

Frederick County Board of Zoning Appeals

Meeting Minutes
November 17, 2022

Chairman Andrew Brown called to order the regular hearing of the Frederick County Board of Zoning Appeals on Thursday, November 17, 2022, at 7:00 pm. This was a live public meeting and also available to the public utilizing WebEx and Public input via telephone. Board members present: Mr. Andrew Brown, Mr. Shannon Bohrer, Mr. Dan Lawton, Mr. John Greenwell and Mr. Gerald Ziemba.

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

The Chair announced the rules and procedures of the meeting and swore in all persons present who were to testify.

First item of business was the approval of the October 27, 2022 Minutes. Motion by Mr. Bohrer to approve the minutes. Mr. Ziemba seconded the motion. Approved unanimously 5-0.

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

B-22-30 (B273704)

Requesting a Special Exception, pursuant to Sec.1-19-3.210 and Sec.1-19-8.338 Kennels, Animal Hospitals or Veterinary Clinics in the A and VC Districts. The Applicant is proposing to construct a Veterinarian Clinic on lands zoned Agricultural. The property is described as 9457 Longs Mill Road, Rocky Ridge, Maryland 21778.

Staff requested a continuance for the Applicant in order to address site plan related matters prior to being reviewed by the BOA.

Mr. Lawton made a motion to approve a continuance for this Application, seconded by Mr. Greenwell and voted 5-0 by the BOA members.

VOTE 5-0

FOR: 5
AGAINST: 0
ABSTAIN: 0
ABSENT: 0

B-22-32 (B273543)

Requesting a Special Exception Approval for a Limited Agricultural Activity in the Residential Districts in accordance with Section 1-19-3.210 and Section 1-19-8.325 of the Frederick County

Zoning Ordinance to allow up to 20 chickens, with no roosters, on a residentially zoned property. The Property is described as 6618 Tuscarora Drive, Frederick MD 21702

The Applicant presented her information on why they want to have up to 20 chickens and how her children are learning from this experience.

Mr. Brown asked why 20 were needed and Applicant responded that 20 were manageable and that they just ended up with 20 by having to purchase 4 chickens at a time.

Motion by Mr. Bohrer in case B273543 in keeping chickens on lots less than 3 acres to approve. Second by Mr. Greenwell. Passed Unanimously.

VOTE 5-0

FOR: 5

AGAINST: 0

ABSTAIN: 0

ABSENT: 0

B-22-31 (B273656)

Requesting an Appeal of Planning Commission Decision/Letter, dated August 3, 2022. Specifically, the Applicant is Appealing the decision by the Director of Development Review, to reject their Appeal of the Preliminary Plan Approval for the Enclave at Carrollton Manor. The property is described as 2701 Adams Street, Adamstown MD 21710.

Kathy Mitchell, Senior Assistant County Attorney explained the history of this Appeal and why it is before the BOA. Ms. Mitchell noted that the Appeal for Judicial Review was filed in the wrong Court and the Appeal was filed past the required deadline. Ms. Mitchell further indicated that the Planning Commission grants final approval to plans that still have to meet conditions all the time. It is still considered their final action.

Mr. McCann wanted to submit a binder of information to the BOA members at this meeting. Ms. Mitchell objected and each attorney explained their position. The binder of information was not accepted by the BOA.

Mr. McCann argued that the plan approval by the Planning Commission (PC) was not the final approval based on "conditions being met" prior to preliminary plan approval. McCann continued provided the history of his clients efforts to file an appeal.

Ms. Mitchell objected to Mr. McCann's statement that she stated that all administrative options have been closed.

Mr. Sinton questioned the appellant about material to be submitted at the BOA Hearing.

Ms. Seise expressed concerns about the inability to get someone at County government to return her call and that Ms. Mitchess directed her to file in Circuit Court.

Mr. Greenwell asked whether the BOA has any latitude in making a decision regarding whether the deadline date had been met or not and can they consider extenuating circumstances.

Mr. Lawton expressed concerns over the website and that it is not user friendly.

The BOA continued discussion when a plan is approved. The code states the timeframe and the BOA must decide if they met the timeframe.

Motion to deny the Appelants Appeal by Mr. Greenwell in case B273656, Appeal of Planning Commission Decision/Letter, dated August 3, 2022, Second by Mr. Lawton. Mr. Bohrer voted against the motion and Mr. Ziemba did not vote on the motion.

VOTE 3-1-1

FOR: 3

AGAINST: 1

ABSTAIN: 1

ABSENT: 0