

FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR

Thursday, October 23, 2014

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, October 23, 2014 ("Hearing") at 7:00 p.m. in the 3rd Floor Hearing Room in Winchester Hall, Frederick, MD. In addition to the Chair, present were Board members Mike Bowersox, Alan Duke, Don Miller, and Alternate Board member Tom Conard. Also present were Mr. Michael Chomel, Assistant County Attorney and Ms. Kathy Mitchell, Assistant County Attorney, and for the 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 and Administrative Matters

The Chair welcomed the audience to the hearing and requested that all cell phones and other electronic devices be turned off.

Approval of Minutes

On a motion by Mr. Bowersox, seconded by Mr. Conard, the Board approved the minutes of the September 2014 meeting. (Yea 5, Nay 0).

All Board members indicated they had made the site visit or had visited the sites on their own. Pertinent observations will be made by the members as each case proceeds.

Rules and Procedures

The Chair stated the rules and procedures for the hearing and swore in all persons who expected to testify or cross-examine at the hearing.

CASE

B-14-27 Mr. Joseph Reid

The Applicant, Mr. Joseph Reid, claimed an Appeal of Administrative Error regarding the Frederick County Planning Commission's (FCPC) conditional approval of Ramsburg Preliminary Subdivision Plan (S-933, AP#13629).

Applicable Zoning Ordinances are:

- Section 1-19-3.230, Appeals

Mr. Terry read the Staff Report. Mr. Smith advised that no comments had been received on this case. Ms. Mitchell presented the case for the FCPC. Mr. Reid presented the Appellant's case. Mr. Paul Rose and Mr. Noel Manolo, of Miles and Stockbridge, 30 West Patrick St., Fredrick, MD, 21701, presented the case for the Applicant. No witnesses spoke in favor of the Agency or Applicant. Five witnesses spoke in favor of the Appellant. The Agency, the Applicant, and the Appellant then presented their rebuttal comments.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found no administrative error on the part of the FCPC. Mr. Bowersox made a motion that the Board found no administrative error and affirmed the decision of the FCPC. The motion was approved by a vote of 5-0.

B-14-28 Mr. Kevin Schoonover

The Applicant, Mr. Kevin Schoonover, as represented by William J. Holtzinger, 5308 Gold Mine Road, Frederick MD, 20703, requested Special Exception approval to construct an accessory structure of 3200 square feet for a

Home Occupation, located near the northeast intersection of Baltimore National Pike and Shookstown Road (8211 Baltimore National Pike, Tax Map 56, Parcels 209 and 414).

Applicable Zoning Ordinances are:

- Section 1-19-3.210, Special Exceptions
- Section 1-19-8.240(A)(5)(b)(3), Home Occupations
- Section 1-19-11.100, Definitions

Mr. Terry read the Staff Report. Mr. Smith provided comments from Development Review and the Health Department, noting the specifics of each. Mr. Holtzinger presented the case for the Applicant, Mr. Schoonover. Ms. Leslie Powell, 19 North Court Street, Suite 101, Frederick, Maryland 21701, cross-examined the Applicant, in representation of several individuals who were opposed to the application. One witness spoke in favor of this application. Ms. Powell then presented the case of her clients in opposition, who waived their individual right to speak. Three witnesses testified in opposition to the application. Mr. Holtzinger cross-examined these witnesses. Mr. Holtzinger then presented the rebuttal for the Applicant. Mr. Duke presented the observations of the Board during the site visit to the property.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and determined that the Applicant does not meet the requirements of the Zoning Ordinance with respect to Home Occupations. Mr. Duke moved that the application be denied as the Applicant did not meet the requirements of the Zoning Ordinance, Section 1-19-8.240(A)(5)(b)(3), Home Occupations, seconded by Mr. Conard. The motion was approved by a vote of 4-1 (Bowersox).

B-14-29 Anthony Wackerle

The Applicant, Mr. Anthony Wackerle, requested Variances of 9.0236 acres and 5.3398 acres from the required 10 acre minimum lot size in the Resource Conservation zoning district in order to swap lot lines of two existing parcels. Property is located on the southwest side of Mountville Road (4455 Mountville Road, Tax Map 93, Parcel 78, Tax ID's #14-312862 and #14-312870).

Applicable Zoning Ordinances are:

- 1-19-3.220, Variances
- 1-19-4.210, Nonconforming Lots
- 1-19-6.100, Design Requirements
- 1-19-11.100, Definitions

Mr. Terry read the Staff Report. Mr. Smith advised that Development Review and the Health Department commented on this application, and noted the specifics of each. Mr. Wackerle, the Applicant, presented his case. There was no other testimony.

Based on the evidence and testimony presented at the Hearing, the Board discussed and determined that the Applicant has met all the requirements of the Zoning Ordinance, including Sections 1-19-3.220 and 1-19-4.210. Mr. Bowersox made a motion to approve the Applicant's request for Variances, seconded by Mr. Duke. The Board voted 5-0 to approve the request for the Variances.

The meeting adjourned at 11:38.



Respectfully submitted,

Alan E. Duke, Secretary