

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

**Thursday, April 23, 2015**

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, April 23, 2015 ("Hearing") at 7:00 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 Mike Bowersox, 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, Mr. Craig Terry, Planner, and Mr. Dennis Superczynski, representing the Historic Preservation Commission.

*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.

There were no significant observations noted during the site visits.

### **Approval of Minutes**

On a motion by Mr. Bowersox, seconded by Mr. Conard, the Board approved the minutes of the March 26, 2015 meeting by a vote of 4-0-1 (Mr. Miller abstained).

### **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-15-11                    Edward and Patricia Russell**

The Applicants, Edward and Patricia Russell, represented by Glenn Reynolds, Architect, request a Variance of 9 feet from the 21 foot maximum height for a residential accessory structure on the property located on the northwest side of Ormonds Terrace (9770 Ormonds Terrace, Tax Map 78, Parcel 53, Lot 105, Tax ID #09-589653), zoned Residential (R-1). Applicable Zoning Ordinances are::

- Sec. 1-19-3.220 Variances
- Sec. 1-19-8.240 Accessory Uses on Residential Properties
- Sec. 1-19-11.100 Definitions

Mr. Terry read the staff report. Mr. Smith noted that there were no Agency comments. No witnesses spoke on this case.

Based upon the evidence and testimony presented at the hearing, the Board discussed and found that the request for a Variance met the requirements of the Zoning Ordinance including Sections 1-19-3.210 and of uniqueness. On a motion by Mr. Conard, seconded by Mr. Bowersox, the Board voted 4-1 (Mr. Miller opposed) to grant the Applicant's request for a Variance.

**B-15-10                    Elm Tree Properties LLC c/o Brandy A. Peeples, Esq.**

The Applicant, Elm Tree Properties LLC, represented by Brandy A. Peeples, Esq., (47 East All Saints Street, Frederick, MD) requests Special Exception approval to use a Historic Structure or Site for establishing a Facility for Functions, located on the southwest side of Thurston Road (2220 Thurston Road, Tax Map 105, Parcels 33, 63, Tax ID's #07-233183, 07-210175, 07-233191), zoned Resource Conservation (RC). Applicable Zoning

Ordinances are:

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

Mr. Terry read the staff report. Mr. Smith noted comments of the Health Department and of the Community Development Division. Mr. Superczynski noted comments of the Historic Preservation Commission. Ms. Peeples presented the Applicant's case, with supplemental testimony from the Applicants. Two witnesses testified in favor of the proposal. Ms. Leslie Powell and Mr. Peter Ciferi (Powell Flynn, 19 North Court Street, Frederick, MD) represented the Sugarloaf Alliance, Inc., in opposition to the proposal. Thirteen additional witnesses testified in opposition to the proposal. Ms. Peeples addressed the Board with rebuttal.

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 Sec. 1-19-3.210 and Sec. 1-19-8.600. On a motion by Mr. Conard, seconded by Mr. Bowersox, as amended, the Board granted the Applicant's request for a Special Exception with the following conditions:

1. Event types are limited to weddings, birthday celebrations, and corporate events. Corporate events being specifically defined by the Applicant as "team building events and picnics";
2. Music or any other amplified sounds, such as a microphone, will be located indoors after 9pm;
3. If events exceed 250 guests, the proposed event will require a Temporary Outdoor Event permit review and approval;
4. Events over 300 guests will require use of a shuttle service to reduce traffic impacts on the neighboring properties;
5. Facility for Functions use approval will be subject to review and approval of a Traffic Engineer.

The meeting adjourned at 10:05 p.m.



Respectfully submitted,

Alan E. Duke, Secretary