

Frederick County Board of Appeals
Meeting Minutes
September 22, 2016

Mr. John Greenwell, Chair, called to order the regular hearing of the Frederick County Board of Appeals ("Board") for Thursday, September 22, 2016 ("Hearing") at 7:00 p.m. in the 2nd. Floor Hearing Room in Winchester Hall, Frederick, MD. In addition to the Chair, present were Board members Mr. Mike Bowersox, Mr. Earl Bell, Mr. Tom Conard, Mr. Don Miller and Mr. Ken Farrell, Mr. Michael Chomel, Senior Assistant County Attorney, and for the Division of Planning and Permitting ("Staff") Mr. Larry Smith, Zoning Administrator and Mr. Craig Terry, Zoning Planner.

Official Minutes of the Board of Appeals' meetings are kept on file in the Community Development Division.

Introductions

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, and a second by Mr. Miller, The Board approved the minutes of the August 25, 2016 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.

Site Visits

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

Case

B-16-16 Myron and Kristen Custer

The Applicant, as represented by Ms. Kathy Custer, has requested a Variance of 10 feet from the 50-foot front yard setback and 20 feet from the 50-foot rear setback requirement to construct a single-family dwelling, located on the south side of Old Swimming Pool Road (4969 Old Swimming Pool Road, Tax ID #24-466329, Lot 2) Zoned Resource Conservation (RC).

(Continued)

September 22, 2016

(Continued)

The Applicable Zoning Ordinance is:

- 1-19-3. 220 Variances

Mr. Terry read the staff report. Mr. Smith noted that the Health Department was working with the Applicant to modify the septic area. Solid Waste had no issues. Ms. Custer presented her husband and daughter's case. No one spoke in favor or in opposition to the Application. Based upon the evidence and testimony presented at the hearing the Board found that the request for the two (2) Variances did meet the requirements of the Zoning Ordinance Section 1-19-3.220. On a motion by Mr. Conard, seconded by Mr. Miller, the Board voted 4-1 to approve the Applicant's request. Mr. Greenwell was in opposition.

B-16-15 **Bertrand & Deborah Newcomer**

The Applicant, as represented by Ilona Fisher (Weinstock, Friedman & Friedman, P.A.), has requested an Appeal of Administrative Error in regard to the Zoning Administrator's denial of a Temporary Outdoor Event permit for weddings (AP#7445). The subject property is located on the south side of Sixes Bridge Road (15014 Sixes Road, Tax ID #05-168295) Zoned Agricultural and Resource Conservation (AG/RC). Mr. Earl Bell cited a conflict of interest in the Case and removed himself. Mr. Ken Farrell took his seat on the Board.

The Applicable Zoning Ordinance is:

- 1-19-3.230 Appeals

Mr. Terry read the staff report. Mr. Smith noted that the Health Department had major issues with the property. Solid Waste had no issues. Ms. Kathy Mitchell, Assistant County Attorney, presented the County's reasoning for the decision letter. Ms. Fisher presented the Applicants case. Seventeen (17) witnesses spoke in support of the Applicants case while ten (10) witnesses spoke in opposition. 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. On a motion by Mr. Conard, seconded by Mr. Farrell, the Board voted 3-2 to deny the Applicant's request. Mr. Bowersox and Mr. Greenwell were in opposition.

The meeting adjourned at 10:33 p.m.



Respectfully submitted,
Donald L. Miller, Secretary