

MINUTES  
JEFFERSON COUNTY ZONING BOARD OF APPEALS  
NOVEMBER 20, 2003

The Jefferson County Zoning Board of Appeals met on Thursday, November 20, 2003 at 3:00 p.m., in the Jefferson County Meeting Room. Members present were Tiffany Hine, Douglas Rockwell, Thomas Trumble and Jeff Bresee. Paul Raco, Executive Director, Michael Cassell, Assistant Prosecuting Attorney, Jennilee De Pottie, Secretary and Rebecca Burns, Executive Secretary were also present.

The meeting was called to order by Ms. Hine at 3:00 p.m. Mr. Rockwell motioned to accept the Minutes of the October 16, 2003 meeting with a correction to page 2 paragraph 5 to reflect the correct lot number (#63) and page 4 item 10 to correct "slowing phasing out". Mr. Bresee seconded the motion which carried unanimously.

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

NEW BUSINESS

1. Request by Ryan Homes for a variance from the front setback requirements from 25' to 22' for an existing house on Lot 363 of the Locust Hill Subdivision (Article 5, Section 5.4b). Fred Malick, Production Manager for Ryan Homes presented the request. Mr. Malick stated that when the final survey was submitted to obtain the Use & Occupancy Permit they realized the setback problem. Mr. Malick stated since this problem occurred they have changed their internal company policies to require a wall check prior to framing. The Staff recommended denial of the request. There was no public comment.

2. Request by Russell and Nicole Earp for a for a variance from the principle permitted uses to allow a child care facility for 12 children in their home (Article 5, Section 5.71). Ms. Earp presented the request noting she has cared for children in her home for the past 9 years. She currently has 6 children including her own and would like the ability to care for 12 children including her own. Ms. Earp stated she has a provisional certificate and with Zoning Board of Appeals approval she will receive final approval from the necessary State agencies. Mr. Raco cautioned that two legislative bodies, the County Commission and Planning Commission amended the Zoning Ordinance in 1999 to allow for a total of 6 children (including the care giver's own children) from 4 children in the principal permitted uses. Mr. Raco further noted that if 12 children is acceptable here then 12 children are acceptable anywhere in the County. There was no public comment.

Mr. Trumble motioned to go into deliberations on items 1 and 2 only. Mr. Bresee seconded the motion which carried unanimously. Mr. Trumble motioned to return to regular session. Mr. Bresee seconded the motion which carried unanimously.

1. Mr. Bresee motioned to grant the variance to Ryan Homes from the front setback requirements from 25' to 22' for an existing house on Lot 363 of the Locust Hill Subdivision on the basis it is a small infringement against the overall cost to the builder and there is Home

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Owner Association approval. Mr. Rockwell seconded the motion noting it is not contrary to the public interest, a literal enforcement would result in unnecessary hardship and the builder appears to be a victim of circumstances. The motion passed unanimously.

2. Mr. Trumble motioned to grant the variance to Russell and Nicole Earp from the principle permitted uses to allow a child care facility within their home for 12 children including their own on the basis the request is in the best interest of the children who need a safe and secure day care facility. Mr. Bresee seconded the motion which carried unanimously.

3. Mr. Bresee motioned to accept the Findings of Fact and Conclusions of Law for the request by Alice J. Rissler for a variance from the seasonal use provisions to allow the Mountain Heritage Arts and Crafts Festival to be conducted on her property twice annually for three consecutive days perpetually with the word "be" being added to paragraph 4 on page 4 and authorize Ms. Hine to sign the same (copy attached). Mr. Trumble seconded the motion which carried unanimously.

4. Findings of Fact and Conclusions of Law on the request by Aubrey E. & Debora Henry for a variance from the side setback requirements from 50' to 44' for a proposed restaurant (Article 5, Section 5.7(b) and 9).

5. Findings of Fact and Conclusions of Law on the request by Aubrey E. & Debora Henry for a variance from the sign provisions to allow an 80 square foot sign for a proposed restaurant (Article 10, Section 10.4c).

6. Findings of Fact and Conclusions of Law on the request by Aubrey E. & Debora Henry for a variance from the sign provisions to allow a 100 square foot sign for a proposed restaurant (Article 10, Section 10.4c).

Mr. Bresee motioned to accept the aforementioned Findings of Facts and Conclusions of Law for items 4, 5 and 6 and authorize Ms. Hine to sign the same (copy attached). Mr. Trumble seconded the motion which carried with a vote of 3 for and 1 abstention (Mr. Rockwell because he excused himself from these items).

7. Mr. Rockwell motioned to accept the Findings of Fact and Conclusions of Law on the request by ABS, LC/Eric Cox for a variance from the home occupation standards to allow gun sales from his home (Article 4A) and authorize Ms. Hine to sign the same (copy attached). Mr. Trumble seconded the motion which carried unanimously.

8. Discussion and/or action by the Board and Staff on the Order of the Circuit Court of Jefferson County for Brownshop Road LLC (Case No. 03-C-111). Mr. Raco, excused himself from the meeting room for the remainder of the meeting and for this item specifically because it was his decision being appealed.

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Mr. Rockwell motioned, outside the context of the Blackford appeal, that the Board instruct Counsel to file a motion in the Kletter case asking the Court to reconsider the Order in light of the Corliss decision filed on October 10, 2003, which is approximately a month after Judge Steptoe entered his opinion on Kletter. Mr. Bresee seconded the motion which carried unanimously.

Mr. Rockwell stated he was recusing himself from the Brownshop Road LLC (Case No. 03-C-111). Mr. Bresee was not appointed to the Board until May of 2003 and could not decide this matter which left the Board without a quorum present to discuss the issue. Mr. Campbell stated administratively the matter should be deferred to the Staff to recalculate the points based on the Corliss decision.

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

9. Correspondence. There was no correspondence.

A detailed transcript of this meeting can be found on Tape(s) #119. These Minutes were prepared by Rebecca F. Burns.