to build.

Ms. Brown stated the use is compatible with other uses in the area.

Mr. Hawthorne stated it will be an improvement and the shared driveway will help with traffic.

Mr. Hawthorne made a motion to approve the special exception request for auto repair use. The motion was seconded by Mr. Crawford and was approved by a vote of 4-0 (Cullum & Reeves absent).

Mr. Hawthorne presented the findings, noting the use will meet all of the use specific standards; the use is appropriate for the location and compatible with the character of the surrounding lands; the design minimizes adverse effects on adjacent lands; the use will not create a nuisance; the use will not create adverse environmental impacts; there is adequate road capacity to serve the proposed use and it is designed to ensure safe ingress and egress; the proposed use will not injure the use of neighboring lands or reduce property values; and the site plan demonstrates how the proposed use complies with other standards of the zoning ordinance.

**10. Other Business.**

**a. Keith Sutton memorial options.**

Ms. Britz presented options and the Board indicated preference for the clock.

**b. Update on open board position.**

Ms. Britz stated that Council may not fill the open seat on the Board until the Pennies Commission completes their work and Chad Williams is available to re-join the Board. Any applications received during that time would still be submitted to Council for consideration.

**c. October 17<sup>th</sup> is Election Day, need to move date to use Council Chambers. October 19<sup>th</sup> or October 24<sup>th</sup> (rain date) are options.**

Ms. Britz recommended the October meeting be moved from October 17 to October 19 or 24<sup>th</sup> due to a conflict with the municipal election location. The board agreed to move the meeting date to October 24<sup>th</sup>.

**d. Continuing education option.**

Ms. Britz provided information about the upcoming State Historic Preservation conference and asked the Board members to let staff know if they are interested in attending.

**11. Adjourn.**

There being no further business, Mr. Hawthorne made a motion to adjourn. The motion was seconded by Ms. Brown and approved by a vote of 4-0 (Cullum & Reeves absent). The meeting adjourned at 8:06 p.m.