



**CITY OF TRINITY  
PLANNING & ZONING BOARD MEETING  
Trinity City Hall Annex  
Tuesday, April 23, 2013, 7:00 p.m.**

**MINUTES**

**Planning & Zoning Board Members Present:** Chair Richard McNabb, Vice-Chair Lynn Kennedy, Gene Byerly, Harold Hobbs, Rick Ivey, Don Payne and Jeff Taylor.

**Planning & Zoning Board Members Present:** Jimmy Peace

**Other Present:** Mayor Carlton Boyles, Council Member Debbie Frazier, Council Member (Liaison) Linda Gantt, Council Member Ed Lohr, City Manager/Finance Director Debbie Hinson, Stormwater Administrator/Public Works Rich Baker, Planning Director Julie Maybee, Assistant City Clerk Annette deRuyter, and members of the public.

**1. Call to Order & Welcome**

Chair McNabb recognized the presence of a quorum and called the meeting to order at 7:00 p.m. He welcomed those in attendance.

**2. Pledge of Allegiance**

Chair McNabb led the Pledge of Allegiance.

**3. Invocation**

Chair McNabb gave the Invocation.

### **3A. Approve, and Amend Agenda**

Chair McNabb conveyed that Item #6 [Variance Request #Z04-2013] needed to be moved to the bottom of the Agenda. It will become item #9; and it will be handled as a separate meeting of the Board of Adjustment. The other item will be decided by the City Council.

**Board Member Don Payne moved to amend the agenda. The motion was seconded by Board Member Harold Hobbs and unanimously approved by all members in attendance.**

### **Organizational Items:**

No organization items were considered by the Board.

### **Action Items:**

#### **4. Approval of Minutes – March 11, 2013**

**Vice-Chair Lynn Kennedy moved to approve the Board’s March 11, 2013 minutes. The motion was seconded by Board Member Hobbs and unanimously approved by all members in attendance.**

#### **5. Rezoning Request – Z03-2013 – 5793 Cedar Post Road**

##### **a) Staff Presentation**

Planning Director Julie Maybee introduced herself to the Board. She presented the staff report, and requested that it be incorporated into the record.

Planning Director Maybee acknowledged the fact that a great deal of work/citizen input went into developing the City’s Land Development Plan.

She then presented the future land map, and identified the location of the [subject] lot/subdivision at the end of Cedar Post Road. Rezoning the lot to R-40 Residential will be consistent with the plan.

Planning Director Maybee presented an aerial map of the lot and identified the residential development along the road. She conveyed that subdivision is residential; and it consists of manufactured, “stick built”, and modular homes.

Planning Director Maybee conveyed that in evaluating a rezoning request all uses allowed in proposed zoning district should be taken into consideration.

Planning Director Maybee presented a copy of the property survey. She stated the three individual lots are depicted. They are still subject to the subdivision regulations, and approval by the North Carolina Department of Transportation (NCDOT). Cedar Post Road is a NCDOT road.

**b) Applicant Presentation**

**Mr. James Roberts, 5784 Cedar Post Road**, addressed the Board and conveyed that he bought the property in 2006. He had a house on it and it burned down. He did not have insurance. He was trying to get some of his money back to rebuild.

**c) Public Comment**

Chair McNabb asked if anyone would like to speak for or against the request to give their name and address. They would have three minutes to speak.

**i. For the request**

None.

**ii. Against the request**

None.

**iii. Other public comments**

None. Chair McNabb then closed the public comment period.

**d) Applicant Rebuttal**

None.

**e) Staff recommendation**

Planning Director Maybee conveyed that based on the information provided and comments received, staff recommends approval of the rezoning request. It is consistent with the future land use plan. There are residential uses on the road. She further recommended that the Board include in their motion, whether recommending approval or denial, a statement as to whether the rezoning is consistent with the City's Future Land Use Plan.

**f) Board discussion**

There was no further Board discussion.

**g) Board Recommendation:**

**Board Member Payne moved to approve [recommend] the rezoning request for 5793 Cedar Post Road. The motion was seconded by Board Member Hobbs and approved all members present.**

**6. Closing Comments from Board as Planning & Zoning Board:**

Chair McNabb asked if there were any comments from the Planning and Zoning Board. There were none.

**7. Closing Comments from Staff:**

McNabb asked if there were any comments from staff. There were none.

**8. Adjournment of Planning & Zoning Board**

There were no further items for the Planning & Zoning Board consideration.

**Chair McNabb noted the presence of a quorum [Planning and Zoning Board members serve as members of the Board of Adjustment]; and then called the City of Trinity's Board of Adjustment meeting to order at 7:20 p.m.**

**9. Variance Request – Z04-2013 6058 Lois Lane, Trinity**

City Manager/Finance Director Debbie Hinson asked those that would like to speak to come and be sworn in, as this is a quasi-judicial public hearing. (A record of those being sworn in is on file with the City Clerk.)

**a) Staff Presentation**

Planning Director Julie Maybee presented the staff report, and requested that it be incorporated into the record.

Planning Director Maybee conveyed a variance request was received from DFKK, LLC Jowat. They are requesting a variance from the City's front yard dimensional requirement. The property is located at 6058 Lois Lane, Trinity and zoned Heavy Manufacturing. Jowat currently employs 850 people worldwide and 113 locally. They manufacture industrial adhesives.

Planning Director Maybee stated based on the County's tax records, they own property on the northeast corner of Lois Lane and Uwharrie Road in Trinity. In is zoned Heavy Industrial, and it is not located in any zoning overlay district.

She further conveyed the company requests a variance to accommodate a proposed production expansion that will create roughly 28 new jobs. A portion of the existing building will be removed; and a new addition will be

constructed. According to information provided by the applicant, the expansion is critical to the material flow of the plant.

Planning Director Maybee presented photographs of the building and site. She conveyed they are trying to move the building addition closer to Lois Lane, almost to the fence, in order to access bulk material in the silos. It is will be more than a 100' from Uwharrie Road. The entrance location and driveway will not change.

Planning Director Maybee then presented the site plan, aerial photographs, and zoning map of the area/property. She identified the location of the existing building and proposed addition. She conveyed the topography of the lot was very steep in back; and it will be difficult to add the addition in another location due to site constraint and individual lot boundaries. The site is tight. It will be a definite hardship if the company is unable to add on at this location. She referred to the minimum setback in the staff report; and referred to the applicant's application.

Planning Director Maybee stated the building was built before [City] ordinance provisions were in place; and the location of the existing building is grandfathered. The addition is, however, subject to the ordinance.

Planning Director Maybee stated that a variance is unique. The Board of Adjustment must make findings of fact to approve or deny a request. Findings are based on testimony presented at the meeting. Similar to a Court of Law, Board Members consider testimony. The testimony is the basis for making the findings of fact, and the decision to approve, deny or modify the request. The Board can also place conditions on the request if approved. Their [Board] decision is final. It can be appealed to Superior Court by Writ of Certiorari.

They [Board] must find that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;
- (b) Granting the variance requested will not conveyed upon the applicant any special privileges that are denied to other residents in the district in which the property is located;
- (c) A literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other residents in which the property is located. Planning Director Maybee conveyed that the property is located in a manufacturing zoning district; and this is manufacturing use allowed in the zoning district.
- (d) The requested variance will be in harmony with purpose and intent of this or to the general welfare;
- (e) The special circumstances are not the result of the applicant;

- (f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure;
- (g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

Planning Director Maybee stated the Board can place conditions or safe guards on their approval to ensure compliance with the zoning ordinance. This will be a one story addition that will consist of approximately 9600 square feet.

Planning Director Maybee stated if the Board had any questions, she would be happy to answer them.

Chair McNabb stated he had one question. He asked if it would back about 25' from the street. Planning Director Maybee responded it would come up to the edge of the road right-of-way. She presented photograph of the site, and indicated a portion of the building would be removed. The addition would come up to the edge of the fence or the property boundary. She stated the existing building already projects within the setback area. They need an additional 40'.

Chair McNabb asked how much room is between the proposed addition and street. Planning Director Maybee responded it comes all the way out to the inner curb, approx. 18'.

Storm Water Administrator/Public Works Director Rich Baker addressed the Board and presented additional photographs of the site. He stated he had went out to the site and measured off. The building addition will be about 18' from the asphalt and the proposed building. There will be the same amount of grassed area. They will be losing only parking.

He added Jowat has not indicated to staff that they will be adding on the other side of the road. They are staying on the same side of the road.

Members in the audience asked why they received a letter [Notice of Public Hearing]. Storm Water Administrator/Public Works Director Baker responded that it was because their property or a corner of their property was within 600 feet of the proposed variance. The ordinance requires property owners/neighbors, be notified if within the 600' radius. The letter informs owners what's going on and gives an opportunity to ask questions [about the request].

Planning Director Maybee conveyed if anyone would like to make a comment, they would need to be sworn in to be included in the record.

City Manager/Finance Director Debbie Hinson stated they needed to get sworn in before speaking since this is a quasi-judicial hearing.

City Attorney Mr. Wilhoit reiterated that everyone that wants to present testimony needs to be sworn in at one time.

City Manager/Finance Director Hinson swore in those wishing to give testimony, and had them sign in. (Copy on file with the City Clerk office.)

**b) Applicant Presentation**

Chair McNabb asked the applicant to make their presentation.

**Michael Kuhn, representing Jowat Adhesives at 6058 Lois Lane,** addressed the Board and responded to questions.

Mr. Kuhn stated they proposed to build is on their side of Lois Lane, and not on the side of Elkart Rubber. With Evelyn Road on the other corner, they do not cross over Evelyn View Road either. They are bound by Uwharrie Road, Lois Lane, and Evelyn View Road.

Referring to the yellow highlighted plant expansion area on the AutoCAD drawing [in the power point presentation], he indicated they wanted to expand there because the building directly behind, which is part of the portion they want to take down, is where a majority of hot melt production area is [located].

Mr. Kuhn added they currently have three production lines there now making the same type of adhesives. The adhesives are used for automotive, paper packaging, woodworking, expanding. They want to put their new production lines in the same area so they can grow. With an automatic silo system, they can start using bulk raw materials. That gives them the opportunity to get raw material a lot cheaper. They want to grow and keep their business growing too. It keeps him and other people in the area in a job.

Mr. Kuhn reiterated that it is very critical for them to have this production located in this area because of the logistics of the plant. It would not make sense to build any more production lines, exactly the same as the three in the area, in a different part of the manufacturing environment.

Referring to the site plan [included the staff report], he conveyed that all the way on the right side of the building there is raw material storage; coming to the middle is mostly the office area; and on the left side is all of their production area.

If they have to build off their existing building, it would put what they have very far away from everything else. In everything they support, they have to

use hot oil for melting down adhesives and also chilled water. In turn, they have to install more boilers, set up and run more piping. If they use the existing infrastructure it helps them create more jobs by putting in more production equipment. The more they save utilizing the space they have the better it is for them and everyone else.

Mr. Kuhn conveyed to the Board he would be happy to answer any questions and referred to his proposed presentation materials [included in the staff report].

Chair McNabb conveyed he had one looking at the drawing. Referring to the site plan, he inquired if they were going to actually put part of the new over the old. Mr. Kuhn responded yes. They are going take some of the old down to utilize the space as much as possible. In looking at the pictures taken, there are some offices in the front area that were no longer used. They are going to take a portion of the build down and build it back for manufacturing area.

Chair McNabb commented the area will be a little wider too. Ms. Kuhn responded yes. The whole goal is to connect it to the existing building so they can have a better logistical flow. Can take material out of the far left building and bring it into the new building. In turn the building to the right is our packaging machine that they had put in two years ago. It is a 1.5 million dollar investment made so they could automate. It increased jobs and production. They can produce and package faster; and it takes the strain off employees by having to move things by hand. Keeps us growing the right way not across the entire property and be as efficient as possible.

Vice-Chair Kennedy asked where the silos would be positioned. Referring to the site plan, Mr. Kuhn responded they would like to put them inside the property. They would be located on the left of the of the building.

Vice -Chair Kennedy asked if it would be in front of the existing loading dock. Mr. Kuhn responded yes.

Vice-Chair Kennedy asked what chemicals or raw materials would be housed in the silos. Mr. Kuhn responded that plastic bead, an eba polymer, anything that would be seen in a plastic bottle. They will bring it in by the truck load and blow it into the tank. No hazard to anything. They will vacuum convey it out of the silos directly to the machines. This will be done by a person sitting in a room operating a computer rather than having employees dumping bags into a machine.

Board Member Jeff Taylor asked if it was all contained and not escaping into the environment. Mr. Kuhn responded that it will be housed in the silo. It will vacuum conveyed out of the silo and taken directly to the plant.

Board Member Gene Byerly asked if it was basically pelletized material. Mr. Kuhn responded yes. It is an underwater pelletized process.

Vice-Chair Kennedy confirmed if it was water process. Mr. Kuhn responded yes. They use chilled water, chillers for water, for production.

Board Member Byerly asked if they used a blowing agent or catalyst. Mr. Kuhn responded no.

Vice-Chair Kennedy inquired if the site plan had been approved by the local fire department, or if their hazardous material department was contacted since the facility is close to the road and residences. Mr. Kuhn responded not yet.

Chair McNabb asked if there were any real hazardous to it, or if anything marked hazardous. Mr. Kuhn responded no.

Attorney Wilhoit stated that if anyone wants to speak they need to be sworn prior to speaking.

**c) Public Comment**

For the request:

**Bill Millikan, 1406 Overland Drive, High Point:**

Mr. Millikan addressed the Board and stated he is representing his wife Cynthia. She is trustee of a hundred acre tract directly across Uwharrie Road from Jowat. They have no problem with the expansion. He attended the meeting to try understand what they were doing; and he sees nothing but positive for the town of Trinity.

**• Against the request**

**Floyd Jolly, 6023 Kelo Road, Trinity:**

Mr. Jolly addressed the Board. He conveyed he did not have problem with the request given the information presented. His only concern would be environmental since it is close to his house. They (Jowat) have been good neighbors; and kept the grounds neat and presentable. He just didn't want to see something happen like Elkart Rubber with the run off. The fire department has been down there several times and sent them letters.

He added that according to the definition of a variance it is a legal method of municipalities to control the use of real property. Will the variance extend out his property too; and will his property become industrial.

He was in the carpet business and used adhesives. He didn't know if there were environmental concerns that we don't know about.

They are a top notch company but things need to be looked into.

• **Other public comments**

None. Chair McNabb then closed the public comment period.

**d) Applicant Rebuttal**

None.

**e) Staff recommendation**

Planning Director Maybee conveyed that staff recommendations will be based on testimony presented at the hearing and the findings of fact, listed below.

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district since:
  - Site built prior to the City's adoption of a zoning ordinance. The building is exactly where it is at;
  - The addition will come out towards the road right-of-way; and it will be buffered from adjacent properties by the road.
  - The addition is for the expansion of the existing manufacturing lines. It makes sense to add in this location because of the topography of the site. There is not another location to meet setbacks.
- (b) Granting the variance requested will not conveyed upon the applicant any special privileges that are denied to other residents in the district in which the property is located since:
  - Anyone can come before the Board of Adjustment and ask for a variance in this district. They will still need to be able to make the findings of fact. No special privileges are conferred.
- (c) A literal interpretation of the provisions of this ordinance would deprive the applicants of rights commonly enjoyed by other residents in which the property is located since:
  - There are site constraints in locating this addition in this area [site]; it is the only viable location for the plant to operate in the area and to expand production.
- (d) The requested variance will be in harmony with purpose and intent of this or to the general welfare based on the following findings:

- Testimony presented by adjacent property owners that they were not opposed to the expansion. Also, they comply with State and local laws; and
  - There are other manufacturing uses in the area.
- (e) The special circumstances are not the result of the applicant based on the following findings:
- The building was built prior to the City's adoption of the zoning ordinance and is grandfathered in its location. They are asking for a variance because the addition does not meet setbacks. It will be built on some existing impervious surface areas.
- (f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure since:
- To accommodate their production, this is the area they need. It will not be increase the use of the land since it going over an existing parking lot.
- (g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved since:
- Manufacturing is a permitted use in the zoning district.

Planning Director conveyed that if the Board was inclined to approve the request she recommended: (1) They provide a drawing, to scale, and it reviewed by the Technical Review Committee to make sure it is in compliance to obtain a zoning permit; (2) They [Jowat] comply with State and local laws; (3) The variance be for this addition in this location. If there is a substantial change it will need to come back before the Board, especially if it encroaches closer to Uwharrie Road affecting site distances. Site plan to be reviewed by NC DOT prior to zoning permit issuance; and (4) Recombination plat be prepared in accordance local ordinances.

Based on the above, Planning Director Maybee recommended approval.

**f) Board discussion**

There was no further Board discussion.

**g) Board Decision**

Board Member Payne moved to approve the variance request incorporating the findings of fact and conditions of approval provided by the Planning Director. The motion was seconded by Board Member Hobbs and unanimously approved by those in attendance, by a 6-0 vote.

**Closing Comments**

None.

**10. Comments from the Board of Adjustment**

None.

**11. Comments from Staff**

None.

**12. Adjournment**

Being no further business, Board Member Byerly moved to adjourn the Board of Adjustment Meeting at 8 p.m. The motion was seconded by Board Member Hobbs, and unanimously approved by all members in attendance.

Respectfully Submitted,

\_\_\_\_\_ moved to approve the minutes: (1) with corrections below or (2) without corrections. The motion was second by \_\_\_\_\_ and approved with \_\_\_ to \_\_\_ vote.

\_\_\_\_\_  
Chair Robert McNabb

\_\_\_\_\_  
Julie Maybee, Planning Director

\_\_\_\_\_  
Annette deRuyter, Assistant City Clerk