

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES
October 25, 2011

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, October 25, 2011, was called to order with the determination of a quorum at 7:00 p.m. by Chairman Robert C. Gibbons in the Board of Supervisors Chambers. Mr. Gibbons introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Mr. Gibbons stated the Bylaws of this Board state the applicant would be allowed up to ten minutes to state their case, the other speakers would be allowed three minutes to testify, and the applicant would be allowed three minutes for rebuttal.

Members Present: Robert Gibbons, Dean Larson, Ray Davis, Ernest Ackermann, Larry Ingalls, Steven Apicella and Heather Stefl

Members Absent: Marty Hudson

Staff Present: Melody Musante, Zoning Manager
Rishi Baral, Senior Engineer
Aisha Medina, Recording Secretary

Mr. Gibbons: Are there any changes or additions to the advertised agenda?

Mrs. Musante: There are no changes.

Mr. Gibbons: Thank you ma'am. Before we hear the first case does any Board member wish to make any declarations for statement concerning any cases to be heard before the Board tonight?

DECLARATIONS AND DISQUALIFICATIONS

Mr. Ingalls: Mr. Chairman, when I was gainfully employed with Sullivan, Donahoe and Ingalls, Mr. Leming and his firm, sometimes we shared clients and performed services back and forth between those clients. I have since retired from Sullivan, Donahoe and Ingalls, I am no longer working there, I have no knowledge of what projects they are working, I have not spoken to Mr. Leming or discussed this case with his office or himself personally and I feel that I will be able to vote on this case.

Mr. Gibbons: Okay, any other members have any comments? Okay, I will ask the secretary to read the first case please.

PUBLIC HEARINGS

1. **SE11-03/1100291 - H. CLARK LEMING FOR STAFFORD HOSPITALITY, LLC** - Requests a Special Exception per Stafford County Code, Section 28-57 (h)(3), "Flood Hazard Overlay District", to allow for the construction of a site entrance access road across Tributary 5 to Aquia Creek. The proposed entrance will be located on Assessor's Parcel 21-63. The property is zoned B-2 Urban Commercial, located at 3051 Jefferson Davis Highway.

Mrs. Musante: Case SE11-03/1100291, H. Clark Leming for Stafford Hospitality, LLC, requests a

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Special Exception per Stafford County Code, Section 28-57 (h)(3), "Flood Hazard Overlay District", to allow for the construction of a site entrance access road across Tributary 5 to Aquia Creek. The proposed entrance will be located on Assessor's Parcel 21-63. The property is zoned B-2 Urban Commercial, located at 3051 Jefferson Davis Highway. You have the application, the application affidavit, owner's consent form, Flood Study dated July 2011, Floodplain impact exhibit dated August 2011, copy of Code Section 28-57, Perennial flow approval letter dated May 19, 2009 and Reclassification dated August 16, 2011. Mr. Chair, we have Rishi Baral here with the Planning and Zoning office to answer any questions you may have regarding this case.

Mr. Gibbons: Thank you very much. Any questions for the staff before we start? No?

Mr. Apicella: Yes, I have a couple questions.

Mr. Gibbons: Okay.

Mr. Apicella: Just to reiterate what I saw in the material. The Board of Supervisors approved the proposed reclassification of the parcel from R-1 to B-2 along with the specific proffers and GDP called for, including the specific entrance that is the issue tonight, right?

Mr. Baral: Correct.

Mr. Apicella: There was a study in the material prepared, I think by Bowman, has the County staff reviewed that study and do they agree with the analysis and conclusions?

Mr. Baral: Yes, we reviewed the analysis and at County level, at administrative level the study is approved. As a part of complete approval, it has to go to FEMA and it has been forwarded to FEMA.

Mr. Apicella: Okay. There was a statement in the material that was provided by the applicant and it indicated that the BZA had approved the changes in the flood elevation higher than the 0.31 feet identified in the Bowman plan. Can you verify that that's true, that there have been other cases where that level has been approved by the BZA? I guess this is more for the BZA staff.

Mrs. Musante: I'm sorry. I did not look at this letter that Mr. Leming submitted.

Mr. Apicella: Okay, it provided two examples. I think it is a letter dated...

Mr. Baral: Yes, I am reading the letter right now and I don't remember the specific numbers but in the past we have approved something similar to that but I don't remember the exact number such as 2.09 foot and 0.9 foot.

Mr. Apicella: Okay.

Mr. Baral: But actually in a flood zone A, it is customary and it could be approved in those kinds of situations.

Mr. Apicella: Okay, thank you. I just have one more question. What, if any, liability is there on the county if this special exception is approved and somewhere down the road, no pun intended, a flood occurs in that specific area?

Mr. Baral: For example, as far as the obligation to the County is concerned, flood plains are regulated by FEMA and any construction, any building on the floodplain; they are required to buy Flood Insurance and if there is any damage, that damage is covered by the flood insurance. Other than that, I am not aware of any specific county obligations.

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Mr. Apicella: Okay, thank you.

Mr. Gibbons: Any other questions?

Dr. Larson: Question here Mr. Chairman.

Mr. Gibbons: Go ahead Doctor.

Dr. Larson: The flood insurance that you just referenced would apply to the property that we are talking about now, right?

Mr. Baral: Does this property have flood insurance? Is that what the question is?

Dr. Larson: That was sort of my question. Whose flood insurance are you talking about?

Mr. Baral: No, the flood insurance that I am talking about, the property in question has not been constructed yet. That flood insurance actually is bought when the property is completed and the property owner is responsible to buy flood insurance.

Dr. Larson: Okay.

Mr. Baral: And to follow up on that, if it has a mortgage, the mortgage lender would not approve a mortgage without buying flood insurance.

Dr. Larson: Okay. I have another question for staff. The applicable rule appears to be that change to the land does not result in more than a one foot increase in the 100 year elevation of the flood plain. Is that correct?

Mr. Baral: That's correct.

Dr. Larson: Just so I am clear in my mind, it sounds like that means that in no modification will result in a change of more than one foot in the water level. Is that what that means?

Mr. Baral: 100 year base flood elevation, actually, that is a part of how the floodway is established. The floodway is the central channel. When establishing a floodway, the study actually, that would not allow for more than one foot of increase in the floodplain.

Dr. Larson: Does that mean the level of the water can't be change by more than one foot for the same flood. Is that correct?

Mr. Baral: That's correct.

Dr. Larson: So, what... I think the question Mr. Apicella was asking was if we made a change to a parcel and it resulted in the water level being higher than it would have normally been without the change, then the water would go to other areas that wouldn't necessarily have originally gone to because it's higher. So is there any, under those circumstances then, properties that might not normally have flood insurance might still be flooded?

Mr. Baral: That's correct.

Dr. Larson: Is there a liability to the county in that case?

Mr. Baral: In that kind of situation what actually happens is if any new construction is likely to increase

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a flood elevation in the other properties, before approving that, the subject properties need to be notified. There is a FEMA notification procedure; there is a comprehensive procedure for that. And without all affected properties being notified, that study could not be approved. FEMA would not approve that.

Dr. Larson: Thank you, I have one other question. It deals with the model that was used. The WEN TR55 version 1.00.09, computer program, it seems to me that our decision is going to be based largely on the results of that computer program. Can you give us some idea of how good it is?

Mr. Baral: Sure.

Dr. Larson: Is it accredited?

Mr. Baral: Sure, that is NRCS Department of Agriculture development model. That is standard hydrologic software in the industry, that is well accepted and industrial standard in hydraulic study.

Dr. Larson: Okay, I think just for staff, I think this is the first time we have a case like this since I've been on the Board where the results of what we do will be based primarily on a model. So in the future, the industry does something called VV&A, verification, validation and accreditation of models. This one should be accredited by a competent authority, I'm assuming. But in the future when we have... when we base decisions based on models, could we have a copy of the accreditation decision, of the accreditation authority's decision because the accreditation... it's not enough that the model be accredited, it has to be accredited to do what we are going to use it for. So, this specific use has to be accredited as well.

Mr. Baral: Sure. We can bring that in when we bring similar flood plain study to the Board. I can bring that to you and not only the model accredited and approved; it has been used by competent licensed professional engineers and also has been reviewed by competent licensed engineers who have their licenses currently with the State Board.

Dr. Larson: And that goes a long way toward helping me have confidence that the model is giving me correct results, but again, in the future if we could have some sort of documentation that it has been accredited.

Mr. Baral: Sure.

Dr. Larson: That would be good.

Mr. Baral: I will definitely do that.

Dr. Larson: Thank you.

Mr. Gibbons: Any other questions?

Mr. Ingalls: I got one for Rishi. We've had this discussion every time this comes up and it hasn't come up very often. Under the Flood Hazard Overlay District, there are actually, by the way I read our ordinance, there are two districts. There is a Floodplain District and then there is Floodway District. Two separate districts under the Flood Hazard and if I read our ordinance under 28-57(h), which (h) is Permitted Uses in the Floodway District and under number (1), it says, "in the Floodway District no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred-year flood elevation". Now I can... but that is in the floodway district. I read the flood plain district and it says we have up to a foot. It has to be a foot or less. How does the county

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reconcile the two and say, certainly when you raise the floodplain in this area, you are going to raise the floodway also by some... How does the County justify what we should be looking at? Which one of those statements should we be considering?

Mr. Baral: I think yes we have. Actually, in this area for example, there is no established floodway by FEMA, there is only floodplain. So one foot becomes effective. As a part of the County requirement, which is much stricter than FEMA and state requirement, we asked the engineer to delineate a floodway, which that floodway has only been reviewed and approved by the County. FEMA has yet to review and once FEMA reviews it FEMA will already have a better model than they previously had. That is a County established floodway and the one foot, in this case, is only for the floodplain not for the floodway.

Mr. Ingalls: I still struggle with it but I will accept what you are saying.

Mr. Gibbons: Well, I just want to say that when you read Anthony's letter to FEMA, he points it out that the application would include hydrologic and topographic information. Also, we find that the proposed project designed to meet all the community floodplain management requirements including the requirement for when fill is placed in a regulatory floodway, that all necessary federal, state and local permits will be obtained. The copy of the relevant analysis and documentation was used to make this determination. So, he mentions it both in the letter there Larry. Okay, any other questions? Okay, thank you.

Mr. Baral: Thank you.

Mr. Gibbons: The applicant, please come forward.

Clark Leming: Good evening Mr. Chairman, members of the Board of Zoning Appeals, my name is Clark Leming, I am here on behalf of the applicant. I have the engineer with me this evening, also, if there are questions for the engineer, anything the lawyer can't answer.

Mr. Gibbons: Now that will be a first, right?

Mr. Leming: No, no, no.

Mr. Gibbons: Okay.

Mr. Leming: By my estimate, unless you had one of these applications that I was not involved in. The last one I was involved in before the BZA was in 2006 and it concerned the Staffordshire development. Some of you may recall that for a while the special exception function was transferred to the Board of Supervisors and that concerned, I think, the special exception for the Rocky Pen Run. It then was transferred back to the Board of Zoning Appeals. I haven't had one before the BZA since 2006, maybe another one has come up that I was not involved in. In any case, just in the way of review, we did... we went back through some other files that had been put into storage. The 2006 ones were the Staffordshire development. The base flood elevation, the increase and that one was 0.8 feet. We did one in 2004 for the Carriage Hill development and the base flood elevation was 0.4. Now you may notice that in the letter that I had sent out, this was for Westlake, this is one that went to the Board of Supervisors rather than to you all. This was in 2007 and what we should have noted, we show a figure there of 2.09, well that's 1.09 feet higher than it's supposed to be under the ordinance but that was the pre-flood map revision elevation. So once the map was revised it then came down to 0.5 and there was one other that I did in 2005, I'm sure Mr. Ingalls was here for that, maybe Dr. Ackermann was here. Where you here at that point? This was for Hills of Aquia and on that one the pre-flood map revision increase would have been 8.2 feet but the map was so off at that point that after the revision there was no increase in the base flood elevation at that location. So that has been the exercise regardless of the apparent conflict in the

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statute. I think, I can answer from a legal standpoint, I think when you have statutes that appear to conflict, the duty is to try to reconcile them and come up with a way to read them together. If you read the ordinance as standing from the proposition, there can be no increase and obviously there can be no crossing of any kind. So I don't think we can assume that was the intent of the Board of Supervisors in adopting that but it would merit some clarification. Let's see, in this particular case, this was as Mr. Apicella noted, this is a zoning that was approved by the Board of Supervisors in August. It was for a Hilton Hotel; the approach that we are requesting is the one on the GDP. It is the only way to get to the property. This was a lot that was approved; it was platted back in 1943 so it is a pre Chesapeake Bay lot. It probably would not be platted, but it is vested under the Bay Act and it was, as I indicated, recently rezoned from R-1 to B-2. The base, the result of the flood study that was conducted by Bowman and we can talk about that, you can talk about it with him in some detail if you would like to, the base flood elevation here after the map revision is 0.31. There is no adverse impact on adjacent properties. I think that was a question Dr. Larson had asked about and I will show you why in just a minute. I think though... and I think, as indicated there is already a conditional letter of map revision that has been prepared and the county has signed off on it, review it and that's all on its way to FEMA. Typically, these special exceptions are approved with at least one condition that says that its condition on approval by FEMA of the map revision. So what we have here is a flood zone A, which is an approximated floodplain, it is not one that has ever been actually mapped by somebody going out to eh property and figuring out where it was. Do you all have the map in your file? And if you do, is it big enough to read or see or determine the colors?

Mr. Ingalls: No.

Mr. Leming: Okay, alright, well if... Mr. Chairman, if it would be helpful I would be happy to bring this forward so members of the BZA can see a little larger version of this.

Mr. Ingalls: Did you submit that size to the county and they reduced it to this size?

Mr. Leming: I think that's what happened.

Mr. Gibbons: No?

Mr. Leming: I will start over on this side and I will...

Mr. Gibbons: The answer was no.

Mr. Leming: The answer was no?

Mr. Ingalls: They answered, I didn't.

Mr. Gibbons: Well he asked a question.

Mr. Leming: The color code, this brownish color at the top is the existing flood plain that is the Zone A. you can see that it comes from up here, goes down here that is not field delineated and something that has actually been mapped out. The red is the actual floodplain as determined by the study that was done but without the development. That is without the crossing that we are talking about here. The blue is the field delineated, I hope that is the right term to use, the one based on the work Bowman did, that is the one they actually went out and found. As indicated by Mr. Rishi, this is not something that is on the FEMA map but the blue indicates where the floodway has been found to be, exists on the ground. The green is where the floodplain ends up as a result of the proposed crossing and you will notice at one location over here, there is actually a reduction in the land that is encumbered by the actual floodway. You see this line is actually reduced to this point here and on the south, you will notice the green and the red lines actually merge so there is no difference between the floodplain as it exists predevelopment, that

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is without the bridge and the floodplain that exists with the proposed development. Did I say that right Justin?

Mr. Troidl: Yes.

Mr. Leming: Now, sorry I only have one of these but for this side, I don't know how much of my narrative you all remember but the brown color is the zone A of the existing FEMA map that has not been field determined. The next color down is the red and this is where Bowman found that the floodplain actually exists. The blue is floodway as determined by Bowman and the green is where the floodplain exists after the development; that is crossing that we are talking about. And you can see very minor changes; in one case the floodplain is actually reduced because of the structure that is put in place there on the south side there is no change between the floodplain as delineated by Bowman without the development and the floodplain with the development. So I will you leave that with you, if I need to refer to something Mr. Chairman, I will just come back up there to you.

Mr. Davis: Is part of the parking lot in the floodplain?

Mr. Leming: Yes, yes the parking lot is in the floodplain. That is not what the special exception is for but yes part of the parking lot is in the flood plain. Is it the parking lot or it's actually the building that is in the floodplain, isn't it Justin?

Mr. Troidl: In the floodplain, there are portions of the site that remain in the floodplain.

Mr. Leming: Which is permissible? That is not something that would need to go before the BZA. So I will leave that up there for the Board members if you need to refer to it again.

Mrs. Musante: Just for the record Mr. Chair, we were not given a large copy of that.

Mr. Leming: Well...

Mr. Gibbons: So noted.

Mr. Leming: I think those are the matters that I intended to cover and I will be happy to answer any questions. I think Mr. Rishi, the insurance issues, you know, that is up to the applicant once the constructions occurs. Anything else you can think of Justin to help cover?

Mr. Gibbons: Any questions?

Mr. Leming: Okay, I will conclude with that.

Mr. Gibbons: To my left?

Dr. Larson: I have a question Mr. Chair. Mr. Leming, you mentioned the red colored line to be the actual floodplain. Did you mean the calculated floodplain by the model?

Mr. Leming: Yes.

Dr. Larson: Okay, just wanted to clarify that.

Mr. Leming: That's correct.

Dr. Larson: And you also said that the blue was found by... the implication was physical measurements, is that correct?

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Mr. Leming: How did you determine the floodway?

Mr. Troidl: Calculated.

Mr. Leming: Calculated with the model also.

Dr. Larson: Okay, thank you.

Mr. Gibbons: Dr. Ackermann?

Mr. Ackermann: No.

Mr. Ingalls: Mr. Leming, in your application, you had said, one of your statements was “no portion of the hotel building is within the floodplain or floodway”.

Mr. Leming: Let me defer to Justin on that. Is that an accurate statement on that? Justin did not review it before it came in but he would know that definitively.

Mr. Troidl: That is correct. The footprint of the building has a sub-wall that is up against grading. We are pushing up in there, therefore the building itself, it does not encroach into that floodplain. There is a retaining wall...

Mr. Ingalls: I think you all are parting the words because the red line, which is where the floodplain is, goes right through the building.

Mr. Troidl: The existing, correct.

Mr. Ingalls: Right, you all are building a building in the existing floodplain. A portion of the building is within the existing floodplain.

Mr. Troidl: Before we do grading on the site, correct?

Mr. Ingalls: Right, before you change it.

Mr. Troidl: Correct.

Mr. Ingalls: Right, I mean.

Mr. Troidl: Correct.

Mr. Ingalls: Fill it in, moved it out of the way.

Mr. Troidl: Correct.

Mr. Ingalls: But to say the building is not in the floodplain or the floodway, it's not in the floodway either way but...

Mr. Troidl: Correct.

Mr. Ingalls: But, it is in the floodplain as established by you.

Mr. Troidl: The existing floodplain, yes. Before this thing was built, now you want to build a building in the floodplain and you are going to use the back of the hotel wall as a retaining wall to keep the flood

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from getting into the building, I assume?

Mr. Troidl: The grading and the wall, correct.

Mr. Ingalls: Well, yeah. That's... like I said, I read that and I could not believe that was the statement that was true. And I guess, Mr. Leming, you and I are going to have to get the County to change that one or two words in that ordinance somehow. He gave a nice talk about it and I appreciate his opinion but it's still confusing to me because actually, you go back to the very first statement in there and it says in the floodway you can raise it one foot.

Mr. Leming: Right.

Mr. Ingalls: It actually has both statements.

Mr. Leming: Yep.

Mr. Ingalls: In there... The first statement says you could raise it a foot and then you get over there where we are working, what we are applying for and it says no.

Mr. Leming: I think every time one of these periodically comes up before the BZA we have this discussion and then nothing is done to the ordinance.

Mr. Ingalls: Yeah and I don't... I mean, to be honest with you, the floodway is where the water...

Mr. Leming: Right.

Mr. Ingalls: Goes, if all the water should be able to go down through the floodway. If we hold that at this level but yet over here on the side, we can raise it a foot; I am not sure how you can do that almost. That way the water surface would do this and water doesn't have a tendency to want to do that. So, I realize, it kind of, we need to change the ordinance to whatever they want it to say. It's in conflict, I think, with each other but...

Mr. Leming: I don't disagree with you. But to read it that way means you could not cross.

Mr. Ingalls: Right, you couldn't. Well...

Mr. Leming: At least with anything that would increase the flood elevation.

Mr. Ingalls: Right. Can I ask your engineer a question?

Mr. Leming: Sure.

Mr. Ingalls: Or maybe he will come later. While I'm asking, I noticed in one of Clark's discussions letter...

Mr. Leming: It is, sort of, unfair to ask him things that I wrote.

Mr. Ingalls: You said that you were going to use box culverts or you had another term, similar system?

Mr. Troidl: We are proposing box culverts.

Mr. Ingalls: So, have you decided definitively what you are going to do or are you all playing around with... What are you going to put underneath that road?

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Mr. Troidl: We have proposed box culverts to VDOT. Ultimately, if VDOT has a preference how something else goes, we will still have to pass and not exceed the floodplain limits we have proposed today but it is still at review at VDOT right now.

Mr. Ingalls: What is causing you to raise the floodplain by 0.3?

Mr. Troidl: It's putting a road across the floodway. If...

Mr. Leming: It is the support of the box culvert in the floodway, right?

Mr. Troidl: Correct.

Mr. Ingalls: If you made the bridge, box culverts, conspan, whatever you are talking about putting... could put there or would put there bigger to pass the flood. Could you make it so the flood elevation would not go up at all?

Mr. Troidl: The limits of this and the Route 1 location and the drainage from Route 1, the system, you could not install it right now without increasing the floodplain because the limits of the culvert underneath Route 1 as well as our site relative to the way the stream parallels Route 1. Crossing that, we could not; it is driven by so many factors. We looked at how big we would have to make these in order to do that and there was such a constraint on that, that is wasn't feasible to put in many more culverts to get it to zero.

Mr. Leming: Actually, I asked him the same question today with the possibility of spanning the creek which is done sometimes also and why don't you just tell them what you told me.

Mr. Troidl: There are utilities we also have to bring to the site and we looked at a conspan and putting a conspan at this location, it wouldn't allow us to bring water to the site because there wouldn't be any elevation of that to bring the water across and keep the three and a half feet of cover per the Stafford County Utilities. The box culvert was the only way to get the entrance into the site and get utilities to the site as well and meet water...

Mr. Ingalls: The water lines could go under the creek, I mean, it doesn't have to go over the creek.

Mr. Troidl: Stafford County Utilities prefers it to.

Mr. Ingalls: What they prefer and what you can do may be two different things but...

Mr. Troidl: I don't disagree.

Mr. Ingalls: So, it is your testimony then, your professional testimony that you can't put a bridge big enough in there to reduce the flood elevation?

Mr. Troidl: With the unlimited amount of money you could...

Mr. Ingalls: No I am not talking about unlimited; I am saying yeah, unlimited money, whatever...

Mr. Troidl: It is my opinion that adding additional structures in there would not result in a major difference in what we've presented tonight.

Mr. Ingalls: We are only talking about that much to start with.

Mr. Troidl: Absolutely correct.

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Mr. Ingalls: But you can't reduce it that much by putting a big conspan in or something, adding another box culvert?

Mr. Troidl: The physical constraints are... of this site, we feel that the box culverts are the best way to go on this site.

Mr. Ingalls: Well, being the best way to go and what you can do is two questions?

Mr. Troidl: Like I said, we've come in with the six (6) four (4) by four (4) box culverts to pass the flood without increasing it by a foot and that is what we are presenting.

Mr. Ingalls: Well, now you've told me the right answer. The right answer is you chose, whatever you said, four (4) by six (6). Are they going to be six (6) feet tall or four (4) tall.

Mr. Troidl: They are four (4) six (6) foot wide by four (4) feet tall.

Mr. Ingalls: That... you've chosen those and said well those will keep it less than a foot rather than saying I'm going to put in six (6) by sixes (6).

Mr. Troidl: We looked at six (6) by sixes (6) and it was the vertical difference of than the grade of Route 1, we couldn't get the additional items we needed to get over to the site and meet Stafford County utility requirements that they imposed upon us.

Mr. Ingalls: Let's disregard Stafford County Utilities.

Mr. Troidl: Okay.

Mr. Ingalls: And tell me about the flood and my question again to you, can you build a structure in there that would not increase the floodplain elevation?

Mr. Troidl: What we routed, everything that we routed showed an increase because of the improvements that we have to do along Route 1 for the turn lane, moving that over and putting the box culverts in. We are restricting flow such that we are going to get a small increase in the flood plain.

Mr. Ingalls: Okay, you've answered it.

Mr. Gibbons: Heather?

Mrs. Stefl: No.

Mr. Gibbons: Ray?

Mr. Davis: You mentioned that the flood insurance was required?

Mr. Leming: Yes.

Mr. Davis: Is there liability for other properties if this raising the water damages other?

Mr. Leming: The liability would cover the... any increase that we are responsible for. Our insurance would but in this case, there is no difference between the existing floodplain on the adjacent properties and what we are proposing here, it doesn't change anything. So that is why I said in the opening, there is no impact on the adjacent properties.

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Mr. Davis: Thank you.

Mr. Leming: Yes sir.

Mr. Ingalls: Can I follow up with that?

Mr. Leming: Sure.

Mr. Ingalls: I guess what you are saying is that before you all decided to do anything; the adjacent property was not in the floodplain?

Mr. Leming: No, if you look at...

Mr. Ingalls: Not in the FEMA floodplain as mapped by FEMA?

Mr. Leming: I think if you look at the map that you have before you, you can see where the existing zone A is and the adjacent properties are...

Mr. Ingalls: It had some floodplain on it?

Mr. Leming: Right.

Mr. Ingalls: But after you mapped it, the floodplain on that side actually increased per the study?

Mr. Leming: On the north side?

Mr. Ingalls: I guess it's the south side?

Mr. Leming: On the south side, the lines are the... Yes, as a result of the calculated study, yes.

Mr. Ingalls: The calculated one moved it further into the property?

Mr. Leming: That's correct.

Mr. Ingalls: Okay.

Mr. Leming: That's correct but that would become, if the CLOMR is approved, that becomes the flood plain.

Mr. Gibbons: Doctor?

Dr. Larson: Question for the study guy. Okay, so we have an area that's covered with water. What we are talking about is adding something that will displace the water so the water goes somewhere else. I am just clarifying for my own understanding. And so we could in principle have something built up in the floodway and that could still be under a foot through the whole floodway and it could spill out to a lower area in the floodplain which could increase its depth by a third of a foot is what you are saying?

Mr. Troidl: The green line on the map showed the additional increase caused by that encroachment, yes. Which results in a slight larger area of floodplain...?

Dr. Larson: Right, so what, I just want to clarify, so what we're talking about is given a fixed amount of water, the improvements that will be made will push that water in a way that will somewhere in this floodplain, will cause it to increase by four (4) inches, basically?

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Mr. Troidl: Correct, yes. Upstream of the culvert, yes.

Dr. Larson: Thank you.

Mr. Gibbons: Any other questions? Any other comments counselor?

Mr. Leming: I don't think so. I think maybe something Mr. Ingalls said is most important. We are talking about an increase in the base flood elevation about like that.

Mr. Gibbons: Okay, since there is no public here tonight to testify, I will bring it back to the Board and close the public hearing. The Board?

MOTION:

Mr. Apicella: Mr. Chairman, I move for approval of SE11-03/1100291 with the condition that CLOMR approval from FEMA precedes construction plan approval.

Mr. Gibbons: Do we have a second?

Mr. Ingalls: I will second that motion.

Mr. Gibbons: Second. Do we have any additions to the motion?

Mr. Ingalls: No, just whenever you are ready to discuss it.

Mr. Gibbons: Okay, the discussion, I will start...

Dr. Larson: Mr. Chairman, I am going to support the motion based on the county engineer assurances on the fidelity and accuracy of the Code that is being used to give us the numbers. I think it is perfectly... Given the numbers, I think it is perfectly reasonable to give them a special exception. I just want to reiterate that in the future I would like to see some sort of document that gives us the confidence that we should have in the models that are being used to support our decision.

Mr. Gibbons: Dr. Ackermann?

Mr. Ackermann: I would also support the motion and I definitely agree with Dr. Larson's comments about verification or accreditation of models that are used in the future. Thank you.

Mr. Gibbons: Heather?

Mrs. Stefl: No, I'm good.

Mr. Gibbons: Ray?

Mr. Davis: Good.

Mr. Gibbons: Mr. Ingalls?

Mr. Ingalls: I believe I am going to support the motion and the reason I am going to support the motion is because of Section 28-57(e)(1)(a), which is the floodplain that says that you can raise the flood... within a floodway district no more than one foot. Even though under 28-57(h)(1) it says that it shall be no increase but I believe that the overall intent of the ordinance is to allow for some increase both in the floodplain and in the floodway.

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Mr. Gibbons: Steven?

Mr. Apicella: Mr. Chairman, I made the motion to approve based on the fact that this is a legislative function of the BZA. I believe what's being requested under this Special Exception request meets the provisions under Section 28-351 of the Stafford County Code, which is the BZA's special exception requirements, as well as the special exception provisions under 28-57(h)(3). So those are my reasons for supporting this motion.

Mr. Gibbons: Okay. Go ahead doctor?

Mr. Ackermann: I just one... do we know and maybe Mr. Ingalls knows more than others. Is there a way to determine changes in the floodplain or the floodway in ways different than you've seen models to do that?

Mr. Ingalls: Different models?

Mr. Ackermann: Or some other way besides running a model to do that?

Mr. Ingalls: There may be different models that you could use that you would use that may give a small difference. The one he is using, I think, is an acceptable model that is used.

Mr. Ackermann: So that when we would look at things like this, we would expect the model to be used to do that. Thanks.

Mr. Ingalls: I think Dr. Larson's comment is appropriate.

Mr. Ackermann: Yeah, sure.

Mr. Ingalls: I probably could find some models that assumptions are different; there are different things that fit better. It's not... to me, it's not exact science. I am an engineer and I look at these flood studies and I've calculated them and when I started we did it by slide rule.

Mr. Ackermann: I'm sure.

Mr. Ingalls: And I was lucky if I got it to one digit. And now we've got computers that are trying to compute it to six and eight digits and I've got engineers who think that is the correct answer.

Mr. Ackermann: Okay.

Mr. Ingalls: So it is somewhere in the middle.

Mr. Ackermann: Thank you.

Mr. Gibbons: Since we are in the middle of things, I think we will take a vote on it. All in favor say aye.

Mr. Ackermann: Aye.

Mr. Apicella: Aye.

Mr. Davis: Aye.

Mr. Ingalls: Aye.

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Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Gibbons: Aye. All opposed? Any abstentions? Motion passes and thank you very much.

Mr. Leming: Thank you all.

Mr. Davis: I would like to compliment Mr. Leming for staying within his ten minutes.

VOTE:

The motion to approve SE11-03/1100291 passed 7-0.

Mr. Ackermann: Yes.

Mr. Apicella: Yes.

Mr. Davis: Yes.

Mr. Gibbons: Yes.

Mr. Hudson: Absent.

Mr. Ingalls: Yes.

Dr. Larson: Yes.

Mrs. Stefl: Yes.

Mr. Gibbons: I would like to have another motion though. I think many members brought up a good point. Can I have a motion that we send back to staff and the County Administrator what we said tonight about taking a look at this ordinance and then putting what you said, Dr. Larson, in there, that when it comes in that the proper certification is provided. So I need a motion made.

MOTION:

Mr. Apicella: So moved

Dr. Larson: I'll second.

Mr. Gibbons: Okay, all in favor say aye.

Mr. Ackermann: Aye.

Mr. Apicella: Aye.

Mr. Davis: Aye.

Mr. Ingalls: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Gibbons: Aye. I think from now on if we do this then we got... we can trace things and make sure and when we do our annual report, that we are going back with the proper suggestions.

Dr. Larson: Right. Just for a little bit of background for the Board, I do some of this for the Department of Defense and in DOD if you ever use a model to simulate or report a decision that will endanger live,

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expend money, you know, anything of importance, you have to have an accreditation by a competent authority. Generally, it's the deciding authority. We can't do that here, we can't accredit every single thing that comes through but we can ask for somebody else's look to see who else is accredited the model and give us some confidence we are doing the right thing.

Mr. Gibbons: Especially with some of these backyard problems we're having around here now, that might not be a bad idea.

Dr. Larson: Yes exactly.

Mr. Davis: Should that be something that the County would require the person submitting to provide? If not, for the County to go out at some expense to the applicant.

Mr. Gibbons: I would say that is a good suggestion.

Mr. Ingalls: Well, if you're going to change the ordinance, you might add something about... It say they must model it but it doesn't tell them what model to use. And this has to be an accredited model of some type.

Dr. Larson: I guess I would put it back to the County. If they have any... if they know of models that have been accredited or they have accredited models to do these kinds of things and I am on thin ice here because these kinds of things can vary a lot. So, maybe we ought to just leave it to the floodplain determination and that might be something that the County might want to look into as far as, you know, what models are out there, what models have been accredited and maybe what the County thinks is worthy of use for Stafford County.

Mr. Apicella: Yeah, I wasn't thinking that Larry was suggesting a specific model but jut some words in the ordinance that indicate that it has to be an accredited model used per best practices by whatever industry regulates this.

Mr. Ingalls: Accredited, approved by the County, you know, would...

Mr. Apicella: So I think there is actually two things: one is the, you know, an accredited model and the second thing is to clarify any inconsistencies within that specific ordinance where it might say two disparent things, which apparently is the case here. So, and we kind of catalog these kinds of things and put it in an annual report.

Mr. Ingalls: In this case, the report is going to FEMA and somebody else and, you know, they are really the ones who are the authority on floodplains. I would assume when they see the study they are going to say, no, you can't use or accept that one. They are going to accept his study or not accept it if it is from a model that they are not accepting, I assume. So, you have some back up now. We made a decision tonight based on what we... without that benefit of them saying it's ok.

Mr. Apicella: Well again, it says it's conditional. Ultimately FEMA has to approve it before they do the construction plan.

Dr. Larson: I still think that things that are considered by us in the future should have some paper trial, some sort of accreditation from somebody that we... some competent authority that has accredited a model to do what the applicants are suggesting that they do. Regardless of who is next going to be in the chain, as far as, decisions that have to do with the property.

Mr. Gibbons: I agree. I think it is a good suggestion. All in favor say aye.

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Mr. Ackermann: Aye.

Mr. Apicella: Aye.

Mr. Davis: Aye.

Mr. Ingalls: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Gibbons: Aye. All opposed? Any abstentions?

Mr. Davis: Just for my information, can a parking lot be put in the floodplain?

Mrs. Musante: Rishi?

Mr. Baral: There are certain things, parking lot is one of the things that could be put on the floodplain but every time that kind of thing happens, it will require the engineer to provide us a study.

VOTE:

The motion was approved to send back to the Board an ordinance to show that proper certifications are provided passed 7-0.

Mr. Ackermann: Yes.

Mr. Apicella: Yes.

Mr. Davis: Yes.

Mr. Gibbons: Yes.

Mr. Hudson: Absent.

Mr. Ingalls: Yes.

Dr. Larson: Yes.

Mrs. Stefl: Yes.

Mr. Gibbons: Okay, I am going to hold the unfinished until the last. Other business is none.

OTHER BUSINESS

None

ADOPTION OF MINUTES

3. September 27, 2011

Mr. Gibbons: We need to adopt the minutes of September 27th. Any editorial changes? Hearing none, we need a motion?

Dr. Larson: Mr. Chairman, I have a change that is clarification.

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Mr. Gibbons: Okay.

Dr. Larson: Page 12, lines 615, 616 and 617. I may have said this but it is not clear what was going on so, after the three dots, it says “I’m not sure we need a variance if the law changed, clearly we wouldn’t need a variance because”. Instead of “it”, put “the building would just be more non-conforming” and then put a period there because the rest of it is just confusing. It confuses me and I guess I said it.

Mr. Gibbons: Do you have it all written down now?

Mrs. Musante: Yes.

Mr. Gibbons: Can you make a motion with those editorial corrections?

Dr. Larson: Yes, I will move to accept the minutes with those changes.

Mr. Gibbons: Did you second Heather?

Mrs. Stefl: Sure, I will second the minutes.

Mr. Gibbons: Okay. All in favor say aye.

Mr. Apicella: Aye.

Mr. Davis: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Gibbons: Aye.

Mr. Ingalls: I will abstain because I wasn’t here.

Mr. Ackermann: Okay, I will abstain too.

Mr. Gibbons: We are going to go with the Nay’s first, then the abstentions. Any nay’s? No. Abstentions two, right? Mr. Ingalls and Dr. Ackermann, is that correct? Okay, Zoning Administrator’s report?

ZONING ADMINISTRATOR REPORT

Mrs. Musante: The only thing I have is from the last meeting, I guess it was September’s meeting, we discussed the issue of non-conforming structures, the taking of right-of-way and the discrepancies in the ordinance. I have spoken with the County Attorney’s Office but I do not have an answer yet. So, hopefully I will be able to report back here soon on that.

Mr. Gibbons: You mean on the last case that we had?

Mrs. Musante: Yes.

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Mr. Gibbons: Okay, what I did is, we went back, Mr. Apicella sent some information on what he thought and I got the changes from him so I went to visit and attorney just to get a... and the county attorney is going to meet with us. I am going to go forward because when you look at the Overlay district thing, it looks like it can be administrative change approval rather than an exception approval. So I'm taking it to them and presenting what we had and then I will bring it back to you. It is not to challenge it but sometimes, if it could have been administratively, it would have been a lot of savings to the parties involved as well as that. So, I want to try to get his opinion, so if it is than I will bring it back to Board because I think we should... If it could have been done administratively, rather than through the Variance thing then I think we owe the family... I mean, the group back that filing fee. So that is what I am doing and once I get done, I will bring it to the next meeting.

Mrs. Musante: So then, should I stop because I am dealing with Rysheda in the County Attorney's Office and she's researching court cases and law and I don't think we need to have two people in that office researching the same thing.

Mr. Gibbons: No, no, I mean, I've already gotten... What we did, we will take it to the attorney and he'll take a look at what you all are doing too.

Mrs. Musante: Okay.

Mr. Gibbons: Because in the overlay district, it says if you don't change it more than forty (40) percent.

Mrs. Musante: Okay.

Mr. Gibbons: It could have been because you did it for Quarles about a month or two before. Something similar.

Mrs. Musante: We don't have administrative Variances per say.

Mr. Gibbons: I know but in the overlay district you have the right to adjust stuff when it's on the overlay district and we will show it to you when we... It took about two or three days to find it but I guess when I get the cob webs out I can... But, I just want to make sure that it can be done administratively rather than through the Board. If the attorney agrees with that than I think we will go to the Board and ask to refund the money. That is the only reason that I am taking it forward. Because when you look at what was being asked first, you've got to many conflicting provisions. You have... one overrides then the other.

Dr. Larson: More than one of us was questions earlier...

Mr. Gibbons; Right, so not to take it on my own but I took all the comments back and he is going to sit down and we are going to do over it.

UNFINISHED BUSINESS

1. Draft Variance Application

Okay, now the last thing that we had is, Mr. Ingalls while you were gone we had the variance application re-write and we were going to have Dr. Chandler up in the month of September but since you took the extended tour of the world, we delayed that and so we want to take this up when I can get the doctor up here. So we can sit down as a working session and we can go through it.

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Mr. Ingalls: I think Steve and I both agreed that is the right thing to do.

Mr. Gibbons: But I want to let you know what we've done. So, he is going to get back to me so what is a good time that satisfies everybody? I've asked him to look at Veteran's Day. Does anybody have...

Mr. Ingalls: When is that, Monday?

Mr. Gibbons: It's a Monday.

Mr. Apicella: The 10th through the 11th, I think.

Mrs. Musante: Friday, November the 11th.

Mr. Gibbons: It's a Friday? But it's a holiday and I hate to ask people to come in but if I can bring him up on that day then it is during the day and everybody can meet.

Mr. Davis: Do we get holiday pay?

Mr. Apicella: Yeah, double our salary.

Mr. Gibbons: So, but if not and he can only do it on a Saturday or an evening, what is a good evening time that I can give him? What's good for anybody? Steven, I know you are the longest one on the commute.

Mr. Apicella: Yeah, for me preferably 6:30 or later.

Mr. Gibbons: Okay. And on Saturday morning, would a nine (9) to twelve (12) meeting be alright if he is amenable to that?

Mr. Davis: Depending on the Saturday. Yes.

Mr. Ingalls: Depending on the Saturday.

Mr. Gibbons: Well what Saturdays wouldn't be good for you? No, I mean, I got to tell him something.

Mr. Ackermann: The 5th is no good for me.

Mr. Gibbons: Okay.

Mrs. Stefl: The 1st.

Mr. Gibbons: That's not good for you. Okay. So anybody else on the later part? The 1st and the 5th are out.

Mr. Apicella: Probably anything close to Thanksgiving wouldn't work. Maybe, it works for me.

Mr. Davis: The 18th I have something.

Mr. Gibbons: Okay.

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Mr. Ingalls: What is the Saturday, the 18th? The 19th?

Mrs. Stefl: So it sounds like the 12th.

Mr. Gibbons: Okay.

Mrs. Stefl: It sounds like the 12th everyone is okay.

Mr. Davis: Early, I can do. I think I asked before, has he been provided a copy of this?

Mr. Gibbons: Yeah but we are going to... not the latest that I have in here.

Mr. Davis: We need to get him that.

Mr. Gibbons: Alright, so the 12th. Veteran's Day if he can do it or a 6:30 in the evening, 6:30 to 9:30. Is that alright with everybody?

Mr. Ackermann: Yes, except for the first Tuesday of the month.

Mr. Gibbons: First Tuesday? Alright. Okay, I will send that to him tonight when I go home and then we will take this up. Then, Melody, if you get a chance... when you get a chance to look, I want to make sure that like tonight we get all of the suggestions that we've done through the year going back to the Board so when you all do your report, you did a good job last year, in fact it was outstanding. That we get it so when we send it...

Mr. Davis: When you do our report.

Mr. Gibbons: What's that?

Mr. Davis: When she does our report.

Mr. Gibbons: Yeah, she always... but I mean I want to have...

Mr. Apicella: Report card or report?

Mr. Gibbons: No, but I would like to have everybody take a look at it a little bit ahead of time because sometimes members said you forgot this or we didn't do that. Alright, so I will get the letter out in the morning and other than that, anything for the good of the group?

Mr. Ingalls: Could I ask the staff one question? I would hope that you would not accept another 8 ½ by 11 drawing of a 24 by 36. I can read it but its...

Mrs. Musante: Well let me explain something to you on how Clark Leming applications work.

Mr. Ingalls: Well, I think...

Mrs. Musante: He doesn't even discuss anything with us. It comes in, here's your package at 4:30 on the Tuesday of the deadline and that's how it goes. They don't set up pre-application meetings with us, we've asked them to and they don't do it. They submit what they chose to submit and that's it. Now, we

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have to accept what they give us. Once you get your packets, the week before, if you call me up and say Melody, I want a 11 by 14 or whatever that thing is, 16 by 20, I will gladly call and ask them that but that's how he works. He is the only person that we have that problem with and that is what we get.

Mr. Gibbons: Okay.

Mr. Apicella: Mr. Chairman, can you write a letter to Leming and Healy?

Mr. Ingalls: I guess I would have thought he would have had to follow the same rules that I would follow or anyone else would follow.

Mr. Gibbons: Is it in the rules?

Mrs. Musante: I agree. There is a pre-application sheet that each applicant is supposed to... we are supposed to have a pre-application meeting.

Mr. Gibbons: Okay.

Mrs. Musante: And in that meeting I go through each one of those points in this application and that is what I tell them.

Mr. Gibbons: But he does not do that pre-application meeting?

Mrs. Musante: No sir, he does not.

Mr. Gibbons: Then I need a sense of the Board.

Dr. Larson: Well, on the one hand if he does this enough maybe he doesn't need to do it every time but it sounds like he has forgotten a lot of the rules.

Mrs. Musante: This is what I've got, this little piece of paper.

Mr. Gibbons: I will drop a little note, not a thank you note but an advisory note saying you know, you're going a good job Clark and we like you very much, however rules are rules, set up the preliminary and go through the right... And the other thing is...

Mr. Ingalls: Our application is going to say "please be advised that applicants are required to schedule a pre-app meeting".

Mrs. Musante: Absolutely. But most of the time he has a runner that drops there applications off.

Mr. Ingalls: Well, I know but you can say, give it back to the runner and say...

Mr. Apicella: You can't get it scheduled for the next meeting if you haven't met the requirements.

Mrs. Musante: I like that.

Mr. Apicella: That would be a lesson learned.

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Mr. Ingalls: I understand that would be difficult to do.

Mrs. Stefl: I'm sorry, I didn't hear what you said Steven.

Mr. Apicella: I'm saying if you don't follow the rules, you don't provide it in the form and shape that we want it then you don't come up at the next meeting.

Mr. Gibbons: You don't get scheduled until you meet the requirement.

Mrs. Stefl: I also thought that we had agreed that it was going to be the applicant who is advertised and not the agent for them?

Mr. Gibbons: That's correct

Mr. Davis: They did both.

Mrs. Stefl: I mean, I noticed that the advertisement again said Clark Leming for.

Mr. Davis: For.

Mrs. Musante: For.

Mrs. Stefl: Oh okay. That is what we agreed to was?

Mr. Gibbons: No, no we didn't agree but... no, what we agreed to before is that the applicants name would be in there. He would be the attorney representing them but it was the easiest way to change it at the last minute so I let them go with the "for" this time.

Mrs. Musante: I actually spoke with Andrea and Jeff on this issue and he said because Clark is the applicant and is signing as the applicant, we have to do it that way. Clark Leming for whatever the company is.

Mr. Gibbons: He is not the applicant.

Mr. Ingalls: Yes he is.

Mrs. Musante: Yes he is.

Mr. Davis: Yes he is.

Mr. Gibbons: He doesn't own it?

Mr. Davis: He signed it.

Mr. Ingalls: But the owner's given him the right to apply.

Mr. Gibbons: How do you know that?

Mr. Ingalls: (Inaudible)

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Mr. Gibbons: Okay, well we will get the right size map at least. But I agree.

Mr. Davis: I think in your letter to him, instead of having but in there, you just need to tell him what he needs to do, not that he is doing a great job because he isn't.

Mrs. Stefl: No.

Mr. Davis: He is doing a great job presenting because he is doing it within the ten minutes allowed.

Mr. Gibbons: Well you complimented him and I was going to put that in there. It's the first time, I'm only kidding you.

Mr. Davis: Well, it probably is. But we kept pushing him and he finally did it.

Mrs. Stefl: Even an old dog can learn new tricks.

Mr. Gibbons: We will use the word shall.

Mrs. Stefl: It is required...

Mr. Gibbons: No, shall be done.

Mrs. Musante: Thank you.

Mr. Gibbons: Okay. Any other good for the...

Mr. Ackermann: I can't make it November 3rd either.

Mr. Gibbons: November 3rd?

Mr. Ackermann: Right.

Mr. Gibbons: Okay.

Mr. Davis: Staff has a question.

Mr. Gibbons: Go ahead.

Mrs. Musante: Mr. Gibbons, we do not have any applications for November.

Mr. Gibbons: Okay, now if we do have a meeting, we have to advertise that we are going to meet as a group right?

Mrs. Musante: Correct.

Mr. Gibbons: But we don't have to... it doesn't have to have any time limit does it? We just have to make it public?

Mrs. Musante: Seven days.

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Mr. Gibbons: We have to have a seven day notification?

Mr. Apicella: I thought for housekeeping stuff we didn't need to have that.

Mr. Gibbons: I didn't think so.

Mr. Apicella: Because we are not talking about anything specific.

Mr. Gibbons: I think you have to do the notice but I don't think it has any time limit.

Ms. Medina: Three day notice for a public meeting. Sorry.

Mr. Gibbons: Okay.

Mr. Ingalls: Melody, can we vote tonight to cancel our December meeting like we normally do?

Mrs. Musante: Absolutely.

Mr. Gibbons: I need a motion.

MOTION:

Mr. Ingalls: I move that we cancel our December meeting of the BZA.

Mr. Gibbons: Okay, second?

Mr. Ackermann: Second.

Mr. Gibbons: Okay second. All in favor say aye.

Mr. Ackermann: Aye.

Mr. Apicella: Aye.

Mr. Davis: Aye.

Mr. Ingalls: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Gibbons: Aye. Any nays? Any abstentions? And the motion passes.

VOTE:

The motion was cancel the December meeting passed 7-0.

Mr. Ackermann: Yes.

Mr. Apicella: Yes.

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Mr. Davis: Yes.
Mr. Gibbons: Yes.
Mr. Hudson: Absent.
Mr. Ingalls: Yes.
Dr. Larson: Yes.
Mrs. Stefl: Yes.

Mr. Gibbons: Okay, remember now that we have the Board and Commission Dinner in December so it would be good if we... Where is it going to be held this year?

Mr. Apicella: I think it is going to be at Riverside.

Mrs. Musante: It will be at Riverside.

Mr. Apicella: I went last year and it was a great evening with lots of foods and unfortunately it was sparsely attended so I would recommend my fellow Board members attend.

Dr. Larson: I went last year too and I second that.

Mr. Gibbons: Okay, alright and thank you very much and we will see you, we hope, sometime in November and if not and he can meet in December, I will try to get an agreeable date in December. Okay and thank you very much.

ADJOURNMENT

With no further business the meeting was adjourned at 8:07 pm.