

MINUTES  
JEFFERSON COUNTY BOARD OF ZONING APPEALS  
AUGUST 18, 2005

The Jefferson County Zoning Board of Appeals met on Thursday, August 18, 2005 at 3:00 p.m., in the Jefferson County Meeting Room. Members present were Tiffany Hine, Thomas Trumble, Jeff Bresee, Douglas Rockwell and David Wiegand. Gregory Jones, Assistant Prosecuting Attorney, Paul Raco, Zoning Administrator and Rebecca Burns, Executive Secretary were also present.

The meeting was called to order by Ms. Hine at 3:00 p.m.

Ms. Burns swore in individuals who indicated they would be speaking.

1. Minutes. Mr. Trumble motioned to amend the July 21, 2005 minutes to reflect that Ms. Hine called the meeting to order not Mr. Trumble. Mr. Rockwell seconded the motion which carried with a vote of 4 for and 1 abstention (Mr. Wiegand abstained since he was not present at the July 21, 2005 meeting).

2. Request by Edward B. and Marilyn S. Kime for a variance from the front setback requirements from 75' to 60' for an existing house and retaining wall on Lot 14 of the Oakland Heights Subdivision (Article 5, Section 5.4b and Article 9, Section 9.5 & 9.7). Ms. Hine recused herself from this item on the agenda. Mr. Trumble chaired this portion of the meeting. Brad Riggleman and Edward Kime presented the request. Mr. Riggleman stated he and his wife are the contract purchasers of the property. Mr. Raco noted that this also requires approval of the Planning Commission since the setbacks are noted on the final plat and were approved by them as part of the subdivision process. There was no public comment. Ms. Hine returned to the meeting room.

3. Request by Ledge Lowe Estates Homeowner's Association for a variance from the front setback requirements from 25' to 5' to replace an existing subdivision sign (Article 10). Frank Alivieto presented the request noting the setback from Route 480 will be met but not from Shepherd Lane the internal subdivision road. There was no public comment.

4. Request by ME Church South/Shenandoah Memorial United Methodist Church for a variance from the front setback requirements from 25' to 5' to replace an existing church sign (Article 10). David Swan presented the request noting they want to erect a double sided sign that will be lit by a dimmer. There was no public comment.

5. Request by Mark Colonial Hills LLC to allow a temporary sales trailer on Lot S2 of the Colonial Hills Subdivision (Article 4, Section 4.18). Larry Rosenberg presented the request noting they intend to construction a model home and the sales trailer would be used for approximately eighteen months until they can occupy the model home. Mr. Rosenberg stated they will have 3 handicapped and 5 regular parking spaces on site and street parking for any overflow. Mr. Raco noted for the record that the structure would have to be located 25' from the edge of the right-of-way and all parking 15' from the edge of the right-of-way.

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6. Postponed from the July 21, 2005 meeting. Findings of Fact and Conclusions of Law for the appeal by Sherri Craig, Pat Rissler, Susan Rissler, Jane Rissler, Mary MacElwee and Richard Latterell of the Thorn Hill LESA point score for a central sewer system (#Z03-05). Appellants contend the points should be 11 and not 3 as determined by the Zoning Administrator (File #AP05-01). Ms. Hine excused herself from the meeting room. Mr. Trumble chaired this portion of the meeting.

Mr. Wiegand, Mr. Rockwell and Mr. Bresee noted changes to the document (copy attached). Mr. Rockwell motioned to accept the Findings of Fact and Conclusions of Law with the noted changes and the then presiding chair, Mr. Bresee, to sign the same once corrected. Mr. Wiegand seconded the motion. The vote was 2 for, 1 abstention (Mr. Trumble because he was not present at the meeting) and 1 opposed (Mr. Bresee). Mr. Raco called for a point of order and noted that to make the action official it must be a majority of the voting members present. Mr. Trumble excused himself from the meeting room to make the action of the Board official.

Mr. Bresee chaired the meeting. Mr. Rockwell restated the recommended changes to the Findings of Fact and Conclusions of Law and moved the amended, corrected and restated Findings of Fact and Conclusions of Law be signed by the then presiding chair, Mr. Bresee, once corrected. Mr. Wiegand seconded the motion which passed with a vote of 2 for and 1 opposed (Jeff Bresee). Ms. Hine and Mr. Trumble returned to the meeting room.

Mr. Rockwell asked if the parties to the appeal were present today to bear witness. It was noted for the record that Ms. Jane Rissler and Mr. Michael Cassell were present on behalf of the appeal in their respective capacity. Mr. Rockwell noted that he wanted to make a statement for the record so that there is no question about his disclosure or non-disclosure of his relationship with any law firm. Mr. Rockwell gave a history and chronology of his employment since retirement.

7. Findings of Fact and Conclusions of Law for Faraway Farms denial of the Conditional Use Permit. Mr. Rockwell and Mr. Wiegand recused themselves from the meeting room. Mr. Jones presented the draft Findings to the Board. Mr. Trumble motioned to postpone action on the Findings of Fact and Conclusions of Law until the September 15, 2005 meeting. Mr. Bresee seconded the motion which carried unanimously. Mr. Rockwell and Mr. Wiegand returned to the meeting room.

Mr. Rockwell motioned to go into deliberations. Mr. Wiegand seconded the motion which carried unanimously. Mr. Wiegand motioned to return to regular session. Mr. Rockwell seconded the motion which carried unanimously.

2. Mr. Bresee motioned to grant the variance from the front setback requirement from 75' to 60' for the existing house and retaining wall and direct the Staff to send a letter to Mr. Riggelman informing him of the Board's decision. Mr. Wiegand seconded the motion. Mr. Rockwell

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noted that based on hardship this action is appropriate. The motion carried with a vote of 4 for and 1 abstention (Ms. Hine).

3. Mr. Rockwell motioned to grant the variance from the 25' front setback requirements to 5' on Shepherd Lane for the proposed sign for the Ledge Lowe Estates Homeowner's Association. Mr. Wiegand seconded the motion which carried unanimously.

4. Mr. Rockwell motioned to grant the front setback variance from 25' from the base of the sign to 8' from the right-of-way on Millville Road for the ME Church South/Shenandoah Memorial United Methodist Church. Mr. Trumble seconded the motion which carried unanimously.

5. Mr. Bresee motioned to allow a temporary sales trailer on Lot S2 of the Colonial Hills Subdivision for an eighteen (18) month time frame conditioned on all other Ordinance requirements being met. Mr. Wiegand seconded the motion which carried unanimously.

8. Employee of the Board of Zoning Appeals. Mr. Rockwell stated that since the person offered the position has since taken employment elsewhere that the next person in line be contacted to see if they are still interested and if so references be contacted. The Board agreed by consensus.

9. Correspondence. Mr. Rockwell stated on the record that he received a telephone message from Mr. Surkamp pertaining to information being withheld from members of the Board by Staff members. Mr. Wiegand stated that he also had received a telephone message from Mr. Surkamp. Mr. Rockwell and Mr. Wiegand each stated that they did not speak with Mr. Surkamp.

Mr. Raco questioned each Board member to see if they wanted Staff to receive service for them individually. The five Board members individually stated that they did not want Staff to receive service on their behalf.

Mr. Rockwell motioned to go into Executive Session to discuss pending litigation on (1) the Dunleavy case and supplementation of the record and (2) the Henry Case #05-C-100. Mr. Trumble seconded the motion which carried unanimously. The Board and Mr. Jones were the only participants in the Executive Session.

Mr. Bresee motioned to return to regular session. Mr. Trumble seconded the motion which carried unanimously. Mr. Jones stated on the record that Mr. Wiegand did not participate in the Dunleavy discussion and Mr. Rockwell did not participate in the Henry discussion. There was no action was taken as a result of the Executive Session.

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Mr. Bresee motioned to adjourn the meeting. Mr. Trumble seconded the motion which carried unanimously.

A transcript of this meeting can be found on CD #118 and #119. These Minutes were prepared by Rebecca F. Burns.