

MINUTES
JEFFERSON COUNTY ZONING BOARD OF APPEALS
JULY 17, 2003

The Jefferson County Zoning Board of Appeals met on Thursday, July 17, 2003 at 3:00 p.m., in the Jefferson County Meeting Room. Members present were Tiffany Hine, Douglas Rockwell, Thomas Trumble and Jeff Bresee. Michael Cassell, Assistant Prosecuting Attorney and Rebecca Burns, Executive Secretary was also present. Mr. Raco, Executive Director was Staff to the Board for all items except the appeal by Jefferson Utilities.

The meeting was called to order by Ms. Hine at 3:00 p.m. Mr. Bresee motioned to accept the Minutes of the June 19, 2003 meeting with a correction to item #9 on page 3 by striking the word "not". Mr. Trumble motioned to add the following corrections to Mr. Bresee's motions: items #6 and #7 on page 1 to reflect that there was no public comment; and, item #3 on page 1 to state the citation used by Mr. Groh to postpone the appeal. Mr. Bresee seconded the addendum to the motion which carried unanimously.

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

OLD BUSINESS

1. Postponed from the May 15, 2003 meeting. Request by the Estate of Thelma M. Koontz, Larry D. Turner and/or the Mecklenburg Heights Recreation Association, Inc., for a variance from the front setback requirements from 20' to 0' for an existing garage (Article 5, Section 5.4b).

2. Postponed from the May 15, 2003 meeting. Request by the Estate of Thelma M. Koontz, Larry D. Turner and/or the Mecklenburg Heights Recreation Association, Inc., for a variance from the side setback requirements from 10' to 0' for an existing garage (Article 5, Section 5.4b). Mr. Raco stated that it speaking with Mr. Dorsey that he believes they have found a resolution but asked that the matter be postponed. Mr. Bresee motioned to continue the matter until the August 21, 2003 meeting. Mr. Rockwell seconded the motion which carried unanimously.

3. Postponed from the June 19, 2003 meeting. Appeal by Jefferson Utilities, Inc., of the Zoning Administrators's interpretation of the word "public" as it specifically relates to water and sewer systems and the LESA Point Assessment (AP03-04). Mr. Raco presented a motion to dismiss the appeal (copy attached). Mr. Raco stated that this is very similar to what was presented to the Board on behalf of Jefferson Utilities in 2000 and it is not property specific. Greg Kennedy on behalf of Jefferson Utilities asked that the motion to dismiss be denied and they are prepared to move forward. Mr. Bresee motioned to adjourn for deliberations on the motion for dismissal. Mr. Trumble 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 motion to dismiss the appeal based on Section 8.1a of the Zoning Ordinance. Mr. Trumble seconded the motion which carried unanimously.

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Mr. Kennedy submitted a brief on behalf of the appellant in support of the appeal (copy attached). Mr. Raco submitted his basis for rejection of the appeal by the Board (copy attached). Jim Surkamp submitted written testimony in support of Mr. Raco's decision and asked that the appeal be denied (testimony attached). Mr. Kennedy in rebuttal asked that for all the reasons outlined in his brief that Mr. Raco's decision be overruled and they be deemed a public utility and assessed zero points accordingly.

4. Request by Permelynn of Westchester, Inc./Wal-Mart for a variance from the non-residential parking standards from the required 1,238 spaces to 1,204 spaces for a proposed expansion (Article 11, Section 11.1). Glenn Harvey from APD Engineering represented the request on behalf of Wal-Mart. Mr. Harvey stated that Wal-Mart would like to expand the garden center area. The Staff questioned if this expansion negates the need for the corralled area within the parking lot which is set up every March through August for the garden center. Mr. Harvey stated that to his knowledge Wal-Mart did not want to loose this area each year and that this expansion would be in addition to that. There was no public comment.

5. Request by Michael and Robin Spangler for a variance from the rear setback requirements from 20' to 14' for a proposed 21' x 16' deck (Article 5, Section 5.4b). Mr. Spangler represented the request and stated they proposed a 3 tiered deck to follow the slope of the land. There was no public comment.

6. Request by David and Patricia Croushorn for a variance to allow a greater than 35% expansion of an existing nonconforming use (Article 4, Section 4.3). Mr. Croushorn represented the request stating he owns an existing automotive repair business. Mr. Croushorn stated that they would like to build an addition to the rear of the building to add new equipment. Mr. Raco stated by right they could add 1,042 square feet and they are requesting a 1,620 foot addition. There was no public comment.

7. Request by Rob Frogale on behalf of Annandale Millworks for a variance from the 200' distance requirement to 190' to relocate an existing mobile home (Article 4, Section 4.18). Mr. Frogale was present on behalf of the request. Mr. Raco stated the applicant would like to convert a building to an industrial/commercial use necessitating the 200' distance for a residential structure. There was no public comment

8. Request by THZ Enterprises/Ryan Home for a variance to allow a model home with sales office on Lot 82 of the Maddex Farm Subdivision (Article 4, Section 4.18).

9. Request by THZ Enterprises/Ryan Home for a variance to allow a temporary sales trailer on Lot 4 of the Maddex Farm Subdivision (Article 4, Section 4.18). Linda Lowe from Ryan Homes represented the requests. Ms. Lowe stated they would like to use the sales trailer for approximately 6 month until the model home is completed then it will be removed.

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Ingrid Dailey, Vice President of the Maddex Farm Home Owner's Association stated they would like the sales trailer to be located on a lot next to the model home closer to the shopping center and that no on street parking be allowed for the model home or sales trailer. Ms. Lowe stated they want to be good neighbors and that they are not adverse to relocating the sales trailer to another lot in the subdivision which is more agreeable to the homeowners. Mr. Raco stated a new submission would have to be made for another location.

10. Request by Christopher G. And Kerriann S. Hussion that the motion pertaining to their deck variance heard at the June 29, 2003 meeting be amended to reflect a 40' deck as opposed to a 30' deck. No one was present to represent the request. Mr. Trumble motioned to consider the request without the Hussion's being present. Mr. Rockwell seconded the motion which carried unanimously. Mr. Trumble stated they made an error in their original motion by not allowing the full size of the deck requested.

Mr. Rockwell motioned to adjourn for deliberations. Mr. Bresee seconded the motion which carried unanimously. Mr. Bresee motioned to return to regular session. Mr. Trumble seconded the motion which carried unanimously.

11. Decision and Order regarding Judge Steptoe's decision regarding Matthew Knott d/b/a River Riders (CA#99-C-59). Rockwell excused himself from the meeting room while the Board considered this item. Mr. Trumble motioned to accept the order and authorize Ms. Hine to sign the same. Mr. Bresee seconded the motion which carried unanimously. Mr. Rockwell returned to the meeting room for the remainder of the meeting.

3. Mr. Bresee motioned to uphold the Zoning Administrator's interpretation and to deny the appeal filed by Jefferson Utilities. Mr. Trumble seconded the motion which failed with a vote of 2 for and 2 opposed (Mr. Rockwell and Ms. Hine). Mr. Rockwell then motioned to overturn the interpretation by the Zoning Administrator noting that each project is handled on a case by case basis and that the appeal sought by Jefferson Utilities, Inc., was granted in part and denied in part based on a case by case interpretation. Mr. Trumble seconded the motion which failed with a vote of 2 for and 2 opposed. Mr. Cassell stated since the Board is unable to authorize a decision in this case by a majority vote of all members present it will need to be certified to the Circuit Court of Jefferson County.

4. Mr. Henry representing Wal-Mart asked if he could withdraw the variance at this time to provide the Board with additional information for their meeting on August 21, 2003 and for the Board to consider the variance at that time. Mr. Bresee motioned to table the request until the August 21, 2003 meeting. Mr. Rockwell seconded the motion which carried unanimously.

5. Mr. Bresee motioned to grant the rear setback variance by Michael and Robin Spangler from 20' to 14' for a 21' x 16' deck. Mr. Trumble seconded the motion which carried

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unanimously.

6. Mr. Rockwell motioned to grant the variance to David and Patricia Croushorn to allow a greater than 35% expansion of an existing nonconforming use for a 36' x 45' addition to the existing structure. Mr. Trumble seconded the motion which carried unanimously.

7. Mr. Rockwell motioned to grant the variance from the 200' distance requirement to 190' to Rob Frogale on behalf of Annandale Millworks to relocate an existing mobile home. Mr. Trumble seconded the motion which carried unanimously.

8. Mr. Rockwell motioned to grant the variance to allow a model home with a sales office on Lot 82 of the Maddex Farm Subdivision for THZ Enterprises/Ryan Homes contingent upon there being no off-street parking and that there be a minimum of 6 parking spaces provided on the lot where the model home is located. Mr. Bresee seconded the motion which carried unanimously.

9. Mr. Rockwell motioned to deny the variance to allow a temporary sales trailer on Lot 4 of the Maddex Farm Subdivision on the basis of the proposed location of the sales trailer being near a cul-de-sac where families and young children will be recreating and it does not comply with the spirit of the Ordinance. Mr. Bresee seconded the motion which carried unanimously.

10. Mr. Trumble motioned to amend the motion for Christopher G. and Kerriann Hussion from the rear setback to reflect a 40' deck as opposed to a 30' deck as stated at the June 19, 2003 meeting. Mr. Rockwell seconded the motion which carried unanimously.

12. & 13. Mr. Rockwell motioned to schedule a special meeting for August 7, 2003 at 3:00 p.m. for the Board to discuss and/or act upon (1) requirements for placing legal advertisements; and, (2) on adopting rules and procedures for filing timely appeals and requests for consideration by the Board. Mr. Trumble seconded the motion which carried unanimously.

14. Correspondence. There was no correspondence.

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

The meeting adjourned at 7:30 p.m. A detailed transcript of this meeting can be found on Tape(s) #73 and #74. These Minutes were prepared by Rebecca F. Burns.