

MINUTES  
JEFFERSON COUNTY ZONING BOARD OF APPEALS  
AUGUST 21, 2003

The Jefferson County Zoning Board of Appeals met on Thursday, August 21, 2003 at 3:00 p.m., in the Jefferson County Meeting Room. Members present were Stephen Groh, Tiffany Hine, Douglas Rockwell, Thomas Trumble and Jeff Bresee. Michael Cassell, Assistant Prosecuting Attorney and Rebecca Burns, Executive Secretary were 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.

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). Mrs. Burns stated that Mr. Dorsey asked that the requests be postponed for one more month. Mr. Bresee motioned to continue the matter until the September 18, 2003 meeting. Mr. Trumble seconded the motion which carried unanimously.
3. Continued from the August 21, 2003 meeting. 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 and maintain use of the corralled area within the parking lot every March through August for the garden center with the exception of the spaces that will be used as part of the garden center expansion.

NEW BUSINESS

4. Request by Elizabeth Lloyd for a variance from the front setback requirements from 20' to 5' for a proposed detached garage (Article 9, Section 9.7). Ms. Lloyd represented the request and noted the garage doors would face the alley and not Jefferson Avenue and that she would access her property via this alley. There was no public comment.
5. Request by Sean Palmer and Rita Hennessy for a variance from the front setback requirements from 20' to 3' to replace a storage shed (Article 9, Section 9.7). Mr. Palmer represented the request stating they are replacing a shed which was destroyed during recent

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storms. Mr. Palmer stated they are putting it in the same location as the previous shed. There was no public comment.

6. Entry of Order to the Circuit Court for the Appeal by Jefferson Utilities, Inc., of the Zoning Administrator's interpretation of the word "public" as it specifically relates to water and sewer systems and the LESA Point Assessment (AP03-04). Mr. Cassell stated he has prepared a certification to be signed by Judge Steptoe in this matter. Mr. Cassell stated the Judge would prefer that an Order be entered today stating no official action was taken by the Board then the burden is placed on Mr. Snyder/Jefferson Utilities, Inc., and his attorney to file an appeal to that Order.

Mr. Rockwell motioned to correct the Minutes of the July 17, 2003 meeting on page 3 item #3 to reflect Mr. Trumble seconded the motion not Ms. Hine. Mr. Trumble seconded the motion which carried with a vote of 4 for and 1 abstention (Mr. Groh because he was not present at the meeting). Mr. Rockwell motioned that the Minutes also be amended with respect to item #3 on page 3 to reflect his motion was to overturn the interpretation of 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 basis interpretation. Ms. Hine seconded the motion because her recollection was the same as Mr. Rockwell's and she would not have voted for the motion if it were not for each appeal being heard on a case by case basis and decided based on the merit of the case as presented. The motion passed with a vote of 4 for and 1 abstention (Mr. Groh).

Mr. Bresee motioned to approve the Minutes as amended and corrected for the July 17, 2003 meeting. Mr. Rockwell seconded the motion which carried with a vote of 4 for and 1 abstention (Mr. Groh).

Mr. Rockwell motioned to prepare an Order pertaining to the Jefferson Utilities, Inc., appeal to be reflective of the amended Minutes and for it to be signed by Ms. Hine as acting chair. Mr. Bresee seconded the motion which carried unanimously.

7. Discussion and/or action by the Board on how to proceed with Paynes Ford Station based on the Board's action of April 17, 2003. Mr. Bresee and Mr. Rockwell excused themselves from the meeting room for this portion of the meeting. Mr. Raco stated he is seeking direction from the Board on the remand, that when the developer believes they have satisfied the direction of the remand is he, as Zoning Administrator, free to schedule a neighborhood compatibility hearing. Mr. Cassell stated he believes the Board should stay with their methods of appeal as they have in the past.

Ms. Hine motioned to go into deliberations. Mr. Trumble seconded the motion which carried unanimously. Ms. Hine motioned to return to regular session. Mr. Trumble seconded the motion which carried unanimously. The Board deliberated on item 7 first before Mr. Rockwell

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and Mr. Bresee returned to the meeting room for deliberation on the remaining items.

3. Mr. Bresee motioned to grant the variance as requested by Permelynn of Westchester, Inc./Wal-Mart for a variance from the non-residential parking standards from 1,238 parking spaces to 1,204 parking spaces for the proposed garden center expansion noting the seasonal use parking spaces will be reduced as stipulated by Mr. Hardy in his presentation. Mr. Trumble seconded the motion which carried unanimously.

4. Mr. Trumble motioned to grant the variance to Elizabeth Lloyd for a variance from the front setback requirements from 20' to 5' for a proposed detached garage only. Mr. Rockwell seconded the motion which carried unanimously.

5. Mr. Rockwell motioned to grant the variance to Sean Palmer and Rita Hennessy for a variance from the front setback requirements from 20' to 3' to replace a storage shed. Mr. Bresee seconded the motion which carried unanimously.

7. Ms. Hine motioned that all materials with regard to Paynes Ford Station be given to the Zoning Administrator to determine whether or not they are sufficient and that a letter be sent to the Board and all parties involved outlining his decision. Mr. Trumble seconded the motion which carried unanimously.

8. Discussion and/or action by the Board on adopting rules and procedures for filing timely appeals and requests for consideration by the Board. Mr. Cassell gave each member a copy of a revised appeal form for their consideration. Mr. Rockwell motioned to direct counsel to draft written rules for submission of materials as discussed at the Special Meeting on August 7, 2003 and forms for their consideration. Mr. Trumble seconded the motion which carried unanimously.

9. Correspondence. There was no correspondence.

Mr. Rockwell motioned to adjourn the meeting at 5:10 p.m. Mr. Trumble seconded the motion which carried unanimously.

The meeting adjourned at 5:10 p.m. A detailed transcript of this meeting can be found on Tape(s) #85 and #86. These Minutes were prepared by Rebecca F. Burns.