

## **FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR**

**Thursday, February 26, 2015**

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, February 26, 2015 ("Hearing") at 7:02 p.m. in the 1<sup>st</sup> Floor Hearing Room in Winchester Hall, Frederick, MD. In addition to the Chair, present were Board members Alan Duke, Don Miller, Wayne Robinson, and Alternate Board member Tom Conard. 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.

*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. Conard, seconded by Mr. Robinson, the Board approved the minutes of the January 22, 2015 meeting by a vote of 5-0.

### **Rules and Procedures**

All Board members noted that they had attended the site visit.

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-15-02 Friends of Frederick County, Inc., et al**

The Appellant, Friends of Frederick County, Inc., et al, presents a Claim of Administrative Error in Decision of the Frederick County Planning Commission in the ruling of approval of Jefferson Technology Park Preliminary and Site Plan (SP-06-07/S-1136, AP #14287, APFO # 14289, FRO # 14290) located on the south side of MD 180 at the southwest corner of I-70 and I-270 (Tax Map 76, Parcel 108) Zoned Mixed Use Development (MXD), represented by Michele Rosenfeld, LLC (11913 Ambleside Drive, Potomac, MD 20854).

Mr. Smith presented a letter from the Appellant's attorney requesting that the appeal be withdrawn with prejudice. The Chair stated that the Board granted the Appellant's request to withdraw the appeal with prejudice, there being no objection from the members of the Board.

#### **B-15-03 James and Frances Wimmer**

The Applicant, James and Frances Wimmer, as represented by Mary Ann Ferguson, 9438 Woodsboro Pike, Walkersville, MD 21793, request Special Exception approval to establish and Accessory Apartment greater than 800 square feet on the property located on the west side Sidney Road (5039 Sidney Road, Tax Map 90, Parcel 134, Tax ID #18-382644), Zoned Agricultural. Applicable Zoning Ordinances are:

- Sec. 1-19-3.210 Special Exceptions
- Sec. 1-19-8.321 Accessory Apartments Greater Than 800 Square Feet to be Located in an Accessory Structure

Mr. Terry read the Staff Report. Mr. Smith noted the comments of the Health Department. Ms. Ferguson presented the case for the Applicant. No witnesses spoke on this application.

Mr. Greenwell made a motion to continue this case to the March Board meeting, seconded by Mr. Miller. The motion failed, 2-3 (Conard, Duke, Robinson).

Based upon the evidence and testimony presented at the hearing, the Board discussed and found that the request for a Special Exception met the requirements of the Zoning Ordinance, including Sections 1-19-3.210 and 1-19-8.321. Mr. Duke made a motion to approve the Applicant's request for a Special Exception, seconded by Mr. Conard. The Board voted 3-2 (Greenwell, Miller) to approve the request for a Special Exception.

**B-15-04      K&G K9 Services, LLC**

The Applicant, K&G K9 Services, LLC, as represented by Andrew DiPasquale, Esq., Law Offices of Anthony DiPasquale, 1 West Church Street, Frederick, MD 21701, request Special Exception approval to establish a Kennel for use as a dog training facility on the property located on the south side of Ford Road (6533 Ford Road, Tax Map 48, Parcels 12 and 278, Tax ID #s 21-414301 and 21-428450). Applicable Zoning Ordinances are:

- Sec. 1-19-3.210 Special Exceptions
- Sec. 1-19-8.338 Kennels ... in the A and VC District
- Sec. 1-19-11.100 Definitions

Mr. Terry read the Staff Report. Mr. Smith noted the comments of the Health Department. Mr. DiPasquale presented the case for the Applicant. One witness spoke in favor of the application. Six witnesses spoke in opposition to the application. One letter in favor of the application was read into the record. Mr. DiPasquale presented rebuttal for the Applicant.

Based upon the evidence and testimony presented at the hearing, the Board discussed and found that the request for a Special Exception met the requirements of the Zoning Ordinance including Sections 1-19-3.210 and 1-19-8.338. Mr. Duke made a motion to approve the Applicant's request for a Special Exception, seconded by Mr. Conard. Mr. Miller suggested that a condition be added to the motion, the wording of which was agreed to state, "The Board accepts the Applicant's proffer to remove the barn adjacent to Ford Road." Mr. Duke and Mr. Conard accepted this change to the motion. The Board voted 5-0 to approve the request for a Special Exception.

**B-15-05      Kenneth and Patricia Keyes**

The Applicant, Kenneth and Patricia Keyes, as represented by Andrew DiPasquale, Esq., Law Offices of Anthony DiPasquale, 1 West Church Street, Frederick, MD 21701, request Special Exception approval to use a Historic Structure or Site for establishing a Facility for Functions located on the property on the north side of Fingerboard Road (10102 Fingerboard Road, Tax Map 97, Parcel 24, Tax ID #07-197594). Applicable Zoning Ordinances are:

- 1-19-3.210 Special Exceptions
- 1-19-8.600 Historic Structures or Sites

Mr. Terry read the Staff Report. Mr. Smith noted the comments of the Health Department. Mr. DiPasquale presented the case for the Applicant. No witnesses spoke on this application.

Based upon the evidence and testimony presented at the hearing, the Board discussed and found that the request for a Special Exception met the requirements of the Zoning Ordinance including Sections 1-19-3.210 and 1-19-8.600. Mr. Conard made a motion to approve the Applicant's request for a Special Exception, seconded by Mr. Duke. The Board voted 5-0 to approve the request for a Special Exception.

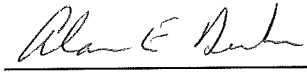
**B-15-05      Carlos Pacheco**

The Applicant, Carlos Pacheco, requests Special Exception approval to establish an Accessory Apartment greater than 800 square feet on the property located on the south side of Fingerboard Road (12613 Fingerboard Road, Tax Map 98, Parcel 126, Tax ID #09-238182). Applicable Zoning Ordinances are:

- Sec. 1-19-3.210 Special Exceptions
- Sec. 1-19-8.321 Accessory Apartments Greater Than 800 Square Feet to be Located in an Accessory Structure

Mr. Terry read the Staff Report. Mr. Smith noted the comments of the Health Department. At this point Applicant did not come forward and was determined to be not present. After a discussion of how to proceed, Mr. Robinson made a motion to continue the case until the March Board meeting, seconded by Mr. Miller. The continuance was approved by a vote of 5-0.

The meeting adjourned at 9:31 p.m.

A handwritten signature in cursive script, reading "Alan E. Duke", is positioned above a horizontal line.

Respectfully submitted,

Alan E. Duke, Secretary