

**TOWN OF UNIONVILLE  
BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES**

The Board of Adjustment of the Town of Unionville held a meeting on Monday, March 18, 2024, at 7:00 PM at Unionville Volunteer Fire Department #22, 3229 Concord Highway, Monroe, NC. Gene Price, Jaren Simpson, Jeff Broadaway, Board Attorney Ken Swain, and Alternates Jerry Adams, Craig Rushing and Roddie Baucom were present. Absent were Chairman Andrew Benton and Chad Simpson.

Vice Chairman Broadaway welcomed everyone in attendance and called the meeting to order at 7:00 PM. He called Jerry Adams and Craig Rushing to join the Board to fill in for the two absent Board members.

Vice Chairman Broadaway said the Board would need to elect a Chair and Vice Chair for 2024. Andrew Benton is currently serving as Chair and Jeff Broadaway has been sitting as Vice Chair. Vice Chairman Broadaway had spoken with Chair Benton and he said he was fine to stay and continue to fill that role; however, if someone had a burning desire to fill that position it was not hurt his feelings. Jaren Simpson made a motion for both men to remain in their current positions. The motion was seconded by Gene Price and passed unanimously.

Vice Chairman Broadaway stated that the Board had received the minutes from the November 20, 2023, minutes via email. If anyone needs a hard copy, they should speak up now. Upon a motion duly made by Gene Price to accept the minutes as presented, with a second by Jaren Simpson, the Board unanimously approved the minutes of the November 20, 2023, Board of Adjustment meeting.

Vice Chairman Broadaway opened the floor for the consideration of a six-month extension of Special Use Permit #SUP-22-01 for a Quik Trip 24-hour convenience store with retail fuel sales. Since this is a quasi-judicial hearing, we will go through a couple of things. First is to determine if any Board members have a conflict of interest and are unable to hear this case. Chairman Broadaway then read the following:

No member of the Board shall participate or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker, or to otherwise attempt to influence a Board decision. Impermissible violations of due process include, but are not limited to:

- a member having a fixed opinion prior to hearing the matter that is not susceptible to change, or
- undisclosed ex parte communications (one sided conversation where the other party to this matter was not present), or
- a close familial, business, or other associational relationship with an affected person.

A Board member may also be excused from voting on a particular issue under the additional following circumstances:

- If the member has a direct financial interest in the outcome of the matter at issue; or
- If the matter at issue involves the member's own official conduct; or
- If the member otherwise cannot reasonably be expected to exercise sound and impartial judgment in the public interest.

If an objection is raised to a member's participation and that member does not recuse him or herself, the remaining members shall by majority vote rule on the objection, per G.S. 160D-109.

Vice Chairman Broadaway asked if any Board members needed to individually disclose any potential conflicts of interests. There being none, Vice Chairman Broadaway moved on.

At this time, he said to keep in mind that this is an evidentiary hearing and only facts would be allowed. He advised that opinions or rumors will be stopped immediately. Testimony would be administered under oath. Staff will begin by presenting their case. Each speaker would be sworn in, then give their name and address. The applicant will be invited to speak after the staff report. There are no time limits in effect for this hearing. Following speaking, board members may ask questions of the applicant and/or staff. Those speaking will need to swear in at this time. At this moment, Vice Chairman Broadaway swore in Land Use Administrator Sonya Gaddy.

Land Use Administrator Sonya Gaddy introduced this Special Use Permit #SUP-22-01 for renewal. This is a six-month renewal which is allowed by right in our ordinance. This is the third time the permit has come up for renewal. The original permit was approved on March 20, 2022. Since then, there have been two six-month permits renewed. Both parcels in question are zoned with B-2 zoning. This zoning allows, with a Special Use Permit, for a convenience store with retail fuel sales, which is what this petition is for. The petition for renewal is the exact plan of what the applicants brought previously. There are no changes. The adjoining properties, some in Monroe and some in Unionville, are still the same business zoning for the ones in Monroe, Business zoning for the one in Unionville, and RA-40 for the three properties along Baucom Deese Road.

There are conceptual ideas that have been suggested by the applicant to expand on a piece of property. That piece of property, if the Board will look at their map, Quik Trip has purchased an additional property, parcel 09174012, and it is in City of Monroe, not in Unionville. There have been some conceptual ideas thrown around, talked about in regards to expanding on that additional property. She said that the backup Land Use Administrator, Michael Harvey, and she had had a conversation with Thomas Donton, who is here for the meeting, and explained to him that the Town of Unionville cannot administer zoning on a property in the City of Monroe, nor can City of Monroe administer zoning on a property in the Town of Unionville. If the applicant does decide to expand on that property, they will be required to come back for a new Special Use Permit. It will also require de-annexing from one municipality and annexing into the other. She mentioned there was also another General Statute that she did not understand, but Attorney Ken Swain may be able to go into that a little bit. Right

now, they are not to that point. Right now, they are still applying for the exact same permit that has been approved and that is what they are requesting again tonight. She did ask about the timeframe since it had been two years since the first permit was granted. They did note they are still working on their NCDOT traffic study and they are still trying to resolve their sewer or septic situation. She said she was sure Thomas would address that a little better than she could. She asked for questions. There being none, Land Use Administrator Gaddy said that she recommends the approval of this current renewal request since it is the exact same as previous requests.

The applicant's representative, Thomas Donton, was then sworn in. He introduced himself and said he was with Quik Trip and had been hired as a real estate property manager a few months earlier. He shared that this was his first time going through the Special Use Permit process. He told the Board that it was exactly as Land Use Administrator Gaddy said, they were applying for a renewal of the exact same permit that had been applied for two years ago. Currently, they are still working on access, roadway plans, and completing the traffic study with the DOT. They are also working through sanitary sewer and storm sewer solutions, which has added time to the project that was not anticipated, justifying the need for the continued extension. The newly acquired property has potentially given some options, with septic concessions. These ideas are purely conceptual and are not finalized yet. He then asked the Board if there were any questions.

Vice Chairman Broadaway told Mr. Donton if they went through the de-annexation and annexation, since the bulk of the property is in Unionville, he would hope they would de-annex from Monroe. Mr. Donton said that there were no plans to de-annex from Unionville and go into Monroe. Vice Chairman Broadaway called for other questions. Vice Chairman Broadaway asked if Mr. Donton had an idea on when they may get the studies completed. Mr. Donton said that they would be about a month or two out from resolving comments by DOT. A little further out from that, they plan to begin breaking ground. He said that the store opening is planned for mid-2025, assuming no other hiccups. Craig Rushing asked if the conceptual project was connected to accessing the sewer. Mr. Donton said the property does not currently have access to sewer. The other properties across Highway 601 are working to develop access to sewer and they hope to gain access to a nearby gravity sewer when the project is complete.

There being no additional questions, Vice Chairman Broadaway called for a motion to close the hearing and allow discussion amongst the Board. Upon a motion by Jaren Simpson, seconded by Craig Rushing, the Board unanimously agreed to close the hearing and begin the Board discussion.

Attorney Ken Swain said that the Board will need to address three findings in their decision. The first finding to confirm that the current permit has not yet expired. This permit will expire in two days, so it is still active. Next, he told the Board they would need to find whether the recipient has proceeded with due diligence and good faith. Last, the Board will need to determine that there have been no substantial changes that warrant a new application. Attorney Swain told the Board that they would need to find those three findings in the form of a motion. Vice Chairman Broadaway called for the pleasure of the Board. Jaren Simpson made a motion to

extend the application. Attorney Swain advised that the motion needed to include the findings. Jaren Simpson amended his motion, stating that the permit is still active, the applicant has proceeded with due diligence and good faith, and there are no substantial changes to the application; therefore, Special Use Permit #SUP-22-01 should be extended. Jerry Adams seconded the motion, and it passed unanimously.

Attorney Ken Swain asked Land Use Administrator Gaddy to let the Board know on what date this extension would expire. Land Use Administrator Gaddy advised the Board that this extension would expire on September 20, 2024. Attorney Swain made sure it was recorded in the minutes. Vice Chairman Broadaway stated that item four is now concluded.

Next, Vice Chairman Broadaway said that item five on the agenda addressed Jerry Adam's seat; however, Jerry's seat will not expire until December 2024.

Vice Chairman Broadaway asked the Board if there was any other business. There being no new business, and upon a motion by Jaren Simpson, seconded by Gene Price, the meeting was adjourned at 7:17 PM.

Respectfully submitted,

Melody Braswell

Deputy Clerk

Approved as to form:

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Kenneth Swain, Town Attorney