

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

**Thursday, June 25, 2015**

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, June 25, 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, Al Duke, Don Miller, and Alternate Board member Tom Conard. Also present were Mr. Michael Chomel and Ms. Kathy Mitchell, Assistant County Attorneys, and for the Community Development Division ("Staff") Mr. Larry Smith, Zoning Administrator, Mr. Craig Terry, Planner, and Mr. Dennis Superczynski, Planner for 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.

### **Closed Session**

Mr. Duke made a motion that the Board go into a Closed Session to consult with counsel to obtain legal advice on a legal matter. Mr. Conard seconded the motion. The Board voted 5-0 to approve the motion.

At 7:02 p.m. the Board entered into a Closed Session. At 7:19 p.m. the Board reconvened in Open Session.

### **Approval of Minutes**

On a motion by Mr. Miller, seconded by Mr. Conard, the Board approved the minutes of the May 28, 2015 meeting by a vote of 5-0.

### **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-15-14      RALE, Inc.**

The Appellants, RALE, Inc., et al, represented by Ms. Michele Rosenfeld (Michele Rosenfeld LLC, 11913 Ambleside Drive, Potomac, MD 20854) claim an Appeal of Administrative Error regarding the Zoning Administrator's decision letter dated March 30, 2015. The Applicable Zoning Ordinance is:

- 1-19-3.230 Appeals

Mr. Terry read the staff report. Mr. Smith noted that there were no Agency comments. All Board members indicated that they had visited the site. Ms. Kathy Mitchell, Assistant County Attorney, presented the case for the Zoning Administrator. Ms. Michele Rosenfeld presented the case for the Appellants. Mr. Paul Rose (Miles and Stockbridge, 30 West Patrick St., Fredrick, MD, 21701) presented the case for the Applicant. Mr. Chomel advised that since this was a legal matter regarding the appeal, no public testimony was necessary. In rebuttal, Ms. Mitchell reiterated the Zoning Administrator's position and Mr. Rose had nothing further to add. Ms. Rosenfeld presented rebuttal for the Appellant.

Based upon the evidence and testimony presented at the Hearing, the Board discussed and found no Administrative Error on the part of the Zoning Administrator. Mr. Duke made a motion that the Board finds the appeal not timely filed and supports the position of the Zoning Administrator. Mr. Conard seconded the motion and the motion passed 5-0.

**B-15-15            Jeffrey & Carolyn Williford.**

The Applicant, Jeffrey and Carolyn Williford, requests a variance of 30 feet from the required 40 foot front yard setback to construct a detached garage on the property located on the north side of Water Street Road (8711 Water Street Road, Tax Map 59, Parcel 341, Lot 201, Tax ID #13-589040), zoned Agricultural. Applicable Zoning Ordinance is:

- 1-19-3.220 Variances

Mr. Smith notes that the applicant indicates that he does not want to continue with this application at this time. The Board by consensus dismissed the case without prejudice.

**B-15-16            Joselene Hills, LLC.**

The Applicant, Joselene Hills, LLC, represented by Mark Lynch (8939 Woodsboro Pike, Walkersville, MD 21793), requests Special Exception Approval to use a Historic Structure or site for establishing a Facility for Functions on the property located on the east side of Dance Hall Road (7701 Dance Hall Road, Tax Map 68, Parcel 9, Tax ID #13-305358), zoned Agricultural. Applicable 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 comments of the Health Department. Mr. Superczynski presented a letter to the Board from the Historical Preservation Commission. All Board members indicated that they had visited the site. Mr. Lynch presented the Applicant's case. Three witnesses spoke in favor of the proposal. One witness spoke in opposition to the proposal. Two witness brought notice of various issues to the attention of the Board. Mr. Lynch 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 1-19-8.600. On a motion by Mr. Conard, seconded by Mr. Bowersox, the Board voted 5-0 to grant the Applicant's request for a Special Exception.

**Presentation**

The Chair presented Mr. Duke with a Certificate of Recognition from County Executive Jan Gardner for his service on the Board of Appeals.

The meeting adjourned at 8:56 p.m.



Respectfully submitted,

Alan E. Duke, Secretary