

MINUTES ARE NOT VERBATIM

**BOARD OF ADJUSTMENT
MEETING MINUTES
July 12, 2017**

The regular meeting of the Okaloosa County Board of Adjustment was held Wednesday, July 12, 2017 at 1:30 p.m., in the Okaloosa County Administration Building, 1st Floor Commissioners Chambers, 1250 Eglin Parkway N., Shalimar, Florida.

Board Members in attendance were Scott Kearney, Pat Byrne, Fred Schor and Bob Ambrose. Chairman Payne Walker was not present.

Staff in attendance were Elliot Kampert, Growth Management Director; and Teresa Mullins, Administrative Assistant II. Assistant County Attorney Kerry Parsons was also present.

Due to a recording failure, the minutes reflect the notes taken during the meeting by the Recording Secretary.

A. CALL TO ORDER

Vice-Chairman Fred Schor called the meeting to order and read the opening statement into the record.

B. ROLL CALL

Ms. Teresa Mullins conducted roll call.

C. APPROVAL OF MINUTES FOR: June 14, 2017

Motion to approve the minutes as written made by Pat Byrne; Second by Bob Ambrose; approved unanimously.

D. ANNOUNCEMENTS

None

E. ADDITIONS, DELETIONS, OR CHANGES TO THE AGENDA

None

F. ACCEPTANCE OF THE AGENDA

Motion to accept the agenda as amended made by Scott Kearney; Second by Pat Byrne; approved unanimously.

G. OATH TAKING

Ms. Mullins swore in those who wished to address the Board.

H. DISCLOSURES

Mr. Bob Ambrose disclosed that he had visited the site and had taken pictures prior to this meeting. Mr. Ambrose shared his pictures with the Board

Assistant County Attorney Kerry Parsons asked Mr. Ambrose if his visit would prejudice his decision.

Mr. Ambrose stated that he could remain impartial without prejudice.

There were no further disclosures.

I. OLD BUSINESS

This item was continued time certain at the June 14, 2017 meeting.

1. **413239-BOA-2017**, a request for a Special Exception, as submitted by Scott D. Kolanek on behalf of Creek Gulf Investments, LLC, pursuant to Okaloosa County Code, Appendix E, as amended, Sections 2.01.05.4 and 11.02.09.2 to allow the operation of a “laydown yard” (equipment and materials storage) for a utility (communication) contracting company. The property is currently zoned **Agriculture District (AA)** and the future land use map designation is **Agriculture (AG)**. A general location of the property is 851 Broxson Road in the unincorporated area of the County generally referred to as Holt, Florida. The property contains 10.00 acres more or less.
District 3

Mr. Elliot Kampert informed the Board that the subject property has been purchased by a utility contracting company, Creek Gulf Investments, LLC, who wished to use the property to store equipment, such as trenching equipment, and materials, such as spools of cable and forms when they are not in use. Mr. Kampert informed the Board that such as use is allowed in the Agricultural zoning district, by Special Exception, as noted in the Okaloosa County Code of Ordinances, Appendix E; Land Development Code; Section 2.01.05 (4) which reads:

Temporary industrial uses such as pipe storage, portable asphalt plants, equipment/materials storage yard, and similar uses may be permitted provided that, in addition to any other conditions imposed, the use is for one (1) year or less.

Mr. Kampert noted that the Code limits the duration of temporary storage yards approved by Special Exception to one (1) year; therefore, if approved by this Board at this hearing, that approval would have to be renewed annually. Mr. Kampert informed the Board that the surrounding area is predominantly rural residential, consisting of lots of an acre or more, with the Holt Industrial Park to the west of the adjacent unrecorded subdivision. Mr. Kampert stated that, per the application submitted by Creek Gulf Investments, that the property will not be open to the public or to Creek Gulf customers, and the business will be run from their offices in Tallahassee, Florida. Mr. Kampert stated that the site plan submitted by the applicant showing that, as stated in the application, the stored equipment and materials will not be visible from the road. Mr. Kampert stated that the site plan submitted also indicates that there are two trailers on the site, a single wide that is to be removed, and a double wide, which will be used as employee temporary housing.

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Mr. Kampert informed that Board that site plan also states that there will not be fuel or other hazardous materials kept on the property and that the hours of operation will be limited to 8:00am to 6:00pm Monday through Friday. Mr. Kampert stated that the applicant is in the process of rehabilitating the doublewide trailer and has purchased all of the required permits to do so. Mr. Kampert reminded the Board that the Board of Adjustment is authorized to grant Special Exceptions pursuant to Okaloosa County Code of Ordinances; Appendix E; Section 11.2.09 (2) which states:

Special Exceptions: Conditions governing applications; procedures to hear and decide only Special Exceptions as the Board of Adjustment is specifically authorized to pass on under the terms of this Ordinance; to decide questions as are involved in determining when in harmony with the purpose and intent of this Ordinance. In granting any Special Exception, the Board shall find that the granting will not adversely affect the public interest. In granting any Special Exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the Special Exception is granted shall be deemed a violation of this Ordinance. The Board of Adjustment may prescribe a reasonable time limit within which the action required for the Special Exception shall be begun or completed or both.

Mr. Kampert informed that Board that, as of July 5, 2017, staff have received several complaints from a neighboring property owner regarding, among other things, heavy (tractor trailer) truck traffic on Broxson Road, excessive clearing of vegetation and concern that a business was being operated from the property. Mr. Kampert stated that, while staff have no objection to the granting of this Special Exception, there are several conditions that staff believe should be included should the Board decide to approve this request. Those conditions are as follows:

- The Special Exception must be renewed annually, no later than the anniversary date of the first approval. If the Special Exception is not renewed the use as a temporary materials and equipment storage yard must cease and all equipment and vehicles must be removed.
- The applicant may not utilize the property as an office for purpose of meeting customers or any business purpose other than the storage of materials and equipment.
- The portions of the site, as indicated on the site plan as being left in a naturally vegetated condition must remain in a natural condition, and any additional landscaping as may be required by the Board of Adjustment must also be maintained.
- There will be no hazardous material or fuel stored on site.
- The hours of operation will be limited to 8:00 am through 6:00pm Monday through Friday.

Mr. Kampert asked if the Board had any questions for staff.

Mr. Pat Byrne asked if Broxson Road was paved or clay.

Mr. Kampert stated that the road is clay.

Mr. Scott Kearney clarified that the road is paved partway then turns to clay and the subject property has two (2) driveways, one which opens on to the paved portion of the road and another which opens on to the clay portion of the road.

Mr. Byrne asked if the equipment and materials are visible to adjacent property owners.

Mr. Kampert stated that from the North it is possible to see into the cleared area; however, if the Special Exception is approved, the applicants will have to ensure that none of the equipment and materials are visible.

Mr. Bob Ambrose asked what the weight limit was on Broxson Road.

Mr. Kampert stated that staff does not have that information and he is not willing to speculate.

A brief discussion ensued.

The Board had no further questions for staff at that time.

Mr. Scott Kolanek addressed the Board stating that staff had done a great job presenting their case. Mr. Kolanek stated that he would make certain that all requirements are met, and that no equipment or materials will be visible to surrounding properties. Mr. Kolanek further stated that the area at the North where Mr. Kampert noted that the clearing could be seen was present when they purchased the property and it will remain open until they can get the single wide trailer removed from the site. Mr. Kolanek further stated that he and his staff made several attempts to contact the neighboring complainant, but they were unable to reach him. Mr. Kolanek stated that he is willing to answer any questions the Board may have.

Mr. Byrne asked Mr. Kolanek how close the cleared area was to its nearest adjacent neighbor.

Mr. Kolanek stated that the property consists of approximately ten (10) acres of which three (3) acres have been cleared and they have no intention of clearing any more. Mr. Kolanek further stated that there are at least three hundred (300) feet of dense growth between the cleared area and any adjacent neighbor.

Mr. Ambrose asked what types of equipment, etc. would be on the site.

Mr. Kolanek stated that they used one (1) ton trucks pulling trailers to move trenchers, small backhoes and the spools of cable and equipment of that sort. Mr. Kolanek further stated that the maximum load weighs twenty-six thousand (26,000) pounds and that load includes the weight of the truck as well as the equipment it's pulling.

Mr. Kearney stated that he is very familiar with that bridge and believes that there used to be a sign on it that rated the bridge for forty thousand (40,000) pounds so there is no reason to be concerned regarding the bridge.

A brief discussion ensued.

The Board had no further questions for Mr. Kolanek at that time.

Mr. Reuben Elliott of 933 Broxson Road addressed the Board in opposition to the granting of this Special Exception. Mr. Broxson provided pictures of Broxson Road to the Board.

Vice-Chairman Schor asked Mr. Elliott when the pictures were taken.

Mr. Elliott replied that he had taken the pictures a couple of days prior to this meeting. Mr. Elliott stated that the cable spools are huge and were brought to the site on a Semi-Flatbed truck which blocked Broxson Road to the point that he had to enter the ditch to get around the truck. Mr. Elliott further stated that the portion of the road that is paved, is paved with slag (cold-mix) and the underlying base is unknown. Mr. Elliott stated that the road erodes and is not equipped for heavy equipment to travel on. Mr. Elliott further stated that this site is near the Holt Industrial Park and asked why the laydown yard couldn't be placed there where the roads are built for heavy traffic. Mr. Elliott stated that the applicants have taken a property that was heavily wooded and cleared out the center with trucks entering and leaving at six (6) am. Mr. Elliott again stated that he believes the laydown yard should be located in the Holt Industrial Park where the roads are built to handle heavy traffic and heavy equipment. Mr. Elliott further stated that the property adjacent to the subject site was put on the market as soon as the subject property was purchased for this laydown yard.

Mr. Ambrose asked Mr. Elliott how many homes sites are adjacent to this subject site.

Mr. Elliott answered, stating that there are 4 plus his own.

The Board had no further questions for Mr. Elliott at that time.

Mr. Kolanek addressed the Board, stating that the Semi Flatbed that delivered the spools of cable was a contract driver and that situation only happened that one time and will not happen again. Mr. Kolanek further stated that the "cable" that looked so large and heavy is actually one and a quarter (1 ¼) inch PVC pipe and is not heavy enough to require them to use a semi. Mr. Kolanek stated that he and his company are willing to improve the site, willing to make sure the road and bridge remain safe, and are willing to do whatever the Board requires of them.

Mr. Elliott asked the Board if there is a limit on the number of persons who can stay in that trailer since it isn't intended to be residentially used.

Mr. Kampert stated that the County Code does not regulate the number of people residing in a home and there is nothing in the Code that says a company cannot house employees so long as business is not being conducted on site. Mr. Kampert

reminded the Board that the issue before them involves a temporary storage area for equipment and materials.

Mr. Kearney noted that he had the property listed for sale at one time, and, having visited the site again recently, noted that they have cleaned it up but have not cleared out more than what was already there. Mr. Kearney stated that the bridge will handle the weight load and that isn't a concern that he has. Mr. Kearney further stated that he spoke with staff at the County Road Department and learned that the Public Works Department is planning to pave Broxson Road in the new future and has no concerns about traffic on the road. Mr. Kearney stated that he also spoke with Okaloosa County Commissioner, Nathan Boyles, as this property is in his district and Mr. Boyles only question regarded why the applicant didn't utilize the Holt Industrial Park that is so close by. Mr. Kearney further stated that he has the same issue as the Commissioner as he doesn't understand why this company didn't choose to set up in the very close by Industrial Park.

A brief discussion ensued.

Mr. Kampert stated that if the Board approves this Special Exception they can even condition it beyond what staff has suggested, such as requiring that all on and off loading take place on the site and not on the road or accessing the site only from the driveway on the paved portion of the road.

Mr. Byrne suggested a condition that they obtain a driveway permit for a commercial grade apron access from the driveway to the street.

Mr. Ambrose suggested that a condition be added wherein Public Works inspects the road at the end of the year, and if repairs are needed then those repairs to the road or bridge would be the responsibility of the applicant.

Attorney Parsons stated that adding the road inspection by Public Works is an acceptable condition, this Board cannot require that a property owner repair a County road or fix a County bridge.

Mr. Ambrose noted that it would be a shame if the County repaves the road and then it is damaged by the traffic from this site. Mr. Ambrose stated that he did not believe that there should be a burden like that on the taxpayers in the County.

Mr. Schor asked for a recap of the suggested conditions.

Mr. Kampert read the proposed conditions into the record:

- The Special Exception must be renewed annually, no later than the anniversary date of the first approval. If the Special Exception is not renewed the use as a temporary materials and equipment storage yard must cease and all equipment and vehicles must be removed.
- The applicant may to utilize the property as an office for purpose of meeting customers or any business purpose other than the storage of materials and equipment.

- The portions of the site , as indicated on the site plan as being left in a naturally vegetated condition must remain in a natural condition, and any additional landscaping as may be required by the Board of Adjustment must also be maintained.
- There will be no hazardous material or fuel stored on site.
- The hours of operation will be limited to 8:00 am through 6:00pm Monday through Friday.
- All on and off loading take place on the site and not on the road
- May only allow commercial traffic to use the driveway on the paved portion of the road.
- Must obtain a driveway permit to install a commercial driveway apron using heavy duty asphalt to protect the edges of the roadway from ingress/egress from the site.
- Public Works must evaluate the state of the roadway prior to renewal of the temporary use permit.

Mr. Kolanek stated that he has no issue with any of those conditions and would comply with them all.

A brief discussion ensued.

Motion to approve subject to the conditions as stated by Mr. Kampert made by Pat Byrne; Second by Bob Ambrose; vote was 2 aye, 2 nay, Bob Ambrose and Scott Kearney.

Attorney Parsons noted that since there was an equally divided vote, the motion must restated, amended or withdrawn.

A brief discussion ensued.

Mr. Byrne withdrew his motion.

Motion to decline this request made by Scott Kearney; Second by Bob Ambrose; 3 ayes, 1 nay – Fred Schor.

A brief discussion ensued.

J. NEW BUSINESS

None

- 2. The next regular meeting** of the Board of Adjustment is scheduled to be held on August 9, 2017 at 1:30 p.m., **at the Okaloosa County Administrative Complex, 1250 Eglin Parkway N, first floor Commissioner’s Chambers, Shalimar, Florida.**

L. ADJOURNMENT

There being no further business before the Board, Vice-Chairman Fred Schor declared the meeting adjourned.

Prepared by *Teresa A. Mullins*
Teresa A. Mullins, Recording Secretary
7.17.2017