

REGULAR MEETING
TOWN OF WAYNESVILLE
BOARD OF ADJUSTMENT
MARCH 1, 2011
TUESDAY - 5:30 P. M.
TOWN HALL

The Board of Adjustment held its regular meeting Tuesday, March 1, 2011. Members present were John Richardson, Mack Noland, Ken Stahl, Neal Ensley, and Boyd Medford. Also present at the meeting were Land Use Administrator Byron Hickox and Administrative Assistant Eddie Ward. Vice Chairperson Mack Noland called the meeting to order at 5:30 p.m.

Approval of Minutes of April 6, 2010

John Richardson moved, seconded by Neal Ensley to approve the minutes of April 6, 2010 as presented. The motion carried unanimously.

Variance Request - Premier Chemicals LLC

Vice Chairperson Mack Noland asked that the Board of Adjustment be brought up to date because they did not receive a copy of the survey for the proposed expansion of Premier Chemicals LLC (Giles Chemicals) on Smathers St. He asked Mr. Matt Haynes, Director of Manufacturing at Giles Chemicals, to give a brief introduction of the reasoning behind the project.

Mr. Haynes said this was an expansion of Giles' repacking facility that currently exists on Smathers St. This is a stand-alone warehouse which houses the company's principal product, Epsom salt, for distribution. The warehouse will also handle retail packaged salt, which is in pallets with 35 lb. bags. Giles is the largest Epsom salt producer in the U.S. producing 50% of the U.S. market. The purpose of this project is to aid Giles in consolidating partial truck loads into full truck loads going in and out of town.

Mr. Patrick Bradshaw, civil engineer with Civil Design Concepts, was asked to give a general overview of the expansion. He referred to the site plan showing Smathers St, the Town of Waynesville's substation, Giles primary facility and the surrounding property. Patrick said there were several concerns with the truck accessibility as far as getting them out of the street. He said with the proposed building the trucks would not be backing out into the street. The existing docks would only be used for inbound raw material, all of which comes from 200 yds. down the street. Therefore, the traffic would be effectively cut in half where these docks are concerned. The structure itself is a primary steel structure and the building is around nine thousand square feet. Mr. Bradshaw stated the specific components of the request were as follows:

- 1) Increase the maximum allowed front and street yard requirements Sec 154.104 (B)(3)
- 2) Permit a vehicular use area in front of the proposed building on the property Sec 154.104(B)(5)(a) identified as PIN 8615-18-5054

The minimum set back front yard is eleven feet. The maximum set back front yard is twenty-five feet. Giles Chemical is asking for the maximum to be increased from twenty-five feet to thirty-eight feet. Progress Energy has an easement of seventy feet for an overhead transmission power line, running parallel with Smathers St. The only viable vehicular area is in front of the building because of this easement and the position of the building.

When asked about hiring new employees because of the addition, Mr. Haynes said he expected to add seven or eight jobs.

Mr. Byron Hickox, Land Use Administrator, presented the finding of facts to the Board.

Findings of Fact for the Granting of Variances (Section 154.084(F)(2)(a))

- a. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter.

Finding: The Progress Energy right-of-way along Smathers Street prevents any development on the property that meets the maximum setback of 25 feet.

- b. That if the applicant complies with the provisions of the chapter, the property owner seeking the variance can secure no reasonable return form, or make no reasonable use of his property.

Finding: The Progress Energy right-of-way along Smathers Street prevents any development on the property that meets the maximum setback of 25 feet.

- c. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district.

Finding: The special conditions associated with this lot are peculiar and are applicable to few, if any, other lots in the same land development district.

- d. That the special conditions and circumstances do not result from the actions of the applicant.

Finding: The special conditions and circumstances do not result from the actions of the applicant.

- e. That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.

Finding: While a variance would allow the proposed structure to be built further than the maximum front setback for the district, other buildings in the immediate vicinity do not meet the 25' maximum setback either.

f. That the variance is the minimum necessary to afford relief.

Finding: The variance is the minimum necessary to afford relief.

g. That the public safety and welfare have been assured and substantial justice has been done.

Finding: The public safety and welfare would be assured and substantial justice would be done by the granting of the variance.

Vice Chairman, Mack Noland, asked if anyone would like to speak in favor or against the variances. No one spoke in favor of the variances and several spoke against. The following persons spoke against the project and their comments are summarized below:

Earl Bradley - 357 Smathers St

- Asked Mr. Bradshaw to show the diagrams again and explain to the audience the proposed project
- Distributed copies of pictures to the Board showing blocked traffic at 3:15 p.m. due to a truck from Giles chemical backing into facility
- Recapped several incidents concerning the trucks interfering with his business (Earl's Automotive) on Smathers St.
- Urged Board of Adjustment to deny request because of increasing traffic and public safety

Sandra Fulp - 30 Highland Rd.

- Owns property on Smathers St
- Has a visually impaired five-year-old granddaughter living there
- She is very concerned about fire and rescue being able to access her property where the child lives while the streets are blocked from the traffic of the trucks
- States the problem has been on going for years and will only increase if the project is allowed to proceed

Sally Bradley - 357 Smathers St.

- Wife of Earl Bradley and Vice President of Earl's Automotive on Smathers St
- She asked about the parking for the additional employees that will be hired on the completion of this project.

- Gave the Board a video she had made that day (3/1/11) showing the traffic and time involved driving down Smathers St while trucks are backing into Giles.

Lisa Jenkins - 371 Smathers St.

- Trucks going to and from Giles have blocked her driveway for years.
She is concerned about safety with school busses that are being stopped for long periods of time because of Giles' trucks.
- When asked if she had contacted police about the trucks in her driveway,
Ms. Jenkins stated she had been to the police and was told it was Giles' problem.
- She also had concerns about her seventeen-year-old daughter having access to fire and rescue because of her pregnancy.

James Haney - 371 Smathers St.

- Mr. Haney stated he has Do Not Block Driveway signs and has still been blocked numerous times from his driveway.
- At one point some of his property had damage because of trucks from Giles backing over his flowers
- He has complained to Giles several times and has been told nothing can be done about the drivers.

Chris Hartley - 423 Smathers St

- Mr. Hartley of Pitts Towing located on Smathers St. stated he had issues with Giles' trucks blocking his parking lot, street, and driveways.
- Customers at times could not get into or out of the parking lot.
- Mr. Hartley said he had driven large trucks and he did not believe a big truck could turn into this proposed building unless it is a very experienced driver.

Mr. Noland asked if anyone had more testimony or rebuttals pertaining to the variance.

Mr. Haynes spoke again telling the residents of Smathers St. that any complaints they had in the future are brought to him directly and Giles would act within its authority to correct the situation.

Members of the Board of Adjustment had several questions concerning the angle at which the truck drivers would have to back into the building. It was discussed that if there were some recession in the wall of the building it would be easier for a truck to back into the building.

Ken Stahl moved, seconded by Boyd Medford, to deny the request for the variance due to public safety and welfare.

The motion to deny the variance received three votes and failed for lack of four fifths majority.

Mr. Hickox reminded the Board there were actually two variance requests that needed to be voted on separately.

A motion was made by John Richardson and seconded by Neal Ensley to continue both variance requests until Tuesday, March 15, 2011 at 5:30 p.m. with the same Board members present and include testimonies from Public Works Director Fred Baker, and a Waynesville Police Officer concerning the safety issues on Smathers St. The meeting was not adjourned due to continuance.

Continuance of March 1, 2011 Board of Adjustment Meeting

Members present were Vice Chairperson Mack Noland, Ken Stahl, Boyd Medford, John Richardson, Neal Ensley, Land Use Administrator Byron Hickox, Public Works Director Fred Baker, Waynesville Police Officer Lt. Brian Beck, and Administrative Assistant Eddie Ward.

The meeting was called back into order at 5:30 p.m. on March 15, 2011 by Vice Chairperson Mack Noland. He gave a brief summary of the requests by Giles Chemical and then asked if anyone had any new testimony concerning the requests.

Byron Hickox introduced Mr. Fred Baker, Town of Waynesville Director of Public Works, 246 Monte Vista Drive, Waynesville, to give testimony and answer any questions about the variances requested. Mr. Baker stated he did not feel this was an ideal situation, but Giles did need an access for large trucks for their facility. He said if the variance was denied it would force the truck drivers to back into the street and be more problems with traffic. The variance for Giles would allow them to get a truck into the facility without backing into the street.

Mr. Noland asked about the safety issues with fire trucks and ambulances getting through the traffic on Smathers St. Fred stated that he knew large trucks would sometimes be crossing double yellow lanes while they are turning, and this meant traffic would be stopped for a period of time. He feels that if a driver did see an emergency vehicle, the driver would make efforts to let them through.

Neal Ensley asked if it was reasonable to restrict the trucks to a right-hand turn only. Mr. Baker said he could certainly accommodate this condition if the Board approved signage that

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instructed the drivers in which direction to enter and exit the facility. He does not feel the traffic hold up would be significant.

Lt. Brian Beck, Town of Waynesville Police Office, 617 N Canton Rd., was called upon to testify and answer questions. Mr. Noland asked Mr. Beck how frequently police were called to Smathers St to investigate trucks blocking driveways and streets. Mr. Beck stated the police had numerous calls about the trucks. He said sometimes the drivers would be belligerent and he definitely would like to see the trucks removed from that street. Most of the trucks blocking Smathers St did not belong to Giles, but were independent truckers. No tickets or citations have been issued. There was discussion about ordinances pertaining to parking and posting no parking signs. Lt. Beck said if there were signs for no parking, citations could be issued.

Looking at the site plans, Lt Beck pointed out the dimensions of a standard truck and trailer, and he felt not enough space had been allowed for the trucks to clear the entrance. When asked about emergency vehicles being hindered on that street, Lt Beck said police cars had been slowed there when going to a call in that area.

Patrick Bradshaw then presented some provisions that had been made to the original plans. Giles had done some field tests to access the area given to the trucks for backing. After that test, Giles decided to recess the depth 22 feet to accommodate the trucks.

He said drivers will be instructed, by signage, to use a staging area. In order to get the trucks in and out as soon as possible, a second staging area could be utilized behind the existing facility.

Mr. Matt Haynes stated that year to date Giles has averaged 3.78 loads per day of bulk material into the existing docks and 5.75 loads per day of outbound finished materials, totaling 9.75 loads per day. With the new project Giles will dedicate the two existing docks to inbound bulk. This should eliminate at least 60% of the trucks sitting in the street. He also has spoken with the residents neighboring Giles Chemicals since last meeting and he feels this is the best plan for the public domain.

A 20 minute video made by Ms. Earl Bradley on the March 1, 2011 was shown to the Board by Mr. Earl Bradley.

On the first variance concerning maximum set backs, code section 154.104 (B) (3), John Richardson made a motion, seconded by Neal Ensley, to extend the maximum set back from 25 feet to 38 feet from Smathers Street. The motion carried unanimously.

The second variance concerning permitting a vehicular use area in front of the proposed Board of Adjustment Minutes

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building, code section 154.104 (B) (5) (a), John Richardson made a motion, seconded by Neal Ensley, to allow with a further requirement of signage, along with phone numbers for contact supervisors, to be placed at the finished proposed facility directing trucks to the staging area.

The motion carried unanimously.

John Richardson made another motion, seconded by Neal Ensley, to recommend to the Board of Aldermen, that no parking signs be located on both sides of Smathers St from the intersection at the bridge to Sulphur Springs Baptist Church.

The motion carried unanimously.

With no further business a motion was made by Mack Noland, seconded by John Richardson to adjourn at 6:50 p.m.

Mack Noland Vice Chairperson

Eddie Ward Administrative Assistant

