

**Stafford County
BOARD OF ZONING APPEALS**

MINUTES October 24, 2006

The regular meeting of the Stafford County Board of Zoning Appeals on Tuesday, October 24, 2006 was called to order with the determination of a quorum at 7:05 p.m. by Vice Chairman John Overbey in the Board of Supervisor's Chambers in the Stafford County Government Center. Mr. Overbey 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. Overbey said the By-laws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

Members Present: Larry Ingalls, John Overbey, Julie Rutledge, Steven Beauch, and Cecelia Kirkman

Members Absent: Angelo Amador, Nick Kopchinsky,

Staff Present: Dan Schardein, Director, Department of Code Administration
Melody Friberg, Sr. Zoning Technician
Wanda Doherty, Recording Secretary
Steven Hubble, Environmental Manager
Paul Santay, Planner

Declarations of Disqualification's: Ms. Rutledge stated cases SE06-12/2600642 and case SE06-14/2600645 I will not participate, my company has done work on there properties.

Mr. Ingalls stated on case SE06-3/2600341 Stafford County Board of Supervisors, my firm does work for the Utility Department and have a contract to do certain utility designs so therefore I will abstain from that case.

Ms. Friberg stated Stafford County has asked that case SE06-3/2600341 – Stafford County Board of Supervisors requests a Special Exception per Stafford County Code, Section 28-57(h)(3)a, "Flood Hazard Overlay District", to allow construction of a dam across Rocky Pen Run for the purpose of creating a reservoir on Assessor's Parcels 43-27, 27A, 28, 29, 81 and 51-2, zoned A-1, Agricultural be postponed to the November 28, 2006 meeting.

Ms. Rutledge made a motion to approve the County's request to postpone case SE06-3/2600341 – Stafford County Board of Supervisors to the November 28, 2006 Board of Zoning Appeals meeting.

Mr. Beauch seconded the motion.

Vote:

Motion to postpone 3-1-1 abstain

Mr. Ingalls – abstain

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – no

Mr. Beauch – yes

Mr. Overbey stated the hearing for case SE06-3/2600341 – Stafford County Board of Supervisors has been postponed to the November 28, 2006 Board of Zoning Appeals meeting.

Mr. Kirkman said she thought the Board needed four votes to carry.

Mr. Overbey said that is for an application.

Ms. Kirkman said she would check the by-laws while the meeting continued.

Mr. Overbey said he would like to restate there takes four positive votes to approve an application, appeal or special exception. He said there might be some hesitation by some of the applicants who would like their case heard by the full board. He stated if anyone feels this way, we now provide you with the opportunity to postpone your case.

PUBLIC HEARINGS:

Ms. Friberg reviewed the following case for the Board.

Ms. Kirkman excuse me I hate to interrupt but I just need to refer back to our by-laws before all the Stafford County folks leave. She said section 5.5 of the meeting states the number of votes necessary to transact business shall be majority of the membership which is four votes. She said I think we need to proceed with the Stafford County case.

Ms. Rutledge said she disagreed. She said in the past if the applicant request postponement of a case it has been granted. She said I think we can proceed as follows and move the case to next month.

Mr. Overbey said we have postponed the case several times before.

Ms. Rutledge said in addition we do not have a full board and I think under these circumstances the can request and receive a postponement.

Mr. Overbey said based upon that and I know where you are coming from Ms. Kirkman, but I am going to move on and we will postpone that case until next month.

Mr. Overbey asked Ms. Friberg to continue to review the following case.

SE06-10/2600611 - FLETCHER, GERALDINE W - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standard, R-1, Suburban Residential", to allow a salon as a Home Business on Assessor's Parcel 54L-20-236. The property is zoned R-1, Suburban Residential, and is located at 1700 Sherwood Drive, Grafton Village Subdivision.

Geraldine Fletcher the applicant said she is a licensed instructor, have been doing hair for eighteen years and my purpose here today is to open a hair salon in the bottom level of her home. She said her vision is to help with battered women, connecting with some of the community service boards, churches, to help men and women transform into the job force. She said this County reminds me of a family oriented County and have someone here to help you with health, dental but no one to help with hair service. She said she is willing to not deal with chemicals and just have basic shampoos, blow dry, haircuts and she is convinced if she starts, she can grow larger. She said it can help her as a mother of three children and my vision is to help as well as service the community and go as good for myself. She said the fees can vary depending on the organizations and is just asking for a chance.

Mr. Beach said he had questions about the floor plan of the house. He said the current floor plan of the room it shows 13'x 22', the house is a split foyer and how many total levels are there to the house.

Ms. Fletcher said it is a two level house.

Mr. Beach said the top floor and the bottom floor are the same width.

Ms. Fletcher said that is correct.

Mr. Beach said the survey shows 24' wide by 44' wide and the chart shows, 22'x13' which indicates, that about a quarter of the room is being used. He said the chart is drawn using half of the bottom floor. He ask Ms. Fletcher to clarify, is it going to be half of one floor or approximately a quarter of one floor.

Ms. Fletcher said it is approximately a quarter of one floor. She said it was her understanding that was all she could use. She said if she is allowed to use more, there is a bedroom that could be used as a waiting room, an area for coffee and donuts.

Mr. Beach said there is a limit but he was trying to understand the chart.

Ms. Rutledge said in the application it says you are requesting a home business for a hair salon but in your description of services, you want to provide added services. She asked the applicant to explain what exactly she is asking the board for.

Ms. Fletcher said basically all hair services will be provided as needed but working with the churches, County and shelters to do basic shampoos, haircuts and sets.

Ms. Rutledge said you are only talking about hair for the customers and no other services. She said you are not going to shelter women in your home.

Ms. Fletcher said she would not be sheltering women in her home.

Mr. Overbey said staff recommends the development conditions for days and hours and I do not think I saw that. He asked Ms. Fletcher if she had anything in mind as far as days of the week you want to operate and how many hours.

Ms. Fletcher said she would like from 10:00 a.m. to 7:00 p.m. but with the shelters, she did not know what hours they would give her. She said it was read from 10:00 a.m. to 7:00 p.m. on the weekdays.

Mr. Overbey said you can provide off street parking and your customers will be by appointment only.

Ms. Fletcher said yes sir.

Mr. Ingalls said he was concerned about the parking. He said first customers by appointment only; your sketch shows two chairs so if you had two cars plus your own.

Ms. Fletcher said she has a carport and can fit almost four more cars on the lot but similarly I can ask the shelter to drop off and pickup the client. She said her goal is to make sure a client is in and out in a certain time.

Mr. Ingalls said he has a hard time seeing more than three cars on the site with one in the carport and two on each side. He said you could not park cars behind each other.

Ms. Fletcher said if you look at the parking it goes in like a triangle and I have already had three cars lined up with one car under the carport. She said that gives room for four cars.

Mr. Ingalls asked if there are any more cars at your home or are you just a one-car family.

Ms. Fletcher said they do have two cars but her husband is a nurse and he works 7:00 a.m. to 3:00 p.m. and most of the time he also works 3:00 p.m. to 11:00 p.m. so, his car not home most of the times during the hours of operation. She said and if needed I can ask him to leave to go shopping. She said she would do whatever she would have to do to comply with the County regulations. She said nurses work a lot of overtime and right now, my husband is working both shifts and most weekends.

Ms. Kirkman said some neighbors have written in and specifically there is already a vehicle parked in the driveway that is not registered.

Ms. Fletcher said it is a white car and it is down and plan to give it away. She said she had not been able to get that together.

Ms. Kirkman said that would take up some of the parking space.

Ms. Fletcher said that is how she knows with three cars parked there she is able to get her vehicle

and husbands vehicle out of the driveway.

Ms. Kirkman asked Ms. Fletcher would agree to one of the conditions being removal of the non-operating vehicle.

Ms. Fletcher said that was not a problem.

Ms. Rutledge said concerning styling of hair, you do use some kind of chemicals that do go down the drain. She said we would ask that you would check with the local authorities to make sure that the proper care is taken with the chemicals.

Mr. Ingalls asked if the applicant planned to put a sign up and he did not know if a sign was allowed.

Ms. Fletcher said if it is allowed yes and I would stay within regulations and my goal is to not mess up traffic coming down Sherwood Drive. She said most of her clients would be referrals.

Ms. Friberg said the Ordinance calls for home occupation signs only and the maximum size is four square feet.

Mr. Overbey said he is hearing from the applicant that she is not even thinking about a sign at this point. He said he noticed that one of the neighbors that there is a concern about a sign there.

He said if we can go without a sign and the applicant said the business was referral anyway.

Ms. Fletcher said no problem.

Ms. Rutledge asked the applicant if she had seen the letters sent in from 1616 Sherwood and 1701 Sherwood Drive.

Ms. Fletcher said she had not seen the letters.

Ms. Rutledge asked staff if they had extra copies of the letters.

Mr. Ingalls asked the applicant how she would advertise her business.

Ms. Fletcher said she knows she has to stay within the regulations, there is a development behind me on 218, and I thought about putting a flyer on the red flag on the mailbox. She said she is really just trying to have referrals.

Mr. Overbey said so you are talking about word of mouth and Ms. Fletcher said that was correct.

Mr. Ingalls asked the applicant how many appointments a day you would expect to have if you were successful.

Ms. Fletcher said a maximum of seven to eight appointments a day. She said if the business increases, she would get a storefront and not continue the business at home.

Mr. Overbey opened the Public Hearing for other comments.

Proponents: None

Opponents: None

Mr. Overbey gave the applicant a final opportunity to speak.

Ms. Fletcher thanked the Board for their time.

Mr. Overbey closed the public hearing.

Motion:

Ms. Rutledge made the motion to approve case SE06-10/2600611 with the following conditions, days and hours of operation per the application, off street parking only, customers by appointment only, removal of non-registered vehicle on the lot, and no sign.

Mr. Overbey said he had a motion to approve case SE06-10/2600611 do I have a second.

Ms. Kirkman said procedurally she was not sure how to do this, but she wants to offer an amendment that we allow the applicant a sign.

Mr. Overbey said we need a second first.

Ms. Kirkman seconded the motion.

Mr. Overbey said we have a motion and second to approve, is there any discussion.

Ms. Kirkman said she wanted to offer the amendment that we not restrict the applicant on the sign. She said according to the Ordinance it is a small sign and it would have more impact on the neighborhood if clients had to go searching for the place.

Ms. Rutledge said the reason she made the motion and added no sign is the letters we received from the neighbors in the neighborhood. She said both neighbors who wrote in said no signs under any circumstances. She said she realizes the County for a home business can have a sign. She said another concern of the neighbors is the fact that the traffic patterns have changed in the neighborhood and it has become more of a throughway. She said there is the concern that people while driving would be more concerned with the sign than watching the street and I do not think I want to amend the motion.

Mr. Ingalls said he asked about the sign because he wanted to understand the County Ordinance and size of the sign. He said the sign is only 2' x 2' and it would not be lighted. He said Ms. Kirkman brings up a good point about people driving through the neighborhood looking for the place. He said as part of a home business I would like to limit the amount of appointments to seven or eight appointments a day, so I know there will not be a lot of traffic coming in and out. He said he would like to see a limit of no more than eight appointments a day.

Mr. Overbey asked Ms. Rutledge would you be willing to amend your motion.

Ms. Rutledge said she would be willing to amend the motion to include maximum limit of appointments to be eight per day and I will remove the condition of no sign.

Ms. Kirkman seconded the amended motion.

Mr. Beauch said he is going to oppose the motion and this is only the second time I have done this for a home business and I feel bad about that. He said but normally we have neighbors come in and speak in favor of a home business and in this case, we have two or three letters that are opposed to it for various reasons. He said he is going to oppose the motion for that reason.

Mr. Overbey said he would call for the vote for approval with the following conditions,

Vote:

Motion to approve 4-1

Mr. Ingalls – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Beauch – no

Ms. Friberg reviewed the following case for the Board.

SE06-11/2600641 – BOLINGER, DONAL JASON - Requests a Special Exception per Stafford County Code, Section 28-35 Table 3.1 "District Uses & Standards, A-2 Rural Residential", to allow parking of a commercial vehicle on Assessor's Parcel 22D-4B-280. The property is Zoned A2, Suburban Residential, located at 54 Bloomington Lane, Stonebridge at Widewater Subdivision.

Mr. Bolinger the applicant said he would like to continue parking his truck at his residence. He said he would have applied before now for the approval if he realized he needed one. He said he assumed with the Home Owners Association rules saying I could park a commercial vehicle in my driveway as long as it was not in the street. He said they did widen the driveway to accommodate the truck. He said they are on a cul-de-sac with five houses. He said he is willing to add a fence, trees or shrubs. He said when he received the complaint he did own a dump truck but has sold the dump truck. (Mr. Bolinger gave out sets of pictures and explained them.) He said he is now on the road and his hours of operation have changed. He said he is sometimes on the road for two or three weeks at a time. He said when the truck is in the driveway it stays there until he is ready to leave again. He said he tries not to leave before 6:00 a.m. or 7:00 a.m. in the morning and the trash trucks are louder than he is. He said he does not come in late at night because he did not want to wake people up.

Mr. Bolinger said he keeps his truck up so it would not leak any fuels. He said he transports a lot of government equipment and showed a picture of an apache helicopter on his truck. He said he

parks his trailer at a rental lot but is afraid his truck would be broken into as it has happened in the past. He said he feels with the expensive equipment he has on his truck including a satellite tracking system used when he hauls government equipment it would not be safe to leave his truck in a rental lot. He said he included pictures of other vehicles parked in other driveways in the neighborhood and not to get people in trouble but wanted the Board to have a visual idea of what is going on in the neighborhood.

Mr. Overbey said Home Owners Association (HOA) rules do not apply here.

Ms. Kirkman asked how long is the truck and Mr. Bolinger said about fifteen or sixteen feet.

Ms. Kirkman asked staff if Zoning was involved with the case because a complaint was made.

Ms. Friberg said that was correct.

Ms. Kirkman asked if the complainant gets a notice of this hearing.

Ms. Friberg said it is not policy to send complainants notification. She said we notify adjacent property owners, which are on each side, behind or across the street, and if the complainant was one of those than yes, they were notified. She said the meeting and the public hearing cases are in the Free Lance Star twice.

Ms. Kirkman asked the applicant if he had worked out any issues the complainant had.

Mr. Bolinger said he did not know who made the complaint.

Mr. Ingalls said he is not familiar with trucks, sounds and diesel but in the past, we have had the same issues such as noise.

Mr. Bolinger said he lets his truck run about five minutes to warm up and build up pressure.

Mr. Ingalls said another big issue is the noise of your coming and going and would I hear your truck and it awaken me in the morning.

Mr. Bolinger said if you are in the front of the house it might but it is not as loud as the trash trucks at 4:00-5:00 a.m. and not as loud as the person that drops his kids off at the woman's on the corner with his diesel pick-up truck at 6:00 a.m. in the morning. He said everyone in the area that he has talked to said his truck is not loud. He said when he has come back from a trip and it is 11:00 p.m. or later he stops at Highway Garage and sleeps until the next morning so he will not disturb his neighbors.

Mr. Ingalls asked if the applicant would be willing to limit his hours and he agreed.

Mr. Bolinger said 7:00 a.m. to 11:00 p.m. seven days a week.

Mr. Ingalls asked the applicant if he would be willing to plant trees.

Mr. Bolinger said, yes sir I would be willing to do that.

Ms. Kirkman said she would feel more comfortable moving forward on this if we had the person that made the complaint here so we could understand what led to that complaint. She asked the applicant if he could guess what the concerns would have been.

Mr. Bolinger said he did not know who complained or why. He said we have a pretty open policy in the neighborhood, we had a person who liked to mow his grass at 7:00 a.m. and we took care of that.

Ms. Kirkman said you could find out who complained.

Ms. Friberg said we do not always know who complains. She said we have taken in anonymous complaints, we do not release the information on who the complainant is if they do give us that information and it has also been our policy previously, if we get a complaint on a street we are proactive and do the entire street and write up any violations on that street. She said the inspector could have been out on something else and saw the truck.

Mr. Overbey opened the Public Hearing for other comments.

Opponents: None

Proponents:

Mr. Mark Ingram at 53 Bloomington and live directly adjacent to Mr. Bolinger. He said he has no objections to Mr. Bolinger parking his truck in his driveway. He said Mr. Bolinger has been very considerate and his truck sounds like a Cadillac compared to the trash trucks. He said there are people with diesel pick-up trucks that make more noise than Mr. Bolinger's. He said he has no objections.

Mr. Overbey closed the Public Hearing for motion, discussion and decision.

Motion:

Mr. Beauch said he makes the motion to approve case SE06-11/2600641.

Ms. Rutledge seconded the motion.

Mr. Ingalls said he would like to add some conditions to the motion. He said he would like a condition that he not leave before 6:30 a.m. in the morning or later than 11:00 p.m.

Mr. Beauch asked Mr. Ingalls if he could change the time from 6:30 a.m. to 7:00 a.m.

Ms. Kirkman asked if the special exception runs with the property.

Mr. Ingalls said sometimes we have put for the applicant only.

Ms. Kirkman said she would like to make that a condition because of hesitation at having a large commercial vehicle in a neighborhood. She said this applicant has done a nice job of demonstrating how responsible he is but I am concerned we could get someone in there that would not be as responsible.

Ms. Rutledge said she agreed and would second the motion.

Mr. Overbey said without further discussion he calls for the vote of case SE06-11/2600641 with the following conditions; the applicant not leave with is truck prior to 7:00 a.m. and not return after 11:00 p.m. and this application approval be for the applicant only.

Vote:

Motion to approve – 5-0

- Mr. Ingalls – yes
- Mr. Overbey – yes
- Ms. Rutledge –yes
- Ms. Kirkman – yes
- Mr. Beach - yes

The Board took a ten-minute break.

Ms. Friberg reviewed the following case for the Board.

SE06-14/2600645 - MARINEZ, STACI - Requests a Special Exception per Stafford County Code, Section 28-273, "Nonconforming Structures or Residential Buildings", to allow an addition to an existing nonconforming single family dwelling on Assessor's Parcel 28-120A. This property is zoned A-1, Agricultural, located at 5 Lynhaven Lane.

Ms. Staci Marinez the applicant said she plans to build a second story to her home, which now includes a basement. She said she is going up so she can add two bedrooms. She said on the first floor she would have an actual living room and dinning room. She said currently the way her home is setup, the living room and dining room blend in with my kitchen. She said she would have more space for her and her daughter and much needed storage. She said the reason she is going up is that behind her is a cemetery, on the side is her drain field and further down the lot is another gravesite.

Mr. Ingalls asked was it pointed out to you when you bought the property that you would run into this problem and Ms. Marinez said no.

Ms. Marinez said the house was built in 1965 and she purchased it in 2003. She said the house would continue to be brick and vinyl as it is built up.

Mr. Overbey opened the Public Hearing for other comments.

Opponents: None

Proponents: None

Mr. Overbey closed the Public Hearing for motion, discussion and decision.

Motion:

Mr. Beauch made the motion to approve case SE06-14/2600645.

Mr. Ingalls seconded the motion.

Mr. Beauch said he made the motion because it fits in with the Ordinance and it will not change the character of the neighborhood. He said the property was built before zoning or current setbacks.

Vote:

Motion to approve – 4-0-1 abstain

Mr. Ingalls – yes

Mr. Overbey – yes

Ms. Rutledge – abstain

Ms. Kirkman – yes

Mr. Beauch - yes

Ms. Friberg reviewed the following case for the Board.

SE06-12/2600642 - SMITH, RENEE - Requests a Special Exception per Stafford County Code, Section 28-273, "Nonconforming Structures or Residential Buildings", to allow an addition to an existing nonconforming single family dwelling on Assessor's Parcel 47-45C. The property is zoned A-1, Agricultural, located at 1380 Brooke Road.

Ms. Renee Smith the applicant said she would like to add to her house because it is very small. She said she has two bedrooms and one bathroom and in the beginning, it was just my husband and I. She said now it is herself, son and she has adopted a girl and she needs her own bedroom and more storage. She said she ask for the addition for more living space and a second

bathroom.

Mr. Overbey said on the plat the addition is on the front left and side right. Ms Smith said that is correct.

Mr. Ingalls said your current home is one story now and the proposed additions will be one story also.

Ms. Smith said that is correct.

Mr. Overbey said if this is approved and if someone drives by your house next year would they

be able to tell that you added on to your house.

Ms. Smith said it would blend in to the existing house.

Mr. Overbey opened the Public Hearing for other comments.

Opponents: None

Proponents: None

Mr. Overbey closed the Public Hearing for motion, discussion and decision.

Motion:

Ms. Kirkman made the motion to approve the application.

Mr. Ingalls seconded the motion.

Mr. Ingalls said this house was originally built by code at the time and I will vote in favor of the motion.

Mr. Beauch said he finds that it is not detrimental to the neighborhood.

Vote:

Motion to approve – 4-0-1 abstained

Mr. Ingalls – yes

Mr. Overbey – yes

Ms. Rutledge – abstained

Ms. Kirkman – no

Mr. Beauch - yes

OTHER BUSINESS

Mr. Schardein said they have made some changes in the office to try to serve this board better for a number of reasons; some was to give more attention and detail and eliminate mistakes because people get overwhelmed. He said what we have done is Melody Friberg has been promoted to serve this board and other duties but her main duty will be to focus on this board. He said Melody would be taking the applications and working with other staff members on the applications along with attending the meetings and follow-up. He said day-to-day operations will be Melody and that will give you a little more full time resource. He said Melody would be supervising the Zoning Tech's.

REPORT BY DEPUTY ZONING ADMINISTRATOR

Ms. Friberg said she had two things, which is the BZA graduate seminar and would anyone be participating.

Mr. Overbey said the Board felt there was not enough notice and some could not change schedules.

Mr. Schardein said if the Board is interested in other seminars to let him know.

Ms. Friberg asked the board if they are having a December meeting and is the Board going to have a holiday get together.

Mr. Overbey said we usually do not have a meeting in December.

Ms. Rutledge asked if there were any cases for December and Ms. Friberg said no.

Ms. Friberg said there are some cases scheduled in January 2007.

Motion:

Ms. Rutledge made the motion not to have a Board of Zoning Appeals meeting for December 2006.

Mr. Ingalls seconded the motion.

Vote:

Motion to approve – 5-0

Mr. Ingalls – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Beauch - yes

Mr. Overbey said would we like to do a Holiday get together.

The Board discussed the Holiday dinner briefly and asked staff to get the information and email the members.

ADOPTION OF MINUTES

September 26, 2006

Ms. Rutledge said she had looked at the minutes briefly and would like to go over some of the wording with staff.

Mr. Overbey said for the members to get with staff on any recommended changes or corrections and bring back to the next meeting.

At this time, the Board of Zoning Appeals adjourned to a closed meeting and reopened per Resolution CM06-01 (attached).

Mr. Overbey said he would like to discuss the status of the Boards request for alternate members.

Mr. Schardein said he did not know the status but would find out and report back to you. He said he could send the request to the Board of Supervisors.

ADJOURNMENT

Ms. Rutledge made the motion to adjourn. Ms. Kirkman seconded the motion.

Vote:

Motion carried 5-0

Mr. Overbey – yes

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Beauch - yes

Meeting Adjourned at 9:00 p.m.

WLD

Approved: _____ Date: _____
Rachel T. Hudson, Deputy Zoning Administrator