

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR

Thursday, February 27, 2014

Mr. Alan Duke, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, February 27, 2014 ("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 John Capoccia, Robert Fenimore, Wayne Robinson and John Greenwell. 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. Mr. Capoccia joined the Hearing in progress, following the discussion for Case B-14-05 and prior to the discussion for Case B-14-06.

The Site visits for the Cases listed below were made on Wednesday, February 19, 2014. Board members Alan Duke, John Capoccia, Robert Fenimore, Wayne Robinson and John Greenwell attended. Mr. Smith and Mr. Terry also attended the Site visits 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.

Approval of Minutes

On a motion from Mr. Fenimore, seconded by Mr. Robinson, the Board approved the minutes of the January 23rd, 2014 hearing (Yea 4, Nay 0, Absent 1 (Mr. Capoccia)). The Findings and Decisions from the January 23rd Hearing were signed by the Board members who attended that meeting.

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. Swearing-in occurred as required during the meeting as additional attendees arrived.

CASES

B-14-03 Robin M. Trout & Peggy Trout (Continuation from January 23, 2014 Hearing)

The Appellants, Robin M. and Peggy S. Trout, claimed an Appeal of Administrative Error in the decision of the Zoning Administrator relative to the denial of Permit # 112268 for a storage building expansion, to join two existing structures, as per the applicable Zoning Ordinances below.

At the January 23, 2014 hearing, the Board discussed and found that the Zoning Administrator did not make an Administrative Error in his decision relative to the denial of Permit # 112268 for a storage building expansion to join two existing structures. However, in an effort to allow the Appellants the opportunity to revise their building plans in an effort to make their plans compliant with the applicable Zoning Ordinances, the Board did approve a continuance of Case B-14-03 until the Board Hearing on February 27, 2014, to provide Appellants with additional time to show forward progress towards making their building plans compliant.

Staff was requested by the Board to provide an update. Mr. Smith advised that Staff was working on a text amendment via discussions with the Board of County Commissioners (BoCC), and Staff therefore requested a three (3) month continuance of Case B-14-03.

The Board moved to approve this continuance until the May 2014 Board hearing. Motion by Mr. Greenwell, second by Mr. Fenimore, vote: Yea 4, Nay 0, Absent 1 (Mr. Capoccia).

At the January 23, 2014 hearing, the Applicant, Christina Brittian, filed a Request for Special Exception to establish a Limited Agricultural Activity in the Residential zoning district to allow farm animals (chickens and goats) in a residential property less than 3 acres, per the applicable Zoning Ordinances, location: 260 Knoxville Road, Knoxville, MD 21758. The Board approved Applicant's Request, provided that the location of a new planned chicken coop and appropriate noise reduction techniques be utilized to address neighbor's noise concerns to ensure compliance with Section 1-19-8.325, Limited Agricultural Activity in the Residential Districts. During the January 23, 2014 Hearing, the Applicant testified that these items would be completed by May 2014.

In a letter dated February 11, 2014, a neighbor of the Applicant, Mr. David Nell, 256 Knoxville Road, Knoxville, MD 21758, filed a request for reconsideration of Case B-14-05. On February 19, 2014, the Applicant provided her response to Mr. Nell's concerns. The Applicant was not present at the February 27, 2014 Hearing.

Comments from Board members included a discussion that Section 1-19-8.325 provided sufficient guidance to the Zoning Administrator to enforce the applicable ordinances related to this Case. After discussion on the Board, and with comments by Staff, the Chair asked for a motion for reconsideration of Case B-14-05. As no motion was made by a Board member, the request for reconsideration was not approved.

(Mr. Capoccia arrived.)

B-14-06 Randy B. & Kathi Stockman

The Applicants, Randy B. and Kathi Stockman, represented by Lavelle & Associates, 3718 Basford Road, Frederick, MD 21703, are requesting a one (1) acre Variance from the required 10 acre minimum lot size for the subdivision of one lot in the RC zone. Location is on the west side of Basford Road (3718 Basford Road, Tax ID # 14-308016, Tax Map 93, Parcel 23). Planning Region is Brunswick, Zoning District is Resource Conservation (RC) and Residential-1 (R1), and Comp. Plan Designation is Natural Resources, Rural Residential.

Applicable Zoning Ordinances are:

- Section 1-19-3.220, Variances (General Criteria)
- Section 1-19-6.100, Design Requirements
- Section 1-19-11.100, Definitions

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicants meet the criteria in Section 1-19-3.220, Variances. In determining the finding, the Board first found that special conditions and circumstances exist, in accordance with Section 1-19-3.220(C)(1), as follows:

- Slope, topography, environmental and re-zoning issues have created special conditions and circumstances for the Applicant
- If not approved, the rear lot line of new lot # 1 would move 100 ft into the remainder and the existing clearing area would not be available for the proposed retirement home construction
- The new home would be located in a less desirable wooded area with steeper slopes
- The proposed driveway and new electrical service connection would increase by 100 ft
- The property has been rezoned multiple times since purchase in 1988, including from Agricultural to Resource Conservation with a minimum lot size of 5 acres, later revised to 10 acres.

It was also found by the Board that unreasonable hardship to the Applicants would result if the application was denied, as set forth above. The Board, therefore, moved to approve Applicants' request for the Variance described above. Motion by Mr. Fenimore, second by Mr. Robinson, vote: Yea 5, Nay 0.

B-14-07 Becklong, LLC, c/o Craig Beckley (Beckley's Camping Center)

The Applicant, Beckley's Camping Center, 11109 Angleberger Road, Thurmont, MD 21788, represented by Miles & Stockbridge, P.C., are requesting a Special Exception approval to establish a Recreational Vehicle Storage Facility in the Agricultural Zoning District, adjacent to the existing sales and service business. Location is at the

corner of Angleberger Road and Leatherman Road (11127 Leatherman Road, Tax ID # 20-408553, Tax Map 40, Parcel 164, Tract 2). Planning Region is Frederick, Zoning District is Agricultural (AG), and Comp. Plan Designation is Rural Community.

Applicable Zoning Ordinances are:

- Section 1-19-3.210, Special Exceptions (General Criteria)
- Section 1-19-8.344, RV Storage Facility in the Agricultural Zoning District (Specific Criteria)
- Section 1-19-11.100, Definitions

Following Applicant's initial testimony, Applicant was asked to address concerns from neighboring property owners (email from C. Harmon to L. Smith, dated February 27, 2014), specifically for the issues of 1) visual screening, 2) non-invasive lighting, 3) adequate set-back of RV's from property lines, and 4) hours of accessibility. Applicant adequately addressed these issues, which will be addressed again at follow-on hearings including the Planning Commission and other County agencies.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant meets the General and Specific Criteria set forth above, including Section 1-19-8.344. The Board, therefore, moved to approve Applicants' request for a Special Exception for an RV Storage Facility in the Agricultural Zoning District.

Motion by Mr. Fenimore, second by Mr. Greenwell, vote: Yea 5, Nay 0.

B-14-08 Ajay & Renu Prakash

The Applicants, Ajay and Renu Prakash, 14828 Mockingbird Lane, Darnestown, MD 20874, are requesting a modification to the Findings and Decisions relative to a previously approved Special Exception for a Country Inn (Board of Appeals Case B-11-17), in order to subdivide the property. Location is on the south side of Old National Pike (5509 Old National Pike, Tax Map 66, Parcel 291). Planning Region is Frederick, Zoning District is Agricultural (AG), and Comp. Plan Designation is Agricultural / Rural.

Applicable Zoning Ordinances are:

- Section 1-19-3.210, Special Exceptions (General Criteria)
- Section 1-19-8.333, Country Inns in RC & A (Specific Criteria)

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant's current proposal continues to meet the criteria for a Country Inn, in accordance with the General and Specific Criteria set forth above. The Board further approved Applicant's request to delete the following language included in Section 1-19-3.210(B), item 2 of the Findings and Decisions for Case B-11-17: "The Applicants state that no exterior changes or physical developments will be made to the property and the surrounding acreage will be preserved and maintained as a working farm", and replace this with the following new language: "The Applicants state that the acreage surrounding the main house and outbuildings on the property, as shown on the attached proposed plat, will be preserved for the exclusive use of the Country Inn."

Motion by Mr. Fenimore, second by Mr. Robinson, vote: Yea 5, Nay 0.

Closing

The next Board meeting is scheduled for March 27, 2014. Being no further business, the meeting adjourned at 9:00 p.m.

Respectfully submitted,
Robert Fenimore,
Recording Secretary

*Robert Fenimore, as Designee for
Mr. Alan Duke*
Alan E. Duke, Chair