

Frederick County Board of Zoning Appeals

Meeting Minutes - January 26, 2023

Members Present: Andrew Brown, Board Chairman; John Greenwell, Shannon Bohrer; Gerald Ziembra; Dan Lawton (Virtual)

Staff Present: Thomas Sinton, Asst Co. Attorney; Kathy Mitchell, Senior Asst Co. Attorney (Representing Fred Co Planning Commission); Tolson DeSa, Zoning Administrator; Justin Horman, Zoning Planner II; Michael Paone, Zoning Planner I; Michael Wilkins, Director of Development Review; Graham Hubbard, Principal Planner II; Ashley Moore, Senior Planner; Bryon Black, County Attorney; Jamie Martin, Administrative Specialist II.

The meeting was called to order at 7:00PM. Chair Brown announced the rules and procedures of the meeting, swore in all persons who wished to testify and called the roll for board members. Mr. Sinton reviewed and clarified procedures for the case as it was an administrative appeal.

The first order of business was the approval of minutes from the December 15, 2022 meeting. Motion to approve the meeting minutes by Mr. Greenwell, Mr. Bohrer seconded the motion. The motion was Approved 4-0-1; Mr. Lawton abstained.

Mr. Lawton raised a question to the Board and Ms. Mitchell as to whether the entire case was going to be reheard including Planning Commission's staff reports. Ms. Mitchell clarified that the majority vote of the Board at the December meeting was to consider the record as well as additional testimony. County staff members were also present and available to answer any questions which could also be considered in the Board's decision.

Case B-22-33 (B273753)

Appeal of the Planning Commission's September 14, 2022 denial of Site Plan SP 07-28 (Hyattstown Self-Storage Units/Complex), in accordance with the Frederick County Code, Section 1-19-3.230. The property is located at 1920 Urbana Pike, Clarksburg, MD 20871.

Ms. Mitchell announced to the Board that she was representing the Planning Commission and proceeded to discuss her staff report.

Next, the appellant being represented by attorney Michelle Rosenfeld, was called to provide testimony. Mr. Gerald Miller of Terra Solutions Engineering, LLC was also present on behalf of the appellant.

The floor was then turned over to public comment in which 11 people came forward to speak in support of the Planning Commission's decision. One person also called in to state their support of the Planning Commission's decision. No public comments were made in support of the appellant.

Staff was then called forward to answer for questions from the Board.

The Board decided that a 2-part motion was needed. The first motion was to determine whether or not the Planning Commission decision should be found by a preponderance of the evidence, to be arbitrary and capricious. If the BOA found the decision of the Planning Commission, or, for the Board to act as the Planning Commission and decide the matter at this meeting.

A motion to find the Planning Commission's denial arbitrary and capricious was made by Mr. Bohrer. Mr. Greenwell seconded the motion. Motion #1 passed 3-2-0.

BOA Member	Aye	Nay	Abstain	Absent
Andrew Brown	X			
John Greenwell	X			
Shannon Bohrer	X			
Gerald Ziemba		X		
Dan Lawton		X		

Since the Board found the Planning Commission's decision to be arbitrary and capricious, Mr. Greenwell made a motion for the case be sent back to the Planning Commission for reconsideration based on the revised record and the appellant's proffer of showing new mitigation efforts. The new mitigations included turning the upper proposed entrance into a stabilized construction entrance (only to be used during construction of Phase II) as a temporary facility that will be removed upon the completion of the upper section of the storage units, and the planting of screening trees on the western most side of the property prior to the construction of the upper section. (To be added to the Phase 1 construction plans.) Mr. Lawton seconded the motion. Motion #2 passed 4-1-0.

BOA Member	Aye	Nay	Abstain	Absent
Andrew Brown		X		
John Greenwell	X			
Shannon Bohrer	X			
Gerald Ziemba	X			
Dan Lawton	X			

Meeting adjourned at 9:09PM.