

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR

Thursday, September 26, 2013

Mr. Alan Duke, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, September 26, 2013 ("Hearing") 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 and John Greenwell (alternate Board member). Also present were Mr. Michael Chomel, Assistant County Attorney, and Community Development Division staff Mr. Larry Smith, Zoning Administrator, and Mr. Craig Terry, Planner. Due to having an even number of Board members present, Mr. Duke abstained from voting on the cases below.

Site visits of each case were made on Wednesday, September 18, 2013. All Board members except Mr. Bowersox attended; Mr. Bowersox visited the sites at a separate time. Mr. Smith and Mr. Terry also attended the Site Visits.

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. Bowersox, seconded by Mr. Fenimore, the Board approved the minutes of the August 22, 2013 hearing (Yea 3, Nay 0 – Mr. Greenwell 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 (the cases are listed in the order heard by the Board in the Hearing)

B-13-12 Larry L. Brown (Accessory Apartment)

The Applicant, Larry L. Brown, filed a request for a Special Exception to establish an Accessory Apartment greater than 800 square feet in an accessory structure in the form of a detached garage, per Ordinance Section 1-19-8.321, located on South Mountain Road (3838 South Mountain Road, Tax Map 91, Parcel 35) zoned Resource Conservation (RC). The proposed Accessory Apartment is approximately 1300 square feet and will be created on the second floor of the garage.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and determined that Applicant has met the requirements of Sections 1-19-3.210, 1-19-5.310 and 1-19-8.321. Therefore, the Board approved Applicant's request for a Special Exception to establish an Accessory Apartment greater than 800 square feet in an accessory structure in the form of a detached garage. Motion by Mr. Bowersox, second by Mr. Greenwell, vote: Yea 3, Nay 0, Mr. Duke abstained.

B-13-11 Friends of Frederick County, et al, c/o The Law Offices of Knopf & Brown (Landsdale Sections 2 and 3)

The Appellants, Friends of Frederick County, et al, as represented by David W. Brown, Esq., 401 East Jefferson Street, Ste. 206, Rockville, MD 20850, filed a Claim of Administrative Error in the Frederick County Planning Commission's (FCPC) June 12, 2013 approval of Landsdale Section 2 & 3 Combined Preliminary / Site Plan S-1130, AP # 13403; APFO # 13405, FRO # 13547, located on the west side of Ed McClain Road, MD Route 75, Tax Map 88, Parcels 24, 44, 45, Zoned Planned Unit Development (PUD). Applicable Ordinance Section is 1-19-3.230, (BOA) Appeals.

Based upon the evidence and testimony regarding the administrative waiver, the Board discussed and found, as previously found by the Board in Case B-13-05, that the Board does not have the authority to make a determination regarding Storm Water Management regulations as it is the County staff and not the FCPC that is authorized to make such determinations. Motion by Mr. Bowersox, second by Mr. Fenimore, vote: Yea 3, Nay 0, Mr. Duke abstained.

Based upon the evidence and testimony presented regarding the Forest Resource Ordinance (FRO) issue, the Board discussed and found that the Landsdale PUD is an amendment to the previously approved Green Valley Active Adult PUD and is not a new development and that the criteria in Section 1-21-21(B) were met by the FCPC. The Board upheld the FCPC decision on the FRO modification and determined that no Administrative Error was made by the FCPC, and the Board denied the Appeal by the Appellants. Motion by Mr. Fenimore, second by Mr. Bowersox, vote: Yea 3, Nay 0, Mr. Duke abstained.

B-13-13 Citizens of Linganore Opposed to Gridlock (CLOG), et al, c/o The Law Office of Michele Rosenfeld (Oakdale DRRA)

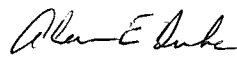
The Appellants, Citizens of Linganore Opposed to Gridlock (CLOG), et al, as represented by the Michele Rosenfeld, LLC, 11913 Ambleside Drive, Potomac, MD 20854, filed a Claim of Administrative Error in the Frederick County Board of County Commissioners (BOCC) approval of the Linganore / Eaglehead (Oakdale Investments LLC) Developer Rights and Responsibilities Agreement (DRRA) 12-04 on July 11, 2013, per Chapter 1-25 of the Frederick County Code. Applicable Ordinance Sections are 1-19-3.230, (BOA) Appeals, and 1-25-14, (DRRA) Appeals.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the BOCC committed no administrative error in approving the Oakdale DRRA, the Board confirmed BOCC's approval of the Oakdale DRRA, and, therefore, the Appellants' appeal was denied. Motion by Mr. Bowersox, second by Mr. Fenimore, vote: Yea 3, Nay 0, Mr. Duke abstained.

Closing

The next Board meeting is scheduled for October 24, 2013. Being no further business, the meeting adjourned at 11:30 p.m.

Respectfully submitted,
Robert Fenimore
Recording Secretary



Alan E. Duke
Chair