

MINUTES
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY, N.C.

6:00 P.M., Thursday
April 14, 2016

Commissioner's Chambers
David R. Sandifer Admin. Bldg.
Brunswick County Government Center
Old US 17 East, Bolivia

MEMBERS PRESENT

Robert Williamson, Chairman
Robert Cruse
Mary Ann McCarthy
Clayton O. Rivenbark, Alternate

MEMBERS ABSENT

Virginia Ward, Vice Chairman
Jervie Babson

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Kyna Bryant-Hardy, Office Assistant

OTHERS PRESENT

Benny L. Smith
Robert Tucker
Gwen Randall
Jimmy Price
Olivia Ann Smith
Alexander King

Jim McNeil, Attorney-At-Law
Dennis Winters
Saundra King
Scott Lander
Keith Kinlaw

I. CALL TO ORDER.

The Chairman called the meeting to order at 6:00 p.m.

II. ROLL CALL.

Mrs. Virginia Ward and Mr. Jervie Babson were absent. Mr. Clayton O. Rivenbark served as Alternate.

III. CONSIDERATION OF MINUTES OF THE JANUARY 14, 2016 MEETING.

Mrs. McCarthy made a motion to accept the minutes of the January 14, 2016 meeting as written. The motion was seconded by Mr. Rivenbark and unanimously carried.

IV. AGENDA AMENDMENTS.

There were none.

FUNCTIONS OF THE BOARD OF ADJUSTMENT.

Mrs. McCarthy explained the Board of Adjustment is a quasi-judicial Board assigned the function of acting between the Zoning Administrator or Planning Director, who administer the Unified Development Ordinance (UDO), and the courts, which would have the final say on any matter. The Board's duties are to hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or Planning Director; to grant Special Use Permits and to grant Variances.

Mrs. McCarthy said that the public hearing is not to solicit board public opinion about how the Board should vote on a matter; rather, it is a time for submittal of relevant, factual evidence in the records by the applicants, proponents, opponents and staff. All parties involved must be affirmed or sworn in as required by the North Carolina General Statutes. The opposing parties have the right to cross examine witnesses and file documents into the record.

Mrs. McCarthy stated that the Chairman will announce the case; the Zoning Administrator will submit into evidence the Staff Report; the applicant or person filing the application will present relevant evidence to the Board as it relates to the Approval Criteria outlined in Section 3.3.9.B. of the UDO; the opposition will have an opportunity to speak; and then the Zoning Administrator will provide recommended conditions based on the approval criteria and information provided during the public hearing. Once all parties have addressed the Board, all parties will have the opportunity for rebuttals and the Chairman will summarize all evidence presented. All parties will have the opportunity to comment on the summation given to the Board. Once the summary is accepted, the public hearing session will be over and the Board will discuss the matter amongst themselves and vote to grant or deny the Special Use Permit and/or Variance.

Mrs. McCarthy informed the audience that if anyone was not satisfied with the outcome of the Board's decision, they may file an appeal to Superior Court.

V. SWEARING IN OF APPLICANT, WITNESS, AND OTHER INTERESTED PARTIES.

The Chairman swore in Ms. Helen Bunch, Mr. Benny L. Smith, Mr. Robert Tucker, Mr. Dennis Winters, Ms. Gwen Randall, Mrs. Saundra King, Mr. Jimmy Price, Mr. Scott Lander, Ms. Olivia Ann Smith, Mr. Keith Kinlaw, and Mr. Alexander King as to their testimony being truthful and relevant to the respective case.

VI. NEW BUSINESS.

- A). 16-01V Variance
Applicant: Benny L. Smith
Location: 1380 6th Avenue, Supply NC 28462
Request: Tax Parcel 232JD002
Applicant requests a Variance from Section 5.4.1. of the Brunswick County Unified Development Ordinance (UDO) to allow a "detached accessory garage" to be 11.5' from the 7th Street property line as opposed to the 25' setback required for double fronted lots as defined in Section 4.14.1.H.2. of the UDO.

The Chairman explained to the applicants that there are only four (4) member Board Members present and all members must vote affirmative for the matter to be granted. The Chairman asked Mr. Benny L. Smith if he would like to proceed with this matter? Mr. Smith replied yes.

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She stated that the applicant, Benny L. Smith, has filed an application for a Variance from Section 5.4.1. of the Brunswick County Unified Development Ordinance (UDO) to allow a "detached accessory garage" to be 11.5' from the 7th Street property line as opposed to the 25' setback required for double fronted lots as defined in Section 4.14.1.H.2. of the UDO. Ms. Bunch stated that the Brunswick County Code Enforcement received a complaint on February 3, 2016 of a garage under construction with no permits. She stated that the site was visited on February 4 with the construction confirmed. She continued that a stop work order was posted on the property and a notice of the stop work order was mailed to the property owners via standard and certified mail. Ms. Bunch stated that the applicant contacted her following receipt of the stop work order to discuss options, as the two (2) story building was well under construction. She stated that available options were (1) move the building to a location on the property where it is compliant with the ordinance; (2) tear the building back to the point that it is compliant with the ordinance; (3) remove the building totally from the site; or (4) request a variance. She further stated that Mr. Smith applied for a Variance from the front yard setback requirements on March 10, 2016. Ms. Bunch stated that the subject parcel (Tax Parcel 232JD002) fronts both 6th and

7th Avenue. She stated that Section 4.14.1.H.2. of the UDO states that “In the case of ‘through lots’ (also referred to as ‘double frontage lots’), the lot shall be considered to have two front lot lines on each street frontage. She further stated that Tax Parcel 232JD002 is zoned R-6000 on the Brunswick County Zoning Map, which is a residential zoning district. Ms. Bunch stated that per Section 5.4.1. of the Brunswick County Unified Development Ordinance, an accessory structure is permissible in the R-6000 Zoning District, with the front yard setback being “per the zoning district”. She stated that per Section 4.3.3.B. of the UDO the front yard setback for the R-6000 Zoning District is twenty-five feet (25’). She further stated that the accessory structure Mr. Smith has constructed is 11.5’ from the 7th Avenue property line, as opposed to the 25’ setback required by the UDO. She continued that Mr. Smith is requesting a Variance of 13.5 feet.

Mr. Benny Smith addressed the Board. Mr. Smith stated that he is requesting a Variance from the setback measurements of a double frontage lot, to those of a standard single fronting lot. He stated that the Variance will allow him to use an existing cement pad, which was previously installed, for the construction of a detached garage. He further stated that the existing cement pad is located approximately 10’ from the street right of way at the rear of the subject parcel. He continued that the cement pad was constructed to use for parking with hopes of constructing a garage at some point in time. Mr. Smith stated that on approximately July 23, 2010, he spoke with Mrs. Jan Clemmons with Brunswick County. He stated that Mrs. Clemmons verified his lot survey map to see if the garage plans would pose any planning and zoning issues. He further stated that Mrs. Clemmons provided the setback measurements for a single front lot for which he used to determine the placement of the cement pad for the future detached garage.

The Chairman asked Mr. Smith if Mrs. Clemmons is an employee of the Brunswick County Planning Department? Mr. Smith replied yes. Ms. Bunch interjected that Mrs. Clemmons is an employee with the Brunswick County Geographic Information Systems (GIS) Department, which is a division of the Tax Administration.

Mr. Smith stated that he recently began construction of the garage, without obtaining permits. He learned from the Planning Department that his parcel was considered to be a double fronted lot when he came to Bolivia to get a building permit. He stated that after learning about the minimum setback requirements of double fronted lots that it became obvious to him that the surrounding neighboring parcels were not in compliance with the requirements of the UDO. He further stated that the subdivision was developed in the early 1970s by Mr. Carl Bowling and that both 6th and 7th streets are considered to be dead end roads with only 30’ of right-of-way. He continued that the lots are approximately 80’ in depth which after the minimum setback requirements are applied leaves only 30’ of useable space. Mr. Smith stated that in 2003 his neighbor, Elizabeth Whittington, was granted a permit to do an extensive remodel and construction project. He stated that his neighbor was allowed to change her address from 1396 6th Ave SW to 1395 7th Ave SW allowing them to maintain a 25’ front and 10’ rear minimum setback. He further stated that had he not been giving incorrect information in 2010 he would not be requesting a Variance. He continued that the granting of the variance request would not set a precedent, only allowing the proposed detached garage to remain in conformity with the surrounding parcels.

Mrs. McCarthy asked Mr. Smith when the existing concrete pad was poured? Mr. Smith stated that the existing concrete pad was poured in 2011. He stated that he intended to construct a detached garage when he purchased the property. He further stated that he discussed with his friends regarding obtaining a permit for the proposed detached garage and was told that the permit would expire one year after issuance.

The Chairman asked Mr. Smith if the shed, shown on Exhibit B, was existing? Mr. Smith replied the shed was on the property when he purchased the property. The Chairman asked Mr. Smith if he obtained a building permit to pour the concrete slab? Mr. Smith replied no. The Chairman asked Mr. Smith the size of the concrete pad? Mr. Smith stated that the concrete pad is 12" deep and 16" wide with rebar and anchor bolts. The Chairman asked Mr. Smith the proposed use of the detached garage? Mr. Smith stated that he proposes to use the first floor as a garage and the second floor for storage.

Mrs. McCarthy asked Ms. Bunch if a permit would have been issued for a concrete pad? Ms. Bunch replied that a building permit would have been issued for the concrete pad if a building was proposed to be placed on it at some point. She continued that the Brunswick County Building Inspections Department would have checked and inspected the footings to insure that they meet the International Building Code with North Carolina Amendments.

Mr. Smith stated that he was told that an inspection by a North Carolina Licensed Engineer must be obtained to certify that the pad was constructed to meet International Building Code with North Carolina Amendments because it was not inspected by the County prior to and during construction. He stated that he has not obtained an inspection but has spoken with someone in that field and was told that an inspection could be obtained and if needed modifications could be made to the pad to meet the Building Code.

The Chairman asked Ms. Bunch if permits were obtained by Mr. Smith's neighbor, Elizabeth Whittington, to modify her home in 2003? Ms. Bunch stated that she did find that permits were obtained but could not locate the file.

Mr. Smith reiterated that he had affidavits from six (6) of his neighbors to present to the Board. The Chairman advised Mr. Smith that they could not accept affidavits as evidence, as the witness must be present to provide testimony.

Mrs. McCarthy asked Mr. Smith if the detached garage is at a level of completion that it could be moved if the Variance is not granted? Mr. Smith stated that the building is partially complete and could be moved if required.

Mr. Rivenbark asked Ms. Bunch if the Brunswick County Zoning and Setback information provided on the recorded plat are correct? Ms. Bunch stated that the Brunswick County Zoning and Setback information provided on the recorded map are accurate for a typical single-fronted parcel. She stated that at the subject parcel was considered double fronted at the time the map was drawn in 2010 and the front and rear setbacks for the R-6000 Zoning District are 25'.

Ms. Bunch stated that the detached accessory structure will have to meet the minimum double fronted yard setback of 25' and be located behind the front wall of the existing Single Family Residence as defined in the Brunswick County Unified Development Ordinance (UDO) for parcels located in the R-6000 Zoning District.

Mr. Smith interjected that detached accessory structure could not be located behind the front wall of the existing Single Family Residence and meet the 25' double fronted yard setbacks. He stated that it may not be feasible to modify the proposed detached accessory structure. He further stated that it may be in his best interest to remove the detached accessory structure from the property.

The Chairman asked if there were any comments? There were none. The Chairman summarized that the applicant, Benny L. Smith, has filed an application for a Variance from Section 5.4.1. of the Brunswick County Unified Development Ordinance (UDO) to allow a detached accessory garage to be eleven and one-half feet (11.5') from the 7th Avenue property line as opposed to the twenty-five foot (25') setback required for double fronted lots as defined in Section 4.14.1.H.2. of the UDO. He stated that the Staff Report indicated that Staff discussed options with the applicant, as the two (2) story building was well under construction with no building permits obtained. He further stated that available options were (1) move the building to a location on the property where it is compliant with the ordinance; (2) tear the building back to the point that it is compliant with the ordinance; (3) remove the building totally from the site; or (4) request a variance. The Chairman stated that the applicant testified that he received setback information from an employee with Brunswick County and that he planned the proposed detached accessory structure based on the setback measurements. He further stated that the applicant testified that the detached accessory structure is near completion and that the only remedy may be to remove the building from the site. The Chairman asked if there were any questions to the summation? There were none.

The Board discussed the worksheet and determined the following:

1. It is the Board's CONCLUSION that, unnecessary hardship will not 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. This conclusion is based on the following FINDINGS OF FACT:

The proposed is an accessory structure and not a primary structure. The applicant testified that he did not obtain a permit prior to beginning construction. Testimony was provided by the applicant that the structure could be moved to comply with the ordinance if required to do so.

2. It is the Board's CONCLUSION that the hardship does not result 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 conclusion is based on the following FINDINGS OF FACT:

No evidence was provided of property peculiarities. All of the lots on the north side of 6th Avenue also front 7th Avenue. These lots are considered through lots (also referred to as 'double frontage lots'). The ordinance states the lot shall be considered to have two front lot lines on each street frontage.

3. It is the Board's CONCLUSION that the hardship does result from the actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

The applicant stated in his testimony that the accessory structure was constructed without obtaining permits. Had building permits been sought, the applicant would have been advised of the appropriate setbacks.

4. It is the Board's CONCLUSION that the requested variance is not consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

No evidence of a public safety issue was articulated. The UDO is written to protect the property rights of all.

On the basis of all the foregoing, Mrs. McCarthy made a motion to Deny the Variance. The motion was seconded by the Chairman, but the motion did not pass with two (2) votes to deny the Variance (Williamson, McCarthy) and two (2) votes to grant the Variance (Cruse, Rivenbark). As the Board had four (4) members seated, all members must vote in the affirmative for the Variance to be granted.

- B). 16-02S Special Use Permit
Applicant: Taylor Made, LLC
Location: 1151 Whiteville Road, Shallotte NC 28470
Tax Parcel 18000006
Applicant requests a Special Use Permit for a “Public or Private Waste Disposal Site, Recycling Non-Hazardous Solid or Liquid” consistent with the requirements of Sections 5.2.3. and 5.3.7.I. of the Brunswick County Unified Development Ordinance.

The Chairman announced the case. The Chairman explained to the applicant that there are only four (4) Board Members present and three (3) members must vote affirmative for the Special Exception to be granted. He asked Attorney Jim McNeil if he would like to proceed with this matter? Attorney McNeil replied, yes.

Ms. Helen Bunch, Zoning Administrator, addressed the Board. Ms. Bunch read the Staff Report (attached). She stated that the applicant, Taylor Made, LLC, requests to develop a Waste Disposal Site recycling non-hazardous solid or liquid on the subject parcel. She further stated that the proposed will be located on Tax Parcel 18000006, also known as 1151 Whiteville Road. She identified the subject property and surrounding properties on a map displayed on an overhead projector. She continued that the Brunswick County Future Land Use Plan designates the subject parcel as Low Density Residential. She stated the proposed use is only permissible in the C-I Zoning District with Special Use Permit approval by the Brunswick County Board of Adjustment. Ms. Bunch proceeded to discuss the twelve (12) review factors (e.g., circulation; parking and loading; service entrances and areas; lighting; signs; utilities; open space; environmental protection; screening, buffering, and landscaping; effects on adjoining property; compatibility; and impacts on military installations) associated with the subject parcel. She stated that all access will occur from Whiteville Road (NC 130). She continued that the applicant has notified the North Carolina Department of Transportation (NCDOT) of the proposed use and has provided the Brunswick County Planning Department with documentation from NCDOT stating road improvements will not be necessary. Ms. Bunch stated that per Section 6.12.6.A. of the Brunswick County Unified Development Ordinance (UDO), one (1) parking space per 500 square feet of enclosed area plus (1) space per 5,000 square feet of outside storage area is required for all waste related services. She stated that one (1) parking space per 300 square feet of enclosed floor area is required for offices. She further stated that a total of seventeen (17) parking spaces are required. Seventeen (17) parking spaces are delineated on the site plan. Ms. Bunch stated that outdoor lighting is not proposed with this request. She stated that any new outdoor lighting must meet the lighting requirements stated in Section 6.9, Outdoor Lighting of the UDO prior to installation. She further stated that any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. She continued that signage is a separate permitting process. Ms. Bunch stated that water will be provided by Brunswick County. She stated that the applicant has applied for a septic system, with the proposed location shown on the site plan. She further stated that there are no open space requirements for this use. She continued that the applicant must meet all applicable Federal, State and Local Government requirements. Ms. Bunch stated that a 20’ deep landscaped street buffer adjacent to Whiteville Road will be necessary. She stated that the applicant

must install one (1) canopy tree or two (2) understory trees per one hundred (100) linear feet for all portions of the property fronting Whiteville Road. She further stated that the applicant will need to add one (1) canopy tree to the 210.15' interval within the street buffer, as only (1) canopy tree is shown to be within the buffer. Ms. Bunch stated that project boundary buffers of 0.6 or 0.8 opacity, depending upon whether the adjacent parcel is developed, will be required around Tax Parcel 18000003, and adjacent to Tax Parcels 18000005; 19600019; 18100006; and 18100010. She stated that the project boundary buffer around Tax Parcel 18000003 should be revised to 0.8 opacity or 50' as the property is developed. She further stated that use of the existing vegetation is permissible, but must be documented. Ms. Bunch stated that a project boundary buffer will not be necessary adjacent to Tax Parcels 18000007, 1800000601, 18000008 and 1810001001 because they are zoned C-I, as is the subject parcel. She stated that the effect on some of the adjoining property is lessened by the buffer requirements and the requirement that the proposed driveway and off-street parking surfaces must be washed stone or some other type of dustless material. She further stated that the use is compatible, as it is permissible with Special Use Permit approval by the Board of Adjustment. She continued that the proposed Special Use is not within five (5) miles of a military installation.

Ms. Bunch stated that there are additional approval criteria for this use outlined in Section 5.3.7.I., Public or Private Waste Disposal Site, Non-Hazardous Solid or Liquid of the Brunswick County Unified Development Ordinance (UDO). She stated that no waste material deposited in the waste disposal site may originate outside of the County borders. She further stated that all Federal, State, and Local guidelines and regulations regarding site design, construction, and operation of the facility shall apply.

Jim McNeil, Attorney-at-Law, addressed the Board. Attorney McNeil stated that he is at the hearing representing Taylor Made, LLC. He further stated that Mr. Robert Tucker, a licensed North Carolina Engineer with East Coast Engineering, Mr. Dennis Winters, a licensed North Carolina Appraiser, and Mr. Scott Lander acting agent for the applicant will provide testimony regarding the Special Use request.

Mr. Robert Tucker, a licensed North Carolina Engineer with East Coast Engineering, addressed the Board. Mr. Tucker stated that the subject parcel is currently heavily wooded. He stated that 6.5 acres out of the 37 acre tract are usable as majority of the subject parcel is wetlands. He further stated that supplemental vegetation will be installed where needed to meet the buffer requirements of the UDO. Mr. Tucker stated that the proposed Public or Private Waste Disposal Site, Recycling Non-Hazardous Solid or Liquid will not accept hazardous or liquid waste, only recyclable or construction/demolition waste. He stated that Brunswick County currently operates a demolition/debris landfill that has a limited lifespan. He further stated that the applicant intends to recycle the construction waste. Mr. Tucker stated that upon entry to the subject parcel vehicular traffic will proceed to the platform scale to be weighed and then will be directed to the unloading area. He stated that the waste will be processed, sorted and stored in covered containers on-site until removed from the property and taken to market. He further stated the facility will only accept clean lumber (no treated lumber), metals, broken asphalt and concrete, plastic, drywall, shingles, carpet, padding and clean soil. Mr. Tucker stated that if the Special Use Permit is approved the

applicant will submit application to State through their Solid and Hazardous Waste Branch, which dictates how the site will be operated. He stated that the materials would be stored in covered containers on wheels until the materials are sent to the market in 40' flatbed containers. He further stated that lighting is not proposed with this request. Mr. Tucker stated that they have submitted projected traffic flows to the North Carolina Department of Transportation (NCDOT) based upon the last five (5) years of traffic counts from the Brunswick County Landfill which include average trips per day and the load calculations. He stated that NCDOT has stated that they will issue a standard driveway permit, however, a turning lane in to the facility will not be necessary at this time. He concluded that water will be provided through Brunswick County and the Brunswick County Environmental Health Services has issued a septic permit for the proposed disposal site.

The Chairman asked Mr. Tucker what type of machinery will be used on the subject parcel? Mr. Tucker stated that only light machinery (i.e., bobcat, backhoe and tractor) will be used as needed on the subject parcel. He stated that there may be times when the applicant will have a portable crusher brought to the site to crush concrete materials. He further stated that a stump grinder may be utilized to grind wood debris. The Chairman asked Mr. Tucker the distance from the subject parcel to the nearest residence? Mr. Tucker stated that the nearest residence is approximately 800 feet from the subject parcel.

Mr. Dennis Winters, a licensed North Carolina Appraiser, addressed the Board. Mr. Winters stated that he was asked by the applicant to evaluate the parcel to determine if the proposed use is compatible to the surrounding properties and the property values. He stated that no appraisal was performed.

Ms. Gwen Randall, adjoining property owner, addressed the Board. Ms. Randall stated that she operates Caribbean Bay Pools, LLC, located at Tax Parcel 18000007, also known as 1143 Whiteville Rd NW and is concerned that the dust will affect her business. She stated that on most days she has approximately 100 to 150 white fiberglass pools that are stored on the right side of her property, which is located next to the proposed entrance of the facility. She further stated that the pools must be cleaned prior to delivery to the customer. Ms. Randall stated she is not opposed to the proposed use, only where the use will be located on the subject parcel. She continued that currently they receive a large number of dust and debris from Whiteville Rd NW (NC 130).

Mr. Tucker readdressed the Board. Mr. Tucker stated that a 30' buffer with supplemental plantings if necessary will be placed on the left side of the proposed entrance to limit dust and debris from emitting on Mrs. Randall's property. He stated that they are proposing to install a layer of marl stone base, with several inches of washed stone surface to be placed on top for vehicular travel on the site as required by the UDO. He further stated that dust is regulated by the State as part of their permit approval process for facilities of this type. He continued that it is not uncommon for the State to require the road to be suppressed with water in order to keep the dust down.

The Chairman asked Mr. Tucker if a fence will be installed along the property lines? Mr. Tucker stated that at this time the applicant has not indicated that a fence will be installed along the property lines.

Ms. Bunch addressed the Board. Ms. Bunch stated that dust is regulated by the County as part of the Special Use Permitting process and the UDO requires a washed stone surface be used and maintained for vehicular travel on to sites.

Mrs. Saundra King, neighboring property owner, addressed the Board. Mrs. King stated that she resides on Tax Parcel 1800000203, also known as 1124 Whiteville Road NW, which is located less than 800 feet from the subject parcel. She further stated that she has concerns about the potential for dust emitting from the subject parcel and the potential health hazards that may arise from the proposed use.

Mr. Tucker readdressed the Board. Mr. Tucker stated that the proposed facility will be permitted and regularly inspected by the North Carolina Department of Environment and Natural Resources (NCDENR). He stated that there will be no hazardous liquids or solid waste disposed on the subject parcel. He further stated that the proposed will be used as a transfer facility as materials will be received, sorted and transported to market for sale.

Mr. Jimmy Price, neighboring property owner, addressed the Board. Mr. Price stated that he owns Tax Parcels 18000002 and 1800000201. He stated that he has worked with concrete companies, producing and chipping concrete, and there is no way to completely contain or eliminate dust. He further stated that he has used rock in building roadways when he worked for the State and there was no way to contain or eliminate dust.

Mr. Scott Lander, agent for the applicant, addressed the Board. Mr. Lander stated that chipping and crushing of the concrete will be located on the back corner of the usable area of the subject parcel away from residences. He stated that if that is a major issue for neighboring property owners, the concrete can be removed off-site without being chipped or crushed.

The Chairman asked Mr. Lander what happens if a toxic substance is received in error? Mr. Lander stated that the customer who dropped off the substance will be notified and asked to remove the item, as toxic substances are regulated by the State.

Mr. Rivenbark asked Mr. Lander if processing of concrete will be a daily process? Mr. Lander replied no, that processing concrete daily is not cost efficient. Mr. Rivenbark asked the proposed hours of operation? Mr. Lander stated that the proposed hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday with no weekend service.

Ms. Bunch asked Mr. Lander how will he ensure that no waste materials will be deposited in the waste disposal site originating outside of the County's geographic borders? Mr. Lander stated that at their facilities in South Carolina they keep records of materials that are deposited into the facilities with their point of origin. He stated that they provide reports to the State of South Carolina indicating what was received along with the location the waste

materials were received from. He further stated that he believes that he will have to provide the same reports to NCDENR and that the proposed will not accept materials outside of the County's geographic borders.

Ms. Olivia Ann Smith addressed the Board. Ms. Smith asked the Board if there will be any burning at the proposed waste disposal facility? The Chairman stated that he would ask the project engineer.

The Chairman asked Mr. Tucker if there will be any burning at the proposed waste disposal facility? Mr. Tucker stated that there will be no burning at the proposed waste facility.

Mr. Keith Kinlaw addressed the Board. Mr. Kinlaw stated that the Brunswick County Geographic Information System (GIS) online mapping system could be used to determine the distance between the subject parcel and the nearest residence.

The Chairman stated that Mrs. King testified that her property is less than 800 feet to the subject parcel.

Ms. Gwen Randall readdressed the Board. Ms. Randall stated that she is concerned about the increase in traffic to the subject parcel. She continued that she is concerned about the dust and debris that will arise from vehicles entering the subject parcel.

Mr. Lander readdressed the Board. Mr. Lander stated that it is against the law to accept a container is not covered and that the debris may not exceed the top of the container. He stated that the only debris that would not be covered is if someone brings items in on their personal vehicle. He further stated that when vehicles enter the site and go to the scale the tarps will be pulled back and the load will be inspected by cameras and the visual eye. He continued that all waste will be disposed of properly.

Mr. Tucker readdressed the Board. Mr. Tucker stated that research was conducted to determine the traffic count and based on the findings [Records of Brunswick County Construction and Demolition (C&D) Landfill trips provided by Dewberry and Associates report state that the County averages 25 trips per day, with an average load size of 2-3 tons.] He continued that Taylor Made, LLC believes they will capture no more than 50% of the County's C&D business, therefore the average will be approximately 12 to 15 trips per day.

Mr. Jimmy Price readdressed the Board. Mr. Price stated that he is concerned about the potential traffic that would be created as there is a school [West Brunswick High School] in close proximity of the subject parcel.

Mr. Robert Tucker readdressed the Board. Mr. Tucker stated that the proposed is located outside of the curve, rather than inside the curve, which allows for an increased site distance triangle. He stated that NCDOT has reviewed the project and determined that a turn lane will not be required for this project.

Mr. Alexander King, neighboring property owner, addressed the Board. Mr. King stated that he was under the impression that the property is located within the Town of Shallotte's Jurisdictional limits.

Ms. Bunch interjected that the subject parcel is located within Brunswick County's Planning and Zoning Jurisdiction.

With no further comments, Ms. Bunch read the conditions of approval of the Special Use Permit:

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning and Community Development Department.
3. The applicant must comply with all requirements specific to this use outlined in Section 5.3.7.I. of the Brunswick County UDO. No waste material deposited in the waste disposal site may originate outside of the County borders. All Federal, State, and Local guidelines and regulations regarding site design, construction, and operation of the facility shall apply.
4. The applicant must apply for and receive a driveway permit from the North Carolina Department of Transportation (NCDOT).
5. Any Outdoor Lighting installed on the property must meet the requirements outlined in Section 6.9. of the UDO.
6. Revise the Landscaping Plan to address the following: show on the landscape plan 100' planting intervals; provide an 0.8 buffer around Tax Parcel 18000003 as the property is developed; add one (1) canopy tree to the 210.15' interval of the street buffer, as only one (1) canopy tree is shown within that interval within the 20' street buffer area; and provide the property dimensions on the Landscape Plan.
7. The applicant must comply with all Federal, State and Local requirements related to this use.
8. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

She stated that if approved, this development shall have a vested right for a period of three (3) years and a two (2) year extension may be requested by the applicant to the Brunswick County Board of Adjustment.

The Chairman asked Ms. Bunch if the applicant has indicated that the proposed use will meet all of the conditions required to receive the Special Use Permit? Ms. Bunch replied yes.

With no further comments, the Chairman summarized that the applicant, Taylor Made, LLC, requests to develop a Waste Disposal Site recycling non-hazardous solid or liquid on the

subject parcel. He stated that the proposed use is only permissible in the C-I Zoning District with Special Use Permit approval by the Brunswick County Board of Adjustment. He further stated that neighboring property owners expressed concerns about the potential of dust. He continued that testimony provided by the applicant and the Staff Report indicate that dust is regulated by both the State and County. The Chairman stated that testimony was provided that no burning will take place on the site. He stated that the project engineer testified that the proposed driveway for access to Whiteville Highway (NC 130) has been reviewed by the North Carolina Department of Transportation (NCDOT) for compliance with safety as part of the driveway permitting process. He further stated that testimony was provided that all of the conditions required to receive the Special Use Permit are acceptable and will be met. The Chairman asked if there were any comments to the summation? There were none.

The Board discussed the worksheet and determined the following:

Application No. 16-02S

Applicant: Taylor Made, LLC

Property Location: 1151 Whiteville Road, Shallotte NC 28470

Parcel Number: 18000006

Zoning District: Commercial Intensive (C-I)

Land Use Classification: Low Density Residential

Surrounding Zoning North: C-I, RR, **South:** RR, **East:** RR, **West:** RR

Proposed Use of Property: “Public or Private Waste Disposal Site, Recycling Non-Hazardous Solid or Liquid”

FINDINGS OF FACT

Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its regular meeting, determined that application is complete / incomplete and finds:

- I. WHETHER THE PROPOSED USE IS IN HARMONY WITH THE AREA AND NOT SUBSTANTIALLY INJURIOUS TO THE VALUE OF PROPERTIES IN THE GENERAL VICINITY:
 Yes
 No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your Findings:

No evidence or testimony was provided with regard to property values. This is a commercial area with other Commercial Intensive uses adjacent to the subject parcel.

II. WHETHER THE USE IS IN CONFORMANCE WITH ALL SPECIAL REQUIREMENTS APPLICABLE TO THE USE:

- Yes
 No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

Section 5.2.3. of the Brunswick County Unified Development Ordinance (UDO) lists a Public or Private Waste Disposal Site, Recycling Non-Hazardous Solid or Liquid as a permissible use in the C-I Zoning District if approved by the Board of Adjustment through the Special Use Permit process. Section 5.3.7.I. of the UDO outlines the additional criteria for "Public or Private Waste Disposal Site, Recycling Non-Hazardous Solid or Liquid", if approved by the Board of Adjustment through the Special Use Permit process. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met. The applicant testified at the Board of Adjustment Meeting that all of the conditions required to receive the Special Use Permit are acceptable and will be met.

III. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL NOT ADVERSELY AFFECT THE HEALTH AND SAFETY OF THE PUBLIC:

- Yes
 No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your findings:

No expert testimony or evidence was provided that the use will adversely affect the health or safety of the public. The project engineer testified that the proposed driveway for access to Whiteville Road (NC 130) has been reviewed by the North Carolina Department of Transportation (NCDOT) for compliance with safety as part of the driveway permitting process. "Dust" is regulated by the County as part of the Special Use Permitting process and the requirement of washed stone surface for vehicular travel on the site. Dust is also regulated by the State as part of their permit approval process for facilities of this type.

IV. WHETHER THE USE, IF DEVELOPED AS PROPOSED, WILL ADEQUATELY ADDRESS THE TWELVE (12) REVIEW FACTORS IDENTIFIED IN SECTION 3.3.9.B. OF THE BRUNSWICK COUNTY UNIFIED DEVELOPMENT ORDINANCE:

- Yes
- No

State the sworn testimony and evidence presented at the hearing of this matter upon which you base your finding:

The use, Public or Private Waste Disposal Site, Recycling Non-Hazardous Solid or Liquid, if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance (UDO) and the additional review criteria denoted in Section 5.3.7.I. of the Unified Development Ordinance, based upon the submitted Staff Report and requested conditions made by Staff as part of the report.

V. DECISION:

Mr. Rivenbark made a motion to Grant the Special Use Permit “because the proposed use if developed as proposed and subject to the conditions imposed below:

- a. will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
- b. will be in conformance with all special requirements applicable to the use,
- c. will not adversely affect the health and safety of the public, and
- d. will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance.”

CONDITIONS:

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO);
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use permit application and kept on file by the Brunswick County Planning and Community Development Department;
3. The applicant must comply with all requirements specific to this use outlined in Section 5.3.7.I. of the Brunswick County UDO. No waste material deposited in the waste disposal site may originate outside of the County

borders. All Federal, State, and Local guidelines and regulations regarding site design, construction, and operation of the facility shall apply;

4. The applicant must apply for and receive a driveway permit from the North Carolina Department of Transportation (NCDOT);
5. Any Outdoor Lighting installed on the property must meet the requirements outlined in Section 6.9. of the UDO;
6. Revise the Landscaping Plan to address the following: show on the landscape plan 100' planting intervals; provide an 0.8 buffer around Tax Parcel 18000003 as the property is developed; add one (1) canopy tree to the 210.15' interval of the street buffer, as only one (1) canopy tree is shown within that interval within the 20' street buffer area; and provide the property dimensions on the Landscape Plan;
7. The applicant must comply with all Federal, State and Local requirements related to this use; and
8. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another Special Use Permit and receiving their approval can the use be again permitted.

The motion was seconded by Mr. Cruse and unanimously carried.

VII. STAFF REPORT.

There were none.

VIII. ADJOURNMENT.

With no further business, Mr. Rivenbark made a motion to adjourn. The motion was seconded by the Chairman and unanimously carried.