

MINUTES
JEFFERSON COUNTY ZONING BOARD OF APPEALS
MARCH 18, 2004

The Jefferson County Zoning Board of Appeals met on Thursday, March 18, 2004 at 3:00 p.m., in the Jefferson County Meeting Room. Members present were Tiffany Hine, Thomas Trumble, Douglas Rockwell and David Wiegand. Jeff Bresee was absent with notification. Paul Raco, Executive Director, Michael Cassell, Assistant Prosecuting Attorney, Michael Thompson, Prosecuting Attorney and Rebecca Burns, Executive Secretary were also present.

The meeting was called to order by Ms. Hine at 3:05 p.m.

Mr. Trumble motioned to accept the Minutes of the February 19, 2004 meeting. Mr. Rockwell seconded the motion which carried unanimously.

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

OLD BUSINESS

1. Postponed from the February 19, 2004 meeting. Appeal by Uniwest Sanitary Systems of the Planning Commission's denial of the Conditional Use Permit for a 75,000 gallon per day wastewater treatment plant. Mr. Wiegand stated he is recusing himself from this matter. Mr. Wiegand left the meeting room. Michael Thompson sat in as Legal Counsel for this item. Mr. Rockwell motioned to hear and decide on the motion to intervene by Millville Quarry first. Mr. Trumble seconded the motion which carried unanimously. Charles Printz represented the motion to intervene noting Millville Quarry is an adjoining property owner. Mr. Printz stated the Quarry did not appear at the Neighborhood Compatibility Hearing or the Planning Commission meeting on the unresolved issues. Mr. Printz stated the Quarry is not challenging the notice of the meetings.

Braun Hampstead representing Uniwest stated they object to the motion to intervene to the extent that the intervener proposes to speak to issues not raised at the Neighborhood Compatibility Hearing. Paul Raco, Executive Director/Zoning Administrator stated he was not opposed provided the Quarry only speaks to the issues at hand and does not present new evidence. Mr. Printz in rebuttal stated the Quarry's appearance relates to the unresolved issues as far as capacity and discharge into the Shenandoah River.

Mr. Trumble motioned to go into deliberations on item #1 only. Mr. Rockwell seconded the motion which carried unanimously. Mr. Rockwell motioned to return to regular session. Mr. Trumble seconded the motion which carried unanimously. Mr. Rockwell motioned to deny the intervention on behalf of Millville Quarry. Mr. Trumble seconded the motion which carried unanimously.

Mr. Hamstead stated Uniwest Sanitary Systems is required to get a Conditional Use Permit because of being located in the Rural Zone, however, if it were in the Residential Growth District it would be a principle permitted use and considered essential utility if it served land in

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the Residential Growth District. Mr. Hamstead stated they believe they have addressed all of the unresolved issues and asked that the Planning Commission's decision be overturned and that it be remanded back to them for resolution of the unresolved issues and issuance of the Conditional Use Permit. Michael Wiley, P.E. of Dewberry stated they have agreed to limit the capacity to 75,000 gallons per day; replace the bridge on the Watson's property and repair any damages to their property; screen access to the plant; and, buffer along Marlow road by supplementing existing vegetation with screening. Alex Rahmi of Uniwest presented photographs of a similar sewer treatment plant noting that if it is built it will be turned over to the Public Service District.

Mr. Raco stated the Planning Commission has the authority to issue, deny or issue with conditions a conditional use permit based on compatibility. Mr. Raco stated that based on this and past case law that the appeal be denied.

Vickie Faulkner and Richard Freedman of Millville Quarry spoke in opposition to the appeal and asked that it be denied.

Mr. Hamstead in rebuttal spoke of a drafted agreement between Millville Quarry and Uniwest pertaining to a force main which was to be a joint venture project but was withdrawn by the Quarry. Mr. Wiegand returned to the meeting room for the other items on the agenda.

NEW BUSINESS

2. Request by Linda Kay Baker for a variance from the side setback requirements from 6' to 3' for an existing shed (Article 9, Section 9.7). Ms. Baker presented the request stating the shed was set on the property in 1991 and she was not aware a permit was needed. Mr. Raco stated the structure will have to comply with building codes which will require fire rating for being less than 6' from the property line. There was no public comment.

3. Request by Claymont Society for Continuous Education/New Song LLC to allow a seasonal use music camp and festival on property designated as Parcel 4 on Tax Map 3 of the Kabletown District for approximately 500 to 1200 people from August 20, 2004 through August 22, 2004 on 347.52 acres (Article 9, Section 9.8). Kit McGinnis and Scott Hill represented the request noting this is the third year for the festival. Mr. Raco stated they have processed the request as outlined in the Ordinance and to the Staff's knowledge there have been no complaints for the two previous years the event has been held. There was no public comment.

4. Discussion and/or action by the Board and Staff on Mr. Raco's recalculation of the LESA Points and re-review of the support data for the Blackford Farm Subdivision/Brownshop Road LLC (Case No. 03-C-111 & PC File #Z02-08 & AP03-03). Mr. Rockwell excused himself from the meeting room for this item. Mr. Raco submitted his revised point assessment based on the Court's decision that adjacent property should be measured by the linear method. Mr. Raco

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stated he has calculated the points to be 54.3 based on the linear method and can now be scheduled for Neighborhood Compatibility Hearing. Mr. Trumble motioned to proceed with the process as outlined in the Zoning & Development Review Ordinance. Mr. Wiegand seconded the motion which carried unanimously. Mr. Rockwell returned to the meeting room for the remainder of the meeting.

5. Findings of Fact and Conclusions of Law (FFCL) for the South Jefferson Ruritan Club for a variance from the principle permitted uses to allow rental of their facilities (Article 5, Section 5.7a). Mr. Rockwell motioned to accept the FFCL with the removal of the first sentence on page 4 in item #5 and authorize Ms. Hine to sign the corrected document.. Mr. Trumble seconded the motion which carried unanimously. Mr. Trumble motioned to accept and amend the FFCL by correcting the spelling of Mr. Wiegand's name throughout the document and authorize Ms. Hine to sign the amended document. Mr. Rockwell seconded the motion which carried unanimously (copy of amended document attached).

6. Findings of Fact and Conclusions of Law for Jerry McKinney, Jr., for a variance from the side setback requirements from 6' to 1' for an existing fence (Article 9, Section 9.7). Mr. Rockwell motioned to accept and amend the FFCL by correcting the spelling of Mr. Wiegand's name throughout the document and authorize Ms. Hine to sign the amended document. Mr. Trumble seconded the motion which carried unanimously (copy of amended document attached).

7. Correspondence. There was no correspondence.

Mr. Rockwell motioned to adjourn for deliberations on items 2 and 3 only. Mr. Trumble seconded the motion which carried unanimously. Mr. Rockwell motioned to return to regular session. Mr. Trumble seconded the motion which carried unanimously.

2. Mr. Trumble motioned to grant the variance to Linda Kay Baker from the side setback requirements from 6' to 3' for an existing shed contingent upon all building permit and code requirements being met. Mr. Rockwell seconded the motion which carried unanimously.

3. Mr. Trumble motioned to allow the seasonal use to Claymont Society for Continuous Education /New Song LLC as outlined in their request. Mr. Rockwell seconded the motion which carried unanimously.

Mr. Rockwell motioned to adjourn for deliberations on item #1 only. Mr. Trumble seconded the motion which carried unanimously. Mr. Wiegand excused himself from the meeting room for the remainder of the meeting. Mr. Trumble motioned to return to regular session. Mr. Rockwell seconded the motion which carried unanimously.

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1. Mr. Rockwell motioned that the decision of the Planning Commission pertaining to the Uniwest Sanitary Systems Conditional Use Permit be set aside and remanded back to the Planning Commission to conduct a public hearing as outlined in Article 7, Section 7.6e of the Zoning and Development Review Ordinance to address the five unresolved issues as outlined in the Staff Report prepared by Mr. Raco and signed November 17, 2003 (copy attached). Mr. Trumble seconded the motion which carried unanimously.

Mr. Rockwell motioned to adjourn the meeting at 5:27 p.m. Mr. Trumble seconded the motion which carried unanimously.

A detailed transcript of this meeting can be found on Tape(s) #19 & #20. These Minutes were prepared by Rebecca F. Burns.