

Frederick County Board of Zoning Appeals

Meeting Minutes

January 27, 2022

Chairman Farrell called to order the regular hearing of the Frederick County Board of Zoning Appeals on Thursday, December 16, 2021, at 7:00 pm. This was a virtual meeting using WebEx and Public input via telephone. Board members present: Mr. John Greenwell, Dan Lawton, Mr. Shannon Bohrer, and Mr. Kenneth Farrell were present. Board member Mr. Andrew Brown was absent, so Mr. Jack Felton, an alternate member, served in his place.

The County staff members present were Ms. Kathy Mitchell, Senior Assistant County Attorney, Mr. Tom Sinton, Assistant County Attorney, Mr. Tolson DeSa, Zoning Administrator, Mr. Justin Horman, Zoning Planner, II and Mr. Michael Paone, Zoning Planner I.

First item of business was the approval of the December 2021 Minutes. Motion by Mr. Felton to approve the minutes. Mr. Greenwell seconded the motion. Mr. Bohrer, Mr. Felton, Mr. Greenwell, Mr. Lawton, and Mr. Farrell approved the minutes. Approved unanimously 5-0-1.

Official minutes of the Board of Appeals meetings are kept on file in the Frederick County Planning and Permitting Division, 30 North Market Street, Frederick, Maryland 21701

Cases

B-22-01 Joel Rensberger - Contractor (B266615)

Mr. Paone delivered the staff report. The Applicant on behalf of the owners, is requesting a variance of 6.4 feet from the required 30-foot rear building restriction line, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, this would create a 23.8' rear building restriction line and allow for the construction of an addition to the residence. The Applicant would like to provide additional living space for the property owners' elderly parents. There were no agency comments.

The property is identified as 8195 Honey Clover Court, Tax Map 0057, Parcel 0282, Tax ID #28548699, Zoning Medium Density (R5), Size .279 Acres.

Applicable Ordinance Sections: Section 1-19-3.220 Variances
Section 1-19-6.100 Design Requirements

Chairman Farrell issued the witness oath to Mr. Joel Rensberger, 1 South Main Street, Woodsboro, MD and to the owners, Mr. & Mrs. Loomer.

Mr. Rensberger spoke for the Applicant about the variance request. He stated they had letters of support from the neighbors and the commercial area behind the property. The owners spoke as well in support of the small addition.

There were no callers on the Public Input line.

Chairman Farrell closed the record and asked if there was any further discussion and if anyone wanted to make a motion concerning the initial ruling.

Motion: Mr. Greenwell made a motion for approval of B2666517 (B-22-01) at 8195 Honey Clover Court. Mr. Felton seconded the motion. The motion was approved unanimously 5-0-1.

B-22-02

Todd Adkins & Tom Adkins - Owner (B267641)

Mr. Paone delivered the staff report outlining the request. The Applicant's, Todd Adkins and Tom Adkins are requesting a variance of 11 feet on the left side and 7.6 feet on the right side of the proposed home location, from the required 50 foot setbacks to allow placement of the newer and 20 ft. longer mobile home in accordance with Section 1-19-3.220 and Section 1-19-6.100, of the Frederick County Zoning Ordinance. The application was originally approved in June 2019 and has since expired and the Applicant's is returning for approval of the same request. There were no negative comments from staff.

The property is identified as 6016 Mountaintdale Road, Thurmont MD 21788, Tax Map 0039, Parcel 0078, and Tax ID #20402075, 5.8 acres, Zoning, Resource Conservation (RC).

Applicable Ordinance Sections: Section 1-19-3.220 Variances
Section 1-19-6.100 Design Requirements

Chairman Farrell issued the witness oath to Mr. Todd Atkins, 9403 Mapleville Road, Hagerstown, MD.

Mr. Adkins, one of the Applicants, spoke supporting the application. The Applicant wishes to replace the existing home built in the 60's with a larger home. He stated that the current home is only 15 feet from the street and neighboring properties consist of homes a mere few feet from the road. The property consists of 90% wooded and steep sloped land 25% or more in grade. The new home will be larger than the previous home but will still be 3 bedrooms and 1 bathroom.

There were no callers in the Public Input queue.

Chairman Farrell closed the record and asked if there was any further discussion and if anyone wanted to make a motion concerning the initial ruling.

Motion: Mr. Greenwell made a motion for approval of Case #B-22-02 B267641 at 6016 Mountaintdale Road, Thurmont, MD. Mr. Lawton seconded the motion. The motion was approved unanimously 5-0-1.

B-22-03

Brooke Lane Behavioral Services Inc. (B267700)

Mr. Paone delivered the staff report. Brooke Lane Behavioral Services Inc. is requesting a Special Exception Approval to continue operating a private school in the Limited Industrial Zone (LI) in accordance with Section 1-19-8.320 and Section 1-19-8.341 of the Frederick County Zoning Ordinance. This is a previously approved public charter school in the ORI zone. Brooke Lane is a private, not for profit center which provides mental health services, including inpatient care, partial hospitalization, outpatient treatment, consultations, psychiatric rehabilitation programs, and education services and evaluation programs. These services are provided to children, adolescents, adults, and elderly adults on an individual, family and peer-group basis. The private school, which is located on the property identified above, is similar in design to another satellite school program located in Washington County. The Board originally approved this temporary use on April 26, 2007, as part of B-07-13. The school subsequently renewed their temporary approval on February 28, 2019 and were granted approval to expand the school from 45

to 65 students. Staff increased from 18 staff to 65 staff and school size increase from 9600 sq.ft. to 19,200 sq.ft. There were no comments from any other agencies.

Property is described as 4540 Mack Avenue, Frederick, MD 21703, Tax Map 86, Parcel 0207, Tax ID #28017357, Zoned Limited Industrial (LI), 1.54 acres.

The Applicant is requesting the Board's approval to continue the previously approved charter school use with no changes.

Chairman Farrell issued the witness oath to Mr. Zachary Kieffer, Attorney for the Applicant, 19405 Emerald Square, Suite 2100, Building 202, Hagerstown, MD.

Mr. Kieffer noted that the property owner was Bowman Properties and that there is no change from 2 years ago when they renewed. Hours of operation are Monday – Friday, 8:00 am to 4:00 pm. He summarized the uses in compliance with the Comprehensive Use Plan. The location doesn't encroach on disturb the residential and industrial uses around it. He summarized the use of the school, traffic and other items.

Chairman Farrell issued the witness oath to caller Jeffrey O'Neal, Chief Executive Office of Brooke Lane School, 16331 Keyser Court, Hagerstown, MD 21740. He spoke in support of the school that has been in operation in harmony with Frederick County Public Schools and their requirements. He requested that the application be approved.

Chairman Farrell issued the witness oath to caller Douglas K. Thornton, Attorney for Johnco LLC, a neighboring property owner, 5210 Chairmans Court, Suite 2, Frederick, MD. Mr. Thornton spoke about the property owner's traffic flow and parking concerns. He stated that there seems to be a backup in the afternoons, and wasn't sure if this was the correct forum but his client wanted to make sure that the school was in conformance with parking uses and traffic flows.

Attorney Zachary Kieffer responded to the caller and said he was not aware of any issues with the parking and traffic flows.

Chairman Farrell issued the witness oath to caller Michael Reyka, 11960 Wolfsville Road, Pittsburg, MD. Mr. Reyka spoke in support of the school and said that he was not aware of any traffic issues but would look into it.

Chairman Farrell issued the witness oath to caller Holly Joyner, 51 Plainview Trail, Fairfield, PA. She spoke in support of the school as a previous employee and said she was not aware of any concerns about bus traffic or parking. The school is a very valuable asset to the community.

Chairman Farrell issued the witness oath to caller Rachel Hull, 7336 Arden Naugville Road, Martinsburg, WV. She spoke in support of the school as the educational administrator, and wanted to confirm that to her knowledge they have not had any parents or anyone else call about traffic concerns.

The Board then had a discussion of the case with questions for Zachary Kieffer, the school's attorney.

Chairman Farrell closed the record and asked if there was any further discussion and if anyone wanted to make a motion concerning the initial ruling.

Motion: Mr. Lawton made a motion for approval of Case #B-22-03 B267700 at 4540 Mack Avenue, Frederick, MD and that any special conditions from the previous approval be addressed. Mr. Paone noted that special conditions would have been met at the plan approval stage, not at the BOA. Mr. Greenwell seconded the motion. The motion was approved unanimously 5-0-1.

B-22-04

Classic Design Group Inc. - Contractor (B267728)

Mr. Paone delivered the staff report outlining the request. The Applicant is requesting a 12' 6" variance to a 30' rear building restriction line in order to build a 320 sq. ft. addition in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 17.6' rear building restriction line. There were no objections from staff.

The property is identified as 3428 Winmoor Drive, Ijamsville, MD, Tax Map 0106, Parcel 0108, Zoning, Low Density Residential (R1), Size 10,350 sq. ft.

Applicable Ordinance Sections: Section 1-19-3.220 Variances
Section 1-19-6.100 Design Requirements

Chairman Farrell issued the witness oath to Peter Sorge, Contractor, 5443 Woodbine Road, Woodbine, MD.

Mr. Sorge of Classic Design Group Inc. clarified that he is requesting a screened-in room with windows, not an addition. The client has a daughter who is immune-compromised and he wishes to enclose it for a safe environment for her to enjoy the outside. The property backs up to a lot that is owned by the HOA. This project has been approved by the HOA as submitted. They are requesting to enclose part of an existing deck.

Chairman Farrell issued the witness oath to John Frederick, 3428 Winmoor Drive, Ijamsville, MD, the owner of the property. He commented, in response to a question asked about the Board of Appeals public hearing sign missing on occasion. Mr. Frederick stated that it blows down into the yard and that they repost it as needed.

Chairman Farrell closed the record and asked if there was any further discussion and if anyone wanted to make a motion.

Motion: Mr. Bohrer made a motion for approval of Case #B-22-04 B267728 at 3428 Winmoor Drive, Ijamsville, MD. Mr. Felton seconded the motion. The motion was approved unanimously 5-0-1.

MOTION TO GO INTO CLOSED SESSION:

Pursuant to the Agenda and Maryland Annotated Code, General Provisions Article § 3-305 (b)(7), a motion was made at 6:55 pm by Mr. Greenwell and seconded by Mr. Bohrer to go into closed session to consult with counsel to obtain legal advice, specifically to discuss and determine the next steps in response to a recent court opinion and order related to an appeal of a prior Board of Appeals' decision.

Chairman Farrell then asked if there were any objections to going into closed session. No objections were received.

A vote was taken and Messrs. Greenwell, Lawton, Bohrer, Felton and Chairman Farrell all voted to go into closed session and the motion was therefore approved 5 – 0-1 (Brown absent).

No objections for Board of Appeals going into Closed Session were received.

No calls from the public were incoming.

Adjournment

There being no additional business before the Board, the meeting was adjourned by Chairman Farrell at 8:27 pm.

Respectfully Submitted
Mary Dolan, Administrative Specialist II