

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR

Thursday, December 19, 2013

Mr. Alan Duke, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, December 19, 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 Wayne Robinson. Also present were Mr. Michael Chomel, Assistant County Attorney, and for the Community Development Division ("Staff") Mr. Larry Smith, Zoning Administrator, and Mr. Craig Terry, Planner.

The Site visit for the Case listed below was made on Wednesday, December 11, 2013. Board members Alan Duke, Mike Bowersox, Robert Fenimore, John Capoccia and Wayne Robinson attended. Mr. Smith and Mr. Terry also attended the Site visit for Staff.

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. Being that 4 Board members were present, Mr. Duke announced that he would abstain from voting on the Case so that tie votes would not occur.

Approval of Minutes

On a motion from Mr. Fenimore, seconded by Mr. Robinson, the Board approved the minutes of the November 21, 2013 Hearing (Yea 3, Nay 0, Abstain 1: Mr. Bowersox).

Approval of 2014 Board of Appeals Schedule

On a motion from Mr. Bowersox, seconded by Mr. Fenimore, the Board approved the 2014 Board of Appeals Schedule (Yea 4, Nay 0).

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-13-19 Lehigh Cement Company, LLC

The Applicants, Lehigh Cement Company, LLC, Union Bridge Plant, filed a request to establish activity within a Floodplain, and for a variance of 25 feet from the 50 foot required stream setback for completion of an industrial conveyor and transfer station for a limestone quarry. The location is southeast of the town of Union Bridge and Green Valley Road (635 Quaker Mill Road, Tax Map 36, Parcels 8 and 22), Planning Region is Walkersville, and Zoning District is Mineral Mining (MM).

Applicable Zoning Ordinances are:

- Section 1-19-3.220 Variances
- Section 1-19-9.110 Activities Within Floodplain District

Mr. Duke described the Site visit that occurred on December 11, 2013. Since the site was an operating facility in a "hard hat" environment, the Board members were escorted on-site by Mr. Kurt Deery, an environmental engineer for Lehigh. The Board was driven through the facility to the Frederick County side of Sam's Creek where we observed the flood plain area, the path the conveyor would transit, and the locations of various improvements needed for this project.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant met the requirements of the following, for completion of an industrial conveyor and transfer station for a limestone quarry:

1. Section 1-19-9.110 for activities within a Floodplain
2. Section 1-19-3.220 for a variance of 25 feet from the 50 foot required stream setback

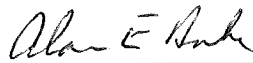
In making the finding for the variance in Item 2, the Board discussed and found that special conditions and circumstances exist which are unique to the land or structures involved. These special conditions include the topography and the location of Sams Creek. The Board also noted that the Applicant would suffer unreasonable hardship if the application was denied, as the conveyors to transport limestone are critical to operation of the facility.

Therefore, the Board approved Applicant's request for activity within a Floodplain and a variance of 25 feet from the 50 foot required stream setback for completion of an industrial conveyor and transfer station for a limestone quarry. Motion by Mr. Fenimore, second by Mr. Bowersox, vote: Yea 3, Nay 0, Abstain 1: Mr. Duke.

Closing

The next Board meeting is scheduled for January 23, 2014. Being no further business, the meeting adjourned at 7:30 p.m.

Respectfully submitted,
Robert Fenimore
Recording Secretary



Alan E. Duke
Chair