

Frederick County Board of Appeals

Meeting Minutes

January 28, 2016

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, January 28, 2016 ("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 Mr. Wayne Robinson, Mr. Earl Bell, Mr. Don Miller and Mr. Mike Bowersox. Also present were 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. Miller, seconded by Mr. Robinson, the Board approved the minutes of the December 17, 2015 meeting by a vote of 4-0. Mr. Bowersox abstained.

Site Visits

All Board members present, indicated that they had visited the sites for the Cases before them.

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.

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(Continued)

Case

B-14-20 Playground Specialists Inc. c/o Tilford C. Jones, Court Remand to BOA.

The Court Remand to the BOA regarding a Claim of Administrative Error to review status of compliance efforts regarding a Zoning violation as per the Zoning Ordinance, located east of Rt. 15 North (11700 Whates Lane, Tax Map 32, Parcel 28) Zoned Agricultural (AG).

Mr. Smith stated that the site plan for the JBB2 LLC property was still being reviewed at Town of Thurmont. If approved, Mr. Barber will be able to move forward with the project, contingent upon permitting requirements. Staff is satisfied that Mr. Barber is working towards the goal of site plan approval. Staff recommended that this application receive a four (4) month continuance to insure continued compliance. On a motion by Mr. Bowersox, seconded by Mr. Robinson, the Board voted 3-0 to grant the Applicant's the four (4) month continuance. Mr. Miller and Mr. Bell abstained.

B-15-27 Cleanlight Power + Energy, LLC

The Applicant, Cleanlight Power + Energy, LLC, as represented by David Severn, Esq. and Mr. Mark Crissman, (Daft McCune Walker, Inc.), has requested a Special Exception to establish a Nongovernment Utility as a solar farm located south of East Basford Road and west of Ballenger Creek Pike (2518 Ballenger Creek Pike, Tax Map 103, Parcel 38) Zoned Agricultural (AG). This case was continued from last month.

The Applicable Zoning Ordinances are:

- 1-19-3.210 Special Exceptions
- 1-19-8.339 Nongovernmental Utility

Mr. Terry read the new staff report. Mr. Greenwell read a letter from the County Executive stating that new applications for Nongovernmental Utility applications would not be accepted for six (6) months and that applications already under review would be proceeding at their own risk. Mr. Smith noted Health Department and Soils Conservation issues. Mr. Severn presented their case. Mr. Tony Checcia, representing the Carrollton Manor Legacy Group, spoke at length in opposition to the project. Several other witnesses also spoke in opposition to the proposal. Based upon the evidence and testimony presented at the hearing and after some discussion on whether or not the project was in conformance with the Comprehensive Plan the Board found that the request for a Special Exception did not meet the requirements of the Zoning Ordinance Sections 1-19-3.210. On a motion by Mr. Miller, seconded by Mr. Bell, the Board voted 4-1 to deny the Applicant's request for approval of the Special Exception.

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(Continued)

B-16-03 Acorn Properties LLC

The Applicant, Acorn Properties LLC, represented by the owner Isaias Loukos and Chris Mayo of Harris Smariga has requested a Variance of 22 feet from the 50 foot front yard setback and a Variance of 39,146 square feet from the 80,000 square foot minimum lot size for an addition to a structure to be used for offices, located at the corner of Jefferson Pike and Fair Oaks Drive (6023 Fair Oaks Drive, Tax Map 76, Parcel 472) Zoned Office / Research Industrial (ORI).

The Applicable Zoning Ordinances are:

- 1-19-3.220 Variances
- 1-19-4.220 Nonconforming Structures
- 1-19-6.100 Design Requirements.

Mr. Terry read the staff report. Mr. Smith noted Health Department issues. Ms. Mayo and Mr. Loukos presented their case. No witnesses spoke in favor of the proposal. Mr. Carroll Smith spoke at length in opposition to the project. 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 Sections 1-19-3.220 and 1-19-6.100. On a motion by Mr. Robinson, seconded by Mr. Bowersox, the Board voted 5-0 to grant the Applicant's request for approval of the Variance.

B-16-01 Coronal Development Services & Biggs Ford Solar Center LLC

The Applicant, Coronal Development Services & Biggs Ford Solar Center LLC, as represented by Ryan Gilchrist has requested a Special Exception to establish a Nongovernment Utility as a solar farm located at the corner of Biggs Ford Road and Dublin Road (8300 Biggs Ford Road, Tax Map 49, Parcel 69) Zoned Agricultural (AG).

The Applicable Zoning Ordinances are:

- 1-19-3.210 Special Exceptions
- 1-19-8.339 Nongovernmental Utility

Mr. Terry read the staff report. Mr. Smith noted Health Department issues and Town of Walkersville comments and issues. Mr. Gilchrist presented their case. Based upon some discussion on whether or not the project was in conformance with the Comprehensive Plan the Applicant requested a six (6) month continuance. On a motion by Mr. Miller, seconded by Mr. Robinson, the Board voted 5-0 to grant the continuance.

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B-16-02 Coronal Development Services & Legore Bridge Solar Center LLC

The Applicant, Coronal Development Services & Biggs Ford Solar Center LLC, as represented by Ryan Gilchrist has requested a Special Exception to establish a Nongovernment Utility as a solar farm located east of Legore Bridge Road, south of Legore Road, and north of Clyde Young Road (12386 Clyde Young Road, Tax Map 34, Parcel 2) Zoned Agricultural (AG).

The Applicable Zoning Ordinances are:

- 1-19-3.210 Special Exceptions
- 1-19-8.339 Nongovernmental Utility

Mr. Terry read the staff report. Mr. Smith noted Health Department issues and Monocacy Scenic River Citizens Advisory Board comments and issues. Mr. Gilchrist presented their case. No one spoke in favor to the proposal and several witnesses spoke in opposition. 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 Sections 1-19-3.210 and 1-19-8.323. On a motion by Mr. Bowersox, seconded by Mr. Robinson, the Board voted 3-2 to grant the Applicant's request for approval of the Special Exception.

The meeting adjourned at 10:19 p.m.



Respectfully submitted,
Donald L. Miller, Secretary

