

Frederick County Board of Appeals

Meeting Minutes

February 25, 2016

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, February 25, 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 Mr. Michael Chomel, Assistant County Attorney, and for the Planning and Permitting Division ("Staff") Mr. Larry Smith, Zoning Administrator and Mr. Craig Terry, Planner.

Official Minutes of the Board of Appeals' hearings are kept on file in the Planning and Permitting 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 January 26, 2016 meeting by a vote of 5-0.

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.

Request for Reconsideration

The landowner in the Cleanlight Power + Energy, LLC, case B-15-27, has requested that the Board reconsider its denial of the Applicant's case for a Special Exception to establish a solar farm located south of East Basford Road and west of Ballenger Creek Pike (2518 Ballenger Creek Pike, Tax Map 103, Parcel 38). After some discussion from the Board no Board member made a motion to reconsider the Special Exception.

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Case

B-16-04 RALE, Inc.

The Appellant, as represented by Michele Rosenfeld, Esq., has requested an Appeal of Administrative Error as per Ordinance Section 1-19-3.230, in regard to the Zoning Administrator's decision letter, dated 11-24-2015. The Zoning Administrator rejected RALE's appeal of an Outlot Plat associated with the Monrovia Town Center project, located on the north side of Fingerboard Road (AP#15285, 1.603 acres, part of Tax ID #09-589614, Remainder Parcel 3, Burall Heights, Plat Book 92 Page 35) Zoned Planned Unit Development (PUD).

The Applicable Zoning Ordinance section is:

- 1-19-3.230 Appeals

Mr. Terry read the staff report. Mr. Smith noted no agency comments. Kathy Mitchell, Assistant County Attorney (Agency), presented the County's reasoning for the decision letter. Ms. Rosenfeld presented the Appellant's case and Mr. Steven McKay presented testimony for the Appellant. Several witnesses spoke in support for the Appellant's case. Paul Rose, attorney for the developer (Applicant) of the project spoke in opposition to the application. Based upon the evidence and testimony presented at the hearing the Board found that the request for an appeal did not meet the requirements of the Zoning Ordinance Section 1-19-3.230, and that the Zoning Administrator had committed no administrative error. On a motion by Mr. Bowersox, seconded by Mr. Miller, the Board voted 5-0 to deny the Appellant's appeal.

B-16-05 Dona J. Hoffman, as represented by Timothy S. Barkley, Sr., Esq.

The Applicant, Dona J. Hoffman, represented by Timothy S. Barkley, Sr., Esq. has requested a Variance of 25 feet from the 65-foot total front yard setback and a Variance of 15 feet from the 25 foot FEMA Floodplain Buffer for an open pole structure to be constructed over an existing riding arena located near the intersection of Mount Tabor Road and Station Road (8915 Mount Tabor Road, Tax Map 54, Parcel 178, 11.755 acres) Zoned Agricultural (AG).

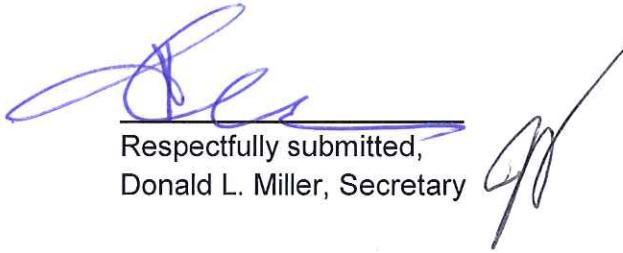
The Applicable Zoning Ordinance is:

- 1-19-3.220 Variances

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Mr. Terry read the staff report. Mr. Smith noted Agency comments. Mr. Barkley presented the Applicant's case. No witnesses spoke in favor of or in opposition to the proposal. 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. On a motion by Mr. Robinson, seconded by Mr. Bell, the Board voted 5-0 to grant the Applicant's request for approval of the Variance.

The meeting adjourned at 08:37 p.m.


Respectfully submitted,
Donald L. Miller, Secretary