

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR

Thursday, May 22, 2014

Mr. Alan Duke, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, May 22, 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 Mike Bowersox, John Capoccia, 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 visits for the Cases listed below were made on Wednesday, May 14, 2014. Board members Alan Duke, Mike Bowersox, Robert Fenimore and Wayne Robinson attended. Mr. Smith and Mr. Terry also attended the Site visits for Staff. Mr. Capoccia visited the sites separately on May 21, 2014. Site visit observations were shared during the discussion for each case.

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 and electronic devices be turned off.

Approval of Minutes

On a motion by Mr. Capoccia, seconded by Mr. Robinson, the Board approved the minutes of the April 24, 2014 hearing (vote: Yea 3, Nay 0, Abstain 2 – Mr. Bowersox and Mr. Fenimore, who did not attend the April 24th hearing). The Findings and Decisions from the April 24th 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.

CASES

B-14-14 Timothy Wolfe (Request for Special Exception)

The Applicant, Timothy Wolfe, 8019 Rocky Ridge Road, Thurmont, MD 21788, is requesting a Special Exception to establish a Limited Agricultural Activity for the keeping of chickens on a residential lot that has less than 3 acres. Location is on the south side of Rocky Ridge Road (8019 Rocky Ridge Road, Tax ID # 15-343893, Tax Map 19, Parcel 178). Planning Region is Thurmont, Zoning District is Residential-1 (R1), and Comp. Plan Designation is Medium Density Residential.

Applicable Zoning Ordinances are:

- Section 1-19-3.210, Special Exceptions (General Criteria)
- Section 1-19-8.325, Limited Agricultural Activity in the Residential Districts (Specific Criteria)
- Section 1-19-11.100, Definitions

Mr. Terry read the Staff Report. Mr. Smith noted that there were no Agency comments. The Applicant presented his case. There were no other speakers for or against the Applicant's request.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant meets the general criteria in Section 1-19-3.210 and the specific criteria in Section Section 1-19-8.325.

Therefore the Board voted to approve the Applicant's request to establish a Limited Agricultural Activity for the keeping of chickens on a residential lot that has less than 3 acres.

Motion by Mr. Bowersox, second by Mr. Capoccia, vote: Yea 5, Nay 0.

B-14-15 Robert & Caridad Hansen (Request for Variance)

The Applicants, Robert & Caridad Hansen, 6584 Whetstone Drive, Frederick, MD 21703, are requesting a 4 foot Variance from the side yard setback and a 5 foot variance from the front yard setback to construct an addition to the front of a garage for a single family dwelling. Location is on the north side of Whetstone Drive (6584 Whetstone Drive, Tax ID # 28-554117, Tax Map 77, Parcel 240, Lot 710). Planning Region is Frederick, Zoning District is Residential-8 (R8), and Comp. Plan Designation is Medium Density 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

Mr. Terry read the Staff Report. Mr. Smith noted that there were no Agency comments. The Applicants presented their case. There were no other speakers for or against the Applicant's request.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicants meet the general criteria in Section 1-19-3.220. In determining the finding, the Board first found that special conditions and circumstances exist, in accordance with Section 1-19-3.220(C)(1), due to the narrowing trapezoid shape of the yard width at the location of the addition. The lot is tall and narrow, being 75 ft wide at the rear boundary and 20 ft wide at the front boundary. The BRL is approximately 65 ft from the front boundary, whereas standard R8 zoning requires a 25 ft front yard setback.

The Board also found that unreasonable hardship would result to the Applicants if the Board denied their request. Since their family room is partially located behind their garage, the Applicants are not able to extend their garage to the rear of the property, and thus would not be able to construct their planned addition to increase parking and storage to their home.

Therefore the Board voted to approve the Applicants' request for a 4 foot Variance from the side yard setback and a 5 foot Variance from the front yard setback to construct an addition to the garage of a single family dwelling.

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

B-14-17 KELKIMRIC Properties LLC (Request for Special Exception)

The Applicant, Gary Havens of KELKIMRIC Properties, LLC, 9619 Stauffer Road, Walkersville, MD 21793, as represented by Lisa Lawler Graditor of Linowes and Blocher, LLP, is requesting a Special Exception approval to establish a dog kennel on 9.75 +/- acres (4.75 acres of which are currently owned by the Applicant). The Applicant is also represented by Macris, Hendricks & Glascock, P.A., Engineers. Location is on the southwest side of Stauffer Road (9619 Stauffer Road, Tax ID # 26-509041 & 26-498333, Tax Map 58, Parcel 259, Lot 2, and Parcel 65). Planning Region is Walkersville, 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 1-19-8.338, Kennels, Animal Hospitals or Veterinary Clinics in the A and VC Districts (Specific Criteria)
- Section 1-19-11.100, Definitions

Mr. Terry read the Staff Report. Mr. Smith noted that there were Agency comments from the Health Department concerning the septic plans – these will be discussed as part of the Site Plan review and is outside the purview of this Hearing. The Applicant presented his case. There were no other speakers for the Applicant's request. Several speakers spoke against the Applicant's request. Those in opposition were generally either neighboring property owners or other commercial kennel owners from Frederick County.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found that the Applicant meets the general criteria in Section 1-19-3.210 and the specific criteria in Section 1-19-8.338.

Therefore the Board voted to approve the Applicant's request for a Special Exception to establish a dog kennel. In approving this Special Exception, the Board made it conditional upon the Applicant taking title to the additional 5 acres currently owned by C & M Realty Company, for which the Applicant has entered into a contract to purchase, and for which the Applicant is preparing an addition plat for review and approval by Frederick County.

The Applicant has also requested the Board to consider reducing the parking space requirements. The Board noted that this was not in its purview at this Hearing, and this would be addressed by the Planning Commission at the Site Plan review.

Motion by Mr. Bowersox, second by Mr. Capoccia, vote: Yea 5, Nay 0.

Closing

The next Board meeting is scheduled for June 26, 2014. Being no further business, the meeting adjourned at 9:15 p.m.

Respectfully submitted,

Robert Fenimore
Recording Secretary



Mike Bowersox for
Alan Duke, Chair