



BOARD OF ADJUSTMENT

September 8, 2011

6:00 P.M.

Mr. Nail called the meeting to order at 6:09 P.M.

Mr. Nail delivered the invocation.

1. Consideration of a **VARIANCE** request from Steve Leavitt, Leavitt Properties, Inc. for the property located at 174 Gasoline Alley. The property is further referenced by Iredell County Tax Map PIN 4647-52-8978.000. The request is to allow relief of 10 inches of the 30 foot front setback requirement.

Mr. Nail called for anyone who wished to speak in the matter to come forward to take an oath. Mr. Nail stated that in order to speak you must be sworn in.

Mr. Nail gave an oath to those who may wish to speak. The names were inaudible.

Mr. Nail stated that not everyone on the Planning Board serves on the Board of Adjustment. The members serving tonight are Mr. Nail, Steve McGlothlin, Lisa Qualls, John Robertson, and Danny Martin.

Craig Culberson, Senior Planner with the Town of Mooresville gave a presentation in reference to the requested variance. A copy of this presentation is on file with the Town of Mooresville Planning Department. The variance request before the Board tonight is for a property located at 174 Gasoline Alley. The property is zoned General Industrial. The existing use is a one story brick and metal building. The building was constructed in 1999. The current owner purchased the property in 2007 at which time a survey was completed that did not show an encroachment. The survey before the Board was the January 2007 survey. The front setback in General Industrial is thirty feet. If you look closely at this survey it says "thirty feet plus or minus to building". It's a sealed survey but by being a sealed survey it should not say "plus or minus" it should have an exact number. A subsequent survey was completed on the property in August of 2011. You can see there that that survey indicated that the front of the building actually sat 29.2 feet from the edge of the right of way as opposed to 30. The request before you tonight is to grant a ten inch variance to a thirty foot front setback. Mr. Culberson stated that the burden of proof is that in granting of any variance there are four findings that the Board must meet in order to grant that variance. The burden of proof is on the applicant to prove that there is a hardship to a particular piece of property based on the findings. In this particular case, the building was built based on the initial survey that did not indicate

an encroachment and as stated earlier, the August 2011 survey shows basically a ten inch encroachment. That is the request that's before the Board tonight.

Mr. Nail stated that he hated to "open a can of worms" but he would like to know why the new survey was done.

Mr. Culberson said that the property is being sold.

Mr. Nail asked if there were any more questions for Mr. Culberson.

Mr. Nail asked if anyone would like to speak.

No one came forward.

Mr. Nail asked if the Board was ready for the findings of fact.

Mr. Nail asked if there were impractical difficulties or unnecessary hardships in the application of the ordinance requirements.

The Board members answered collectively in the affirmative.

Mr. Nail asked if any impractical difficulties or unnecessary hardships are not the result of the actions of the applicant.

The Board members answered collectively in the affirmative.

Mr. Nail asked if the reasons set forth in the application justify the granting of the variance and that the variance is the minimum action that will make possible the reasonable use of land or structures.

The Board members answered collectively in the affirmative.

Mr. Nail asked if the variance was in harmony of the general purpose and intent of this ordinance and preserves its spirit.

The Board members answered collectively in the affirmative.

Mr. Nail asked if in the granting of the variance the public safety and welfare have been assured and substantial justice had been done.

The Board members answered collectively in the affirmative.

Mr. Nail stated that all the findings of fact had been answered in the favor of yes.

Mr. Nail asked for a motion.

ACTION: A motion by Mr. Martin, seconded by Mr. McGlothlin to grant a VARIANCE request from Steve Leavitt, Leavitt Properties, Inc. for the property located at 174 Gasoline Alley. The property is further referenced by Iredell County Tax Map PIN 4647-52-8978.000. The motion carried with no discussion.

2. Other business the Board may discuss.

Mr. Nail asked if there was any other business for the Board of Adjustment.

There was no new business.

Mr. Nail asked for a motion to close.

ACTION: A motion made by Mr. Robertson, seconded by Mr. Martin to adjourn the Board of Adjustment meeting. The motion carried.