

**MINUTES OF A REGULAR MEETING OF
THE BOARD OF ZONING APPEALS
CITY OF OAK HILL, TENNESSEE**

January 19, 2010

The Board of Zoning Appeals of the City of Oak Hill, Tennessee met in the City Office. Board members present were Tom Lawless, Tonya Matthews, and Steve Wasserman. Also present were City Manager Kevin Helms, Chief Building Official Bill Burdette, City Attorney Bob Notestine, Assistant City Manager M. C. Sparks, and Administrative Assistant Patrick Steiner. Mr. Lawless chaired the meeting, and Ms. Sparks acted as secretary.

Following introductions and preliminary information, the following matters were considered and disposed of as indicated:

1. Call to Order. The meeting was opened at 5:06 p.m. by Mr. Lawless.

2. Approval of Outstanding Minutes of the Meetings - On a Motion duly made by Mr. Wasserman and seconded by Ms. Matthews, the Minutes of the December 2009 Meeting were Unanimously approved as corrected.

On a Motion duly made by Ms. Matthews and seconded by Mr. Wasserman, the Special September 2009 Minutes of the Meeting were Unanimously approved as submitted.

On a Motion duly made by Mr. Wasserman and seconded by Ms. Matthews, the October 2009 Minutes of the Meeting were Unanimously approved as submitted.

3. Case 08-27: Consider A Request By Mrs. Sharon Monroe, 1101 Stonewall Jackson Court, appealing the decision of the City to write a building permit for installation of utilities and building up an access easement for property at 5208 Granny White Pike, owned by Karl and Linda Van Becelaere at that time. The Chancery Court remanded this case back to the BZA for a finding of fact.

Consistent with the Court's order to the City, the BZA set a procedure for the hearing. The procedure required the BZA to consider the evidence represented and make findings of fact, limiting the items to address at this meeting, with no public comments to be entertained.

Mr. Wasserman said that both attorneys have presented their findings of fact, and the BZA has looked at both versions, discussed them point by point to agree or disagree with them. Mr. Notestine said for the record he had not reviewed the attorneys' findings of fact or deliberated with the BZA about the proposed findings of fact.

The Board of Zoning Appeals debated and drew up the findings of fact relating to Case 08-27. Items mentioned during discussion were:
A lot is classified as a steep slope lot by the City Manager or Planning Commission in consultation with the City Engineer. The plat shows one lot only as a steep slope lot. The easement stops at the edge of the third lot.

The Board reviewed evidence as to testimony of Bill Burdette regarding the review of the plat before issuance of the Permit. The BZA said it appears he undertook each and every step required before issuing a permit.

The Board of Zoning Appeals drafted each of the findings of fact, then reviewed and approved each individually to create the list of the Approved Finding of Facts on January 19, 2010:

- 1 – The permit is a building permit as defined by Ordinance 6-201. Unanimously approved.
- 2 – Despite its title, the permit is not a permit for the construction of a building, which is defined as a structure having a roof (see Chapter 2 “Definitions”, Zoning Ordinance for the City of Oak Hill). Unanimously Approved as amended in this form.
- 3 – The Building Permit did not authorize construction of a building, house or dwelling, it only authorized the installation of utilities along the easement of a property that the Planning Commission designated as a 3 lot subdivision. The permit itself specifies that no other work is to be done (see attached exhibit). Unanimously Approved as amended in this form.
- 4 – The information required by Zoning Ordinance 6-202 was included in or accompanied the application for the work to be conducted on the property in question. Unanimously Approved as amended in this form.
- 5 - The issuance of the limited purpose permit does not vest in the property owner, or any other person, any additional rights. Unanimously Approved as amended in this form.
- 6 – The application for the permit was reviewed by Bill Burdette, Chief Building Official, prior to its issuance, and Mr. Burdette met the threshold of due diligence before signing the limited purpose permit. Unanimously Approved as amended in this form.
- 7 – Mr. Burdette was authorized to sign as designated representative of the City Manager, as per Ordinance 6-101. Unanimously Approved as amended in this form.
- 8 – Ordinance 4-219.1, regarding steep slope lots, is not applicable to this particular permit. By its terms, the ordinance only applies to a permit for a building. Unanimously approved.
- 9 - There are no additional vested rights granted by the issuance of this permit. Unanimously Approved as amended in this form.
- 10 – The construction of a building, house or dwelling was not what was applied for in this permit (see attached exhibit). Unanimously Approved as amended in this form.

After discussion, on a motion duly made by Mr. Wasserman, and seconded by Ms. Matthews, the following was approved Unanimously:
“Moved to affirm the issuance of Permit 4138.”

The Building Permit is affirmed.

3. Case 10-1: Mr. Aaron Vallett (4007 Newman Place) – A request was made for a variance to construct a detached garage; ordinances require garages be attached at the roofline to the residence. Mr. Vallet appeared to present the case. He stated that the main reason that they wish to have the detached garage is to preserve several trees. Mr. Lawless commented that the proposed structure is very large; Mr. Vallett is a car collector and wishes to use this for storage of vehicles. Mr. Massey, the contractor, also spoke, and indicated the detached garage would facilitate access to the structure. Mr. Vallett gave plans to the neighbors for them to see. It is a new house presently under construction; the property was rezoned in the 2006 rezoning from two acres to three acres, changing the setbacks. The old residence had been taken down to the foundations, which means the new structure must comply with the Zone F setbacks.

The BZA asked questions regarding the proposed structure and the trees. Mr. Wasserman was concerned that this is almost at an industrial level building, with 3 cars and 2 motorcycles to be in the detached garage. Mr. Lawless indicated a concern with the detached

nature of the structure, as it is not in general scheme of Oak Hill. A question was also raised by another resident as to whether this is a self-imposed hardship as this is a new residence under construction; could this have been designed differently?

Written notice was mailed to all affected parties with no comments received by the City office.

After discussion, on a motion duly made by Mr. Lawless, and seconded by Mr. Wasserman, the following was approved Unanimously:

“Moved that the variance in Case 10-1 be denied, with the comment that the owner might reconsider and reapply with a lesser variance needed.”

4. Case 10-2: Mr. & Mrs. Tracy Duke (926 Evans Road) – A request was made for a variance to allow construction of a new patio with a concrete structure for a grill, fireplace and seating area; the patio would violate the rear setback by approximately 19’. Mr. and Mrs. Duke appeared to present the case, with landscape architect Brett Seth. The Dukes, who have three children, are trying to provide more exterior space that is useable for the family.

Mr. Notestine initiated discussion as to whether patios need to come to the BZA; Mr. Helms said he determined that due to size and the proposed fireplace this should come to the BZA.

Written notice was mailed to all affected parties with no comments received by the City office. One email was received by the City office in support, and the Dukes said one other neighbor indicated support.

After discussion, on a motion duly made by Mr. Wasserman, and seconded by Ms. Matthews, the following was approved Unanimously:

“Moved that the variance in Case 10-2 be approved, with the finding of hardship being that the setbacks are narrow, and the only part that requires variance is the fireplace.”

The Minutes reflect that this is Mr. Wasserman’s last meeting, having tendered his resignation, and he indicated he has enjoyed serving the Board. Mr. Lawless asked the record reflect that Mr. Wasserman has done an excellent job representing the City with diligence and honor.

There being no further business, the meeting adjourned at 8:10 p.m. by the unanimous vote of the Board.

Chair

City Recorder