

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES

February 26, 2008

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, February 26, 2008 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Ernest Ackermann in the Board of Supervisors Chambers in the Stafford County Government Center. Mr. Ackermann 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. Ackermann read the By-Laws of this Board stated the applicant would be allowed ten minutes to state their case, the other speakers would be allowed up to three minutes to testify, and the applicant would be allowed up to three minutes for rebuttal.

Members Present: Ernest Ackermann, Larry Ingalls, Cecelia Kirkman, John Overbey, Robert Gibbons and Michael Levy

Members Absent: Steven Beauch

Staff Present: Rachel Hudson, Zoning Administrator
Melody Musante, Senior Zoning Technician
Evelyn Keith, Recording Secretary

Mr. Ackermann asked if there were any changes or additions to the advertised agenda.

Ms. Musante stated V08-1/2800051 Mauricio Lujan has requested a postponement until the April meeting.

Mr. Ackermann referenced the by-laws and stated an applicant could request a postponement at anytime.

Mr. Overbey stated the practice in the past has not been date specific unless the applicant stated otherwise.

Mr. Gibbons stated his concern regarding how the ordinance was if there were a violation, an application would need to be submitted to address the violation.

Mr. Ackermann stated he tried to address that in the by-laws.

Motion:

Mr. Gibbons made a motion to accept the postponement of V08-1/2800051 and re-address the Board at the March meeting.

Mr. Overbey seconded.

Mr. Ackermann asked for the applicant to state why he wanted to defer until the April meeting.

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PUBLIC HEARINGS

V08-1/2800051 - MAURICIO LUJAN - Requests a Variance from Stafford County Code, Section 28-59(f) (2), "Development Standards", to eliminate the pedestrian circulation requirement in the Highway Corridor Overlay District on Assessor's Parcels 38-110 and 111. The property is Zoned M-1, Light Industrial, located at 1546 Jefferson Davis Highway.

Mauricio Lujan, MJ Express, LLC Executive Vice President, 1546 Jefferson Davis Highway, Stafford, VA 22554, stated he was requesting a deferral so his attorney could re-review the HCOD regulations and clear up some issues. He stated he would need more time to prepare and April would have been an ideal date for the applicant.

Mr. Ackerman asked if there were any questions.

Mr. Ingalls stated he had the same concerns as Mr. Gibbons and if the applicant could be ready by the March meeting.

Mr. Lujan stated March would be possible after meeting with his attorney again.

Mr. Ingalls stated 30 days seemed to be enough time to read the ordinance and make a decision.

Mr. Lujan stated as a small business he was very busy and the possibility he should be ready by the March meeting.

Motion:

Mr. Gibbons reiterated the motion to postpone V08-1/2800051 to the March 25, 2008 meeting.

Mr. Overbey seconded.

Vote:

The motion to postpone passed 6-0

Mr. Ackerman – yes
Ms. Kirkman – yes
Mr. Ingalls – yes
Mr. Overbey – yes
Mr. Gibbons – yes
Mr. Levy – yes
Mr. Beauch - absent

UNFINISHED BUSINESS

Mr. Ackermann stated that the Board should discuss the revisions to the by-laws.

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The Board discussed in detail the new changes to the by-laws and discussed sending the revisions to the County Attorney for review and approval. The Board asked Mrs. Musante to make the correction and bring back to the March meeting for approval.

Mr. Gibbons made a motion to forward the by-laws to the County Attorney to review for approval.

Mr. Levy seconded the motion.

Vote:

Motion to approve passed 6-0

Mr. Ackermann - yes
Ms. Kirkman – yes
Mr. Ingalls – yes
Mr. Overbey – yes
Mr. Gibbons – yes
Mr. Levy – yes
Mr. Beauch - absent

Ms. Kirkman stated the by-laws would be adopted at the March meeting unless the County Attorney had changes.

REPORT BY ZONING ADMINISTRATOR

Ms. Hudson stated the BZA meetings for March and April would be held in the A/B/C Conference Room, the Board of Supervisors would be having hearings regarding the budget. She stated the Board of Zoning Appeals meeting would be taped and aired later.

Mr. Ackermann stated case V08-1/2800051 Mauricio Lujan's would be presented at the March meeting.

Ms. Kirkman asked Ms. Hudson why there was a request to schedule an appeal of the Zoning Administrator's decision. She stated she had served on the Board for five years and this was the first time this was requested.

Ms. Hudson stated after a discussion with Jeff Harvey, Director of Planning and Zoning, and Mike Neuhard, Deputy County Administrator, there was a decision made to transmit appeals to the BZA to set hearing dates.

ADOPTION OF MINUTES

Mr. Overbey stated he was confused with the wording regarding opening the public hearing. He stated once the staff had read the staff report the chairman should state the case would be open for public hearing at this time, the applicant would come forward and state their case.

Mr. Ackermann asked for a correction to the minutes that stated, "Ms. Kirkman opened the hearing for public comment". He asked that staff make the corrections to the minutes.

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Motion:

Mr. Ingalls made a motion to approve the January 22, 2008, minutes with corrections.

Ms. Kirkman seconded the motion.

Vote:

Motion to approve passed 6-0

Mr. Ackermann – yes

Ms. Kirkman – yes

Mr. Ingalls – yes

Mr. Overbey – abstained

Mr. Gibbons – abstained

Mr. Levy – abstained

Mr. Beauch - absent

OTHER BUSINESS

Mr. Ackermann stated the Board needed to schedule the appeals of the Zoning Administrator determination letter for two cases. He stated Mr. Leming asked the Board to schedule the appeals for the April meeting.

Ms. Kirkman asked if each appeal would be delayed prior to scheduling a meeting. She asked if a written legal opinion was received regarding that matter.

Mr. Ackermann stated he had not received written legal opinion.

Mr. Kirkman stated public hearings were the second BZA meeting after the applicant submitted the application.

Motion:

Mr. Overbey made a motion to schedule the two appeal cases of the Zoning Administrator determination to the April meeting.

Mr. Gibbons seconded.

Vote:

Motion to approve passed 6-0

Mr. Ackermann - yes

Ms. Kirkman – yes

Mr. Ingalls – yes

Mr. Overbey – yes

Mr. Gibbons – yes

Mr. Levy – yes

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Mr. Beauch – absent

Ms. Kirkman suggested the Board consider scheduling all appeals following the policy that exist now. She stated scheduling appeals were being heard at the second BZA meeting after receipt of the application. She asked Ms. Hudson if appeals had to be heard in 60 days or the second meeting after receipt.

Ms. Hudson stated when staff received the request and the applicant pays the fee, she would then bring the request before the Board to schedule a date to hear the case.

Mr. Overbey suggested that an application be heard no later than the second meeting.

Ms. Kirkman stated she suggested the second meeting to allow time to complete the entire application process. She stated it would not be fair to allow applicant to push an appeal ahead of another application.

Mr. Ingalls stated appeals should be heard as quickly as possible.

Mr. Overbey stated in the new by-laws the applicant would have the right to defer and if an application were not complete, there would be no need to hear the case.

Mr. Levy stated the new by-laws would not give the applicant the right to defer; the applicant would need to request deferment and the Board would motion to approve or deny.

Mr. Ingalls stated that previously Ms. Hudson would make the determination of when the Board hears a case; now Ms. Hudson was allowing the Board to make the decision.

Mr. Gibbons stated he would like to commend our staff on complete and comprehensive packets. He stated staff has done an excellent job in preparing the packages and getting it to us in plenty of time for us to study them.

ADJOURMENT

Motion:

With no further business, the meeting was adjourned at 8:17 p.m.

Ernest C. Ackermann
Chairman, Board of Zoning Appeals