

MINUTES
JEFFERSON COUNTY ZONING BOARD OF APPEALS
JULY 15, 2004

The Jefferson County Zoning Board of Appeals met on Thursday, July 15, 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 and Rebecca Burns, Executive Secretary were also present.

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

Mr. Trumble motioned that the Minutes of the June 17, 2004 meeting be redrafted to bring out more of the points raised by the Board pertaining to the Thorn Hill Appeal (#AP04-02/#Z03-04). Mr. Rockwell seconded the motion which carried unanimously.

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

NEW BUSINESS

1. Request by Philip A. Ward for a postponement of his appeal for Paynesford Station Subdivision (DPZE File #AP04-03/#Z02-02).
2. Appeals by Philip A. Ward for the Paynesford Station Subdivision that the application is incomplete and that the LESA Point threshold of 55 points applies; and, notification of public hearing is unsatisfactory Ms. Hine recused herself from the Paynesford Station matters. Mr. Trumble sat as chair for items 1 and 2. Mr. Rockwell stated that he would also be recusing himself and he believes Mr. Bresee would also do so if he were present. Mr. Wiegand stated he was not on the Board when the original appeal was filed. Mr. Cassell stated there has to be a minimum of three members for the matter to be heard. Mr. Cassell stated he would prepare an order that the ZBOA could not muster a quorum on the Paynesford Station matters issue for Mr. Trumble's signature.
3. Uniwest Sanitary Systems request that the Zoning Board of Appeals adopts the Planning Commission's findings and that all unresolved issues are resolved and order the Planning Commission to issue the Conditional Use Permit for the 75,000 gallon per day wastewater treatment plant. Mr. Wiegand excused himself from the meeting room for this item. Mr. Hamstead and Mike Wiley represented the request and asked that the Board issue the CUP noting they would be agreeable to replace the bridge on the Watson's property if the effluent from the treatment plant breaches the bridge

Dick and Janeen Watson, Vickie Faulkner, Richard Friedman with Millville Quarry, Mike Stoneberger and Paul Burke spoke against the issuance of the CUP.

Mr. Hamstead in rebuttal stated the use is allowed in the residential zones which is the zones they intend to serve. Mr. Hamstead stated that if the CUP is issued they are limited to

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75,000 gallons per day and any other conditions the Board stipulates.

Mr. Rockwell motioned to adjourn for deliberations on this item only. Mr. Trumble seconded the motion which carried unanimously. Mr. Trumble motioned to return to regular session. Mr. Rockwell seconded the motion which carried unanimously.

Mr. Trumble motioned to adopt the Planning Commission's Findings of Fact and Conclusions of Law and deny the CUP for lack of compatibility. Mr. Rockwell seconded the motion which failed with a vote of 1 for (Mr. Trumble) and 2 opposed. Mr. Cassell reminded the Board that no action is official unless the majority of the members participating are in favor of the motion.

Mr. Rockwell motioned to grant the CUP in accordance with the standards set forth in the Zoning Ordinance giving the Board the authority to either issue; issue with conditions; or, deny the CUP. for discussion purposes. Mr. Rockwell stated this would be contingent upon 1) all resolved issues outlined in the October 22, 2003 Staff Report (copy attached); 2) the five resolved issues by the Planning Commission at their May 25, 2004 meeting (Minutes attached); 3) the Industrial District screening and buffering standards being met; 4) building the plant in compliance with Article 5, Section 5.8(b)(3)(c)-Page 45 of the Zoning & Development Review Ordinance - Odor Standards (copy attached); and, 5) the plant itself serving customers located within the Residential/Light Industrial/Commercial District only. Mr. Trumble seconded the motion which passed with a vote of 2 for (Mr. Rockwell and Ms. Hine) and 1 opposed.

Mr. Wiegand returned to the meeting room for the remainder of the meeting and Ms. Hine excused herself for the remainder of the meeting.

4. Request by Di Gennaro Electric Contractors for a variance to allow greater than 35% expansion of an existing nonconforming use (Article 4, Section 4.3d).

5. Request by Di Gennaro Electric Contractors for a variance from the 25' front setback requirements to 12' for a proposed business expansion (Article 5, Section 5.10).

6. Request by Di Gennaro Electric Contractors for a variance from the 75' distance requirements from all residential uses (Article 4, Section 4.16). Sam Byrer asked that the variances be postponed until the August 19, 2004 meeting to allow them time to meet with any neighboring property owners to resolve any concerns they may have about the proposed variances and business expansion. Mr. Rockwell motioned to postpone the three variances until the August 19, 2004 meeting at 3:00 p.m. Mr. Wiegand seconded the motion which carried unanimously.

7. Findings of Fact and Conclusion of Law for the Thorn Hill Appeal (#AP04-02). Mr. Rockwell motioned that a Special Meeting be scheduled for Thursday, July 29, 2004 at 2:00

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p.m. to discuss and/or take action on the following items: Minutes of the June 17, 2004 meeting per earlier Board action pertaining to the Thorn Hill appeal; Findings of Fact and Conclusions of Law for the Thorn Hill Subdivision appeal (#AP04-02); the two recent Circuit Court decisions pertaining to Jan Cary Kletter, et al vs. Jefferson County Zoning Board of Appeals (CA#02-C0217) and Jefferson Utilities, Inc. vs. Jefferson County Zoning Board of Appeals (CA#03-C-278); and, Rules and Regulations of Procedures for the Board.

Mr. Rockwell motioned to authorize Counsel to file a motion for a stay in judgement for both the aforementioned Kletter and Jefferson Utilities cases. Mr. Wiegand seconded the motion which carried unanimously.

8. Discussion of the new Planning & Zoning statutes (SB 454). Due to the late hour the Board did not discuss this issue.

Mr. Rockwell motioned to adjourn the meeting at 6:40 p.m. Mr. Trumble seconded the motion which carried unanimously.