

## **FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR**

**Thursday, August 22, 2013**

Mr. Alan Duke, Chair, called to order the regular meeting of the Frederick County Board of Appeals ("Board") for Thursday, August 22, 2013 at 7:00 p.m. in the 1st Floor Hearing Room in Winchester Hall, Frederick, MD. In addition to the Chair, present were Board Members Mike Bowersox, Robert Fenimore, John Capoccia and Wayne Robinson. Also present were Mr. John Mathias, County Attorney, and Community Development Division staff Mr. Larry Smith, Zoning Administrator, and Mr. Craig Terry, Planner.

*Official Minutes of the Board of Appeals' meetings are kept on file in the Community Development Division.*

### **Introductions**

The Chair welcomed attendees and requested that all cell phones be turned off.

### **Approval of Minutes**

On a motion from Mr. Capoccia, seconded by Mr. Bowersox, the Board approved the minutes of June 27, 2013 (Yea 4, Nay 0 – Mr. Robinson abstained). The July Board meeting was not held as no cases were scheduled.

### **Introduction of Board Members and Election of Officers for the term beginning July 1, 2013**

The Chair introduced the Board members (names listed in first paragraph) who will serve for the new term beginning July 1, 2013. Mr. Fenimore volunteered to be the recording secretary (prior to the meeting).

Election of officers for the new term was led by Mr. Smith. Nominations for Chair were taken from the Board. Mr. Duke was nominated via motion by Mr. Capoccia, seconded by Mr. Bowersox. Mr. Duke was elected as Chair, Yea 4, Nay 0 – Mr. Duke abstained.

Nominations for Vice Chair were taken from the Board. Mr. Bowersox was nominated via motion by Mr. Fenimore, seconded by Mr. Capoccia. Mr. Bowersox was elected as Vice Chair, Yea 4, Nay 0 – Mr. Bowersox abstained.

### **Rules and Procedures**

The Chair stated the rules and procedures for the hearing and swore in all persons who expected to testify at the meeting.

### **Cases**

#### **B-13-09      West Coast Property Investments Inc. c/o Bruce N. Dean, Esq.**

The Applicant filed an Appeal requesting a Special Exception to convert an existing 40-acre historic site into a group home facility for alcohol and drug abuse treatment, as per Ordinance Sections 1-19-8.600 and 1-19-3.210. The property is located on Catoctin Hollow Road, adjacent to Cunningham Falls State Park and approximately 5 miles from the Town of Thurmont (12929 Catoctin Hollow Road, Tax Map 25, Parcel 38), Zoned Resource Conservation (RC), Thurmont Planning Region.

Mr. Terry read the Staff Report. Mr. Smith read the agencies comments. The Board members noted their observations from the site visit held on Wednesday, August 14, 2013, during Board discussion following Applicant's testimony.

Mr. Dean led the discussion of the Applicant's Justification Statement. In addition to the General Criteria for a Special Exception provided in Section 1-19-3.210, the Applicant also must meet the Specific Criteria for Historic Structures and Sites provided in Section 1-19-8.600. This Criteria includes the requirement that the historic structure or site must be listed on the Frederick County Register of Historic Places. Mr. Denis Superczynski, Frederick County Community Development Division, Principal Planner II, testified regarding the Frederick County Historic Preservation Commission's (HPC's) public meeting held on August 14, 2013, and subsequent letter to the Board dated August 19, 2013, confirming that 40-acre Trout Run site is eligible for listing on the Frederick

County Register of Historic Places. A number of other speakers shared either concerns or support for the Applicant's Appeal.

Based upon the evidence and testimony presented at tonight's hearing, the Board approved Applicant's request for a Special Exception to convert an existing 40-acre historic site into a group home facility for alcohol and drug abuse treatment (motion by Mr. Bowersox, seconded by Mr. Fenimore, vote: Yea 5, Nay 0). In HPC's August 19<sup>th</sup> letter, HPC requested that Board take into consideration two elements of the site that are critical to its historic significance, related in summary to 1) landscaping, and 2) historic nature of the overall site design. These two elements were included in the Board's motion and approval.

**B-13-10**      **Amy Vanderryn**

The Applicant filed an Appeal for a Variance request of 5 foot from the required 65 foot total front yard setback for an addition to an existing single family dwelling, as per Ordinance Sections 1-19-4.600(A), 1-19-6.100, and 1-19-3.220. The property is located on Hollow Road at the intersection with Hollow Court (8606 Hollow Road, Tax Map 55, Parcel 135, Lot 1), Zoned Residential (R-1), Middletown Planning Region.

Mr. Terry read the Staff Report. Mr. Smith read the agencies comments. The Board members noted their observations from the site visit held on Wednesday, August 14, 2013, during Board discussion following Applicant's testimony.

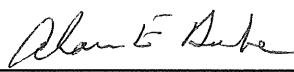
The Applicant explained her Justification Statement to support her Variance request. During Board discussion of the Case, the Board first had to find that special conditions and circumstances exist which are unique to the land or structure involved, in accordance with Section 1-19-3.220 (C). After discussion, the Board found that this requirement has been met due to the shape of the lot, the location of the existing structure on the lot, and the location of the well and septic field. Once this requirement was met, the Board also found that an unreasonable hardship would result to the Applicant if the addition was not located as planned, including the location of the bathroom and plumbing in the existing structure and the planned addition. No other speakers shared either concerns or support for the Applicant's Appeal.

Based upon the evidence and testimony presented at tonight's hearing, the Board approved Applicant's request for a 5 foot Variance to construct an addition to her existing single family dwelling (motion by Mr. Bowersox, seconded by Mr. Robinson, vote: Yea 5, Nay 0).

**Closing**

The next Board meeting is scheduled for September 26, 2013. Being no further business, the meeting adjourned at 8:35 p.m.

Respectfully submitted,  
Robert Fenimore  
Recording Secretary

  
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Alan E. Duke  
Chair