

Approved by the Board of Adjustment on October 22, 2009

***BUTNER  
BOARD OF ADJUSTMENT  
MINUTES***

The Butner Board of Adjustment held its regular Board Meeting on August 27, 2009, at 7:00 p.m. in the South Granville Water & Sewer Authority Meeting Room, 209 West C Street, Butner, N. C.

***Members Present:*** Ernest Thompson, Chairman  
Herman Weaver, Vice Chairman  
William Crosby  
Marty Daniel  
John Glenn, Jr.  
James Russell  
Constance Wortham

***Alternates Present:*** Ronald Daniels  
Chandler Wynne

***Alternate Absent:*** Jane Frost

***Staff:*** Melissa Hodges, Town Planner

***Town Attorney:*** James Wrenn Jr.

**MEETING CALLED TO ORDER**

At 7:00 p.m., Chairman Ernest Thompson, called the meeting to order and recognized Board Member James Russell who gave the invocation and Chairman Thompson led everyone with the Pledge of Allegiance.

**BOARD APPROVES THE MEETING MINUTES OF JANUARY 29, 2009**

Board Member William Crosby motioned to approve the Board of Adjustment (BOA) minutes for January 29, 2009. It was seconded by Board Members Marty Daniel and Herman Weaver and was unanimously carried.

**BOARD APPROVES THE MEETING MINUTES OF MARCH 26, 2009**

Board Member James Russell motioned to approve the Board of Adjustment (BOA) minutes for March 26, 2009. It was seconded by Board Member Marty Daniel and was unanimously carried.

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**BOARD APPROVES THE AUGUST 27, 2009 BOARD OF ADJUSTMENT MEETING AGENDA**

With there being no adjustments to the August 27, 2009 Board of Adjustment meeting Agenda, Board Member Marty Daniel motioned to adopt the Agenda as presented, seconded by Board Member Bill Crosby and unanimously carried.

***PUBLIC HEARING***

**SUP-09-001 BOARD APPROVES SPECIAL USE PERMIT FOR BP'S AUTO SALES, 209 CENTRAL AVENUE**

Chairman Thompson explained that Don Oberg of BP's Auto Sales requests a Special Use Permit for an automotive sales lot in the Neighborhood Business District (NB). Mr. Oberg also intends to do minor automotive repair for the cars he sells as an accessory use. The subject property is located on the southwest corner of Central Avenue and C Street, 209 Central Avenue, currently a vacant Exxon Station. More specifically, the property is identified as Tax Map #087609174473.

At this point, Chairman Thompson called the public hearing to order and read the "Disclosure Statement".

Chairman Thompson asked those wishing to speak for or against the request to come forward and be sworn in. The following was sworn in:

1. Melissa Hodges, Town Planner, 600 Central Ave., Butner, NC 27509
2. Dale Hensley, Attorney for the applicant, 135 College Street, Oxford, NC 27565
3. Don Oberg, contract purchaser, 209 C Street, Butner, NC 27509

**Mr. Dale Hensley, Attorney for the applicant, stated that he would be presenting evidence, of the testimony for the applicant, Mr. Don Oberg.**

Chairman Thompson noted some pertinent information to the Board. He stated that after the close of the public hearing they shall approve, approve with conditions, or deny the application according to the standards in Section 3.2.4 (Section E.) Special Use Permit Standards. Approving, or conditionally approving, a Special Use Permit shall require an affirmative vote of at least four fifths of the members of the board who are eligible to vote.

At this time, Mr. Dale Hensley, attorney for the applicant, explained that to operate an automotive sales business in the Central Business District requires a Special Use Permit under the Land Development Ordinance (LDO). He stated that the applicant would like to relocate his existing automobile sales lot, one lot over.

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Mr. Hensley related that he would be presenting evidence in compliance with the standards for the application, of the testimony of Mr. Don Oberg, who is the proprietor of the business, BP's Auto Sales, Incorporated.

At this point, Mr. Hensley asked Mr. Oberg the questions of the Special Use Permit Standards, which are outlined below:

1. That the proposed use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

Mr. Oberg acknowledged that the proposed use is a small automobile sales lot. The business will initially have only four employees and will have on average not more than twelve customers per day, so the traffic impact will be negligible. Other than a potential impact on vehicle traffic on the corner, there are no activities associated with the proposed use that could be construed to be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

4. That the proposed use is in compliance with all standards in Section 7.3.

Mr. Oberg acknowledged that the proposed automobile sales business would be located not closer than 250 feet to any residential zoning district. As displayed on the attached drawings, the proposed property is designed so that the traffic impact will be negligible and appropriate with respect to stacking, circulation and turning movements. There is adequate parking for customers, inventory, and employees. Vehicle repairs will be limited to routine maintenance and minor repairs to the vehicles sold at BP's Auto Sales. All repairs will take place within an enclosed building and vehicles awaiting repair will be located behind or to the side of the building. There will not be a public address system outdoors. Garbage will be kept in enclosed storage containers on the site. There will be no junk cars stored on the lot. Inventory parking areas will be landscaped as other parking lots.

Mr. Oberg stated that there are two (2) mechanical bays in the structure. Vehicles awaiting repairs should not be stored more than one day, which will be parked to the side or the rear of the building.

3. That the proposed use is compatible with the character of surrounding property and uses permitted in the zoning district(s) of surrounding property.

Mr. Oberg acknowledged that the proposed property is located immediately adjacent to his current property. The current property is being used for auto sales. The business surrounding the proposed business site are: directly

across the street is a gas station, down the street are 2 to 3 mechanical shops, and around the corner is a mechanical shop. There are no other sales places, but there are plenty of automobile service buildings located nearby. So therefore, the proposed use will be compatible with the surrounding property.

4. That the proposed use is configured in a manner to minimize any adverse effects on surrounding lands.

Mr. Oberg acknowledged that the proposed is configured in a way that will not have any adverse effect on surrounding lands.

5. That the proposed use will not adversely impact traffic circulation on or in the vicinity of the site.

Mr. Oberg acknowledged that the proposed use would not adversely impact traffic circulation on or in the vicinity of the site. He further added that the proposed businesses would initially have only four employees, and will have on average not more than twelve customers per day. So the traffic impact will be negligible, particularly since the applicant will close the current automobile sales business located on the lot adjacent to the proposed lot.

6. That the proposed use will not be detrimental to the value of adjacent or nearby property.

Mr. Oberg acknowledged that the proposed use would not be detrimental to the value of adjacent or nearby property. It will in fact enhance the value because, at present, the lot is a vacant former gasoline station that has been limited in its usefulness by contamination caused by its prior use. He further added that the contamination (petroleum related leak) has been cleaned up and that the EPA has given authorization for the proposed type of business. The EPA related that the site is not suitable for other types of business, such as, day care and residential area (where people are living).

7. That the proposed use is in full compliance with all other relevant Town laws and ordinances, State and Federal laws, and regulations.

Mr. Oberg acknowledged that he is confident that all other relevant laws, rules and regulations are complied with in the use.

Upon being asked by Attorney Jim Wrenn, Attorney Hensley acknowledged that he would like for the Special Use Permit Application and attachments to be introduced into evidence.

Upon being asked by Chairman Thompson, Mr. Oberg stated that:

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- The proposed request is a relocation of his present business. The proposed site offers his business more room, to put more cars on display. He is leasing his current location, and the lease will end, if he is approved for the proposed location.
- Mr. Oberg related that the proposed site will allow 4 parking spaces for customers, 4 parking spaces for employees, and 12 spaces for display of automobiles.
- Mr. Oberg related that he has not planned to place a fence between the properties.

Board Member Constance Wortham asked Mr. Oberg if he foresees growing more than 12 customers per day? Mr. Oberg stated that "I don't see that, 12 customers coming in a day, that's a lot for a car lot". He continued to relate that if the economy made a turn, for the better, he would be limited to the site and if the site became congested, he would have to reopen the car lot at another location.

Mr. Oberg related that he does not live in Butner but that he is happy to have his business located in Butner.

Upon Chairman Thompson asking Mr. Oberg how he arrived at his figures of customers per day. Mr. Oberg stated that the car business is seasonal. During the springtime the business is busy. For the last few months, customers have ranged from 4 to 5 per day, and less than that to purchase a vehicle. Springtime can average up to 12 customers. He noted that people also come onto the lot to make payments. He further related that he would like to install a drive through payment window in the back of the lot.

Mr. Oberg explained that the proposed building is in bad condition and that it has been abandoned for a while. He stated that the building needs a roof and that the shell of the building is salvageable. The walls will stay the same, they are concrete, and it will require cosmetic repairs. Mr. Oberg further added that the building needs new mechanical, electrical, and plumbing, and that he has received estimates from numerous contractors.

Chairman Thompson asked if the service bays could be relocated in the back. He related that according to the site plan, the bays are located in the front, facing Central Avenue. Mr. Oberg stated that he would have to consider the traffic flow in order to do that.

Board Member Crosby asked if the hydraulic system, for lifting cars, would remain. Mr. Oberg related that they have to be inspected. One of them will be removed. There are 3 bays, the middle two have the hydraulic lifts. The one on the C Street side

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will be removed. If the other hydraulic lift is functional, and passes inspection, it will remain. He stated that they propose to add another hydraulic lift on the East Side.

Board Member Glenn asked Mr. Oberg if he would be leasing or buying the proposed property. Mr. Oberg stated that he would be purchasing the building for his business. He related that his next step would be to have an architect look at the proposed site.

Mr. Oberg added that the new site would give him 8 more parking spaces with additional space inside the building. He does plan on paving the front lot.

Board Member Wortham related that she is excited about the new proposed business at the site. She stated that the proposed site is an eye sore.

At this time, Ms. Hodges, Planner, related the following pertinent information:

Mr. Oberg's proposed site does meet the parking requirements, the width of the bays, the parking aisles. The area on the backside of the building has to be one way traffic in order to meet the requirements of a drive aisle. It's not wide enough for a two way drive. In his required parking, those spaces have to be left available for the minimum requirements of the ordinance for the employee and customer parking and display spaces required. He does plan to use the existing sign on the property, which is a non-conforming sign that does not meet the standards. Ms. Hodges stated that as long as he does a face replacement and repairs the maintenance and upgrading the electrical wiring, the sign could be used. In reference to the landscaping requirement of the parking lot, Mr. Oberg will need to plant two new trees on the lot to meet the *every parking space within 60 feet of a tree* requirement. The parking spaces meet the minimum size requirements of the LDO. The building will be improved beyond 50 % of its value. Ms. Hodges stated that Mr. Oberg would be moving a portion of the building/wall that encroaches into the setback. The proposed site is located at least 250 feet from any residential zoning district. Upon the Butner Public Safety review, they felt like the circulation met their safety standards to get a fire truck close enough, if the building was to catch on fire. Ms. Hodges further added that there would be no outdoors-public address system. A proposed enclosed dumpster which meets the standards of the Ordinance. Ms. Hodges noted that he can not park or store a vehicle as a source of parts. Ms. Hodges further added that parking areas for inventory must be landscaped to the same standard as any other parking lot.

Ms. Hodges related that it appears that the proposed auto sales lot meets all the requirements of the Butner LDO. She stated that if approved, a final set of site plans requiring greater detail than this concept plan would be required, to be approved by the Ordinance Administrator, insuring the site meets all requirements of the LDO prior to building permits being issued, and the start of construction.

Attorney Hensley asked the Board to approve the Special Use Permit, as presented, without additional conditions. He asked the Board not to add the back

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entrance for the service bays, as a condition, because of the cost feasibility. He added that Mr. Oberg's application does meet the requirements of the LDO.

Chairman Thompson asked Ms. Hodges if the one way parking in the back, would that allow a back entrance for the service bays. She stated that she did not think that would be a problem.

Upon no one else wishing to speak, Chairman Thompson closed the public hearing.

Mr. James C. Wrenn, Jr., Butner's Town Attorney, summarized the testimony of Ms. Hodges, Butner's Town Planner, the applicant, and Mr. Dale Hensley, Attorney for the applicant.

At this point, Chairman Thompson read the opening statement and reviewed the 7 Standards that the Land Development Ordinance (LDO) imposes for a special use permit request by the applicant. He further read the "Disclosure Statement".

Board Member Bill Crosby made a motion to grant the Special Use Permit. Board Member James Russell seconded the motion and it was unanimously carried.

**BOARD DISCUSSION ON PERMIT ISSUED TO CAROLINA SUNROCK BY GRANVILLE COUNTY**

Ms. Melissa Hodges, Planner, related that at the February 26, 2009, regular BOA meeting, Board Member Marty Daniel had expressed concern about receiving information from a citizen, that Carolina Sunrock was not adhering to requirements by a permit issued by Granville County.

Ms. Hodges stated that she looked into the requirements of Granville County and noted that Carolina Sunrock is meeting their requirements. Ms. Hodges explained the requirements as followed: The blasting time, the monitoring equipment, 6 foot fence. The 6 foot fencing is not required at certain areas where the depth is not considered a hazard or they have a berm (berms seen on the property are an estimated 10 to 20 feet in height). The setback for excavation shall be a minimum of 50 feet for all mining except for rock quarries where 200 feet are required for property and zoning lines which appears to be met. They are also required to provide a vegetated buffer, which is an undisturbed area a minimum of 25 feet deep, for sand and clay, a minimum of 50 feet deep for all other mining, which appears to be met. The road shall be paved or treated to conform to standards set forth in the Federal Clean Air Act. Ms. Hodges stated that she could not confirm this, that it is up to them, and they have stated that they are in conformance with that. An in use plan shall be submitted provided the following (they do have an in use plan that meets the requirements). A permit with DENR. She stated that she does not have the authority to determine if they are meeting the DENR permit. Ms. Hodges stated she was not aware of excavation toward I-85 near the opposing parties property. Ms.

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Hodges stated that it did look like trees had been harvested and she further explained that tree harvesting is allowed in any zoning district.

Board Member Herman Weaver stated that Linda and Jesse Wilkins, 1032 King Drive, Butner, had related that there was no buffer between their property and Carolina Sunrock property (no fence, berm or buffer).

Ms. Hodges stated that there is no excavation occurring near the Wilkins' property from what she could tell. She stated that if Sunrock is timber harvesting up against the Wilkins property, they do not have to provide a buffer, as long as they are meeting the best management practicing for silviculture. Ms. Hodges explained that they do have to provide a buffer for excavation activity.

The Board briefly discussed the safety issue of blasting at the quarry.

Board Member Weaver related concern for the Wilkins property. Noting that there is nothing blocking their property from the quarry. Mr. Weaver explained that the Wilkins had related that Granville County had stated that a buffer would be put at their property. (But, nothing was ever put there.)

Attorney James Wrenn noted that Carolina Sunrock was in compliance with Granville County's requirements.

The Board expressed concern regarding the Wilkins' property.

### **ADJOURNMENT**

Upon a motion of Board Member John Glenn, seconded by Board Member William Crosby and unanimously carried, the Board adjourned at 8:10 p.m.

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Brenda K. Daniel  
Secretary to the Board

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Ernest Thompson, Chairman  
Town of Butner Board of Adjustment