

**MINUTES  
SPECIAL MEETING**

**THE BOARD OF ZONING APPEALS  
CITY OF OAK HILL, TENNESSEE**

**September 10, 2009**

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 Attorney Bob Notestine, Safety Coordinator Tommy Jacobs, Assistant City Manager M. C. Sparks, Chief Building Official Bill Burdette, 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 6:04 p.m. by Mr. Lawless, who offered thanks to all for coming. He also outlined the ground-rules for the meeting: 40 minutes for each side for their presentation, including all citizens comments. After the 40 minutes, there will be 5 minutes for rebuttal, and following there will be 30 minutes for comments or questions from the Board. Mr. Wasserman acted as time keeper for the meeting.

The City received correspondence for potential litigation involving the City and First Presbyterian Church; no item pertaining to this possible suit will be discussed.

2. Review of the Conditional Use Permit of First Presbyterian Church/Oak Hill School – This review is limited to four items that have been identified by comments and complaints from the neighbors. The four items for review are: i) pasturing horses on the property owned by the church at 801 Robertson Academy Road; ii) traffic and entrance/egress from the rear entrance to the property; iii) times of mowing of the property; iv) times of garbage collections on the property.

Ms. Susan Combs of Oak Valley Lane said she was under the impression that three issues - pasturing of horses, garbage collection times, and mowing times - were issues resolved. Mr. Lawless said that no determination was made yet.

Attorney Tom White represented First Presbyterian Church, and also speaking for the church was Mr. Stuart Gordon and Mr. Bobby Murphy.

Mr. Burdette reported on the pasturing of horses (this issue would not be part of the Conditional Use Permit for the church, but would violate ordinances limiting the number of horses on a lot). The church has removed all the horses from 801 Robertson Academy Road. There have been new school zones installed to help with traffic control to the rear of the church property. There is no ordinance outlining mowing times, or regulating the times for garbage collections; the city has had a discussion with the church about being good neighbors, and not allowing early morning pickups.

Mr. Tommy Jacobs, Safety Coordinator, indicated that he and others have been watching Robertson Academy Road, Churchwood Lane, Oak Valley Lane and the Glendale school area. There are 3 four hour shifts of officers, who have been asked to pay attention to those areas. The police are giving warnings for speeding and traffic violations, and will now be giving tickets. The police have reported they have not seen gross violations of the school zone.

Mr. White submitted a brief to the City, which included indicating that the church is making a commitment to have only 1 horse on the Robertson Academy property in the future. Mr. White felt that the garbage collection and mowing times is not an issue for the City or the Board of Zoning Appeals to address. Mr. Wasserman responded that if the neighbors raise the issue then the BZA is obligated to listen.

Mr. White said that burden of proof was on the neighbors, so they should go first in the discussion.

The following points were brought up:

- Jimmy Bradshaw, 875 Oak Valley Lane, disagreed that the burden of proof is on the neighbors, saying the City called the meeting. He stated he is not here as an attorney, and does not represent anyone but his family. He said: 1) There have been several testimonies about garbage being collected at 2 am, and mowing being performed at 6 am, and recently a skid steer was working on Sunday at 7 pm; Mr. Bradshaw knows the church is trying to resolve these issues; 2) Mr. Bradshaw felt the issue of the horses was addressed through efforts of the City Manager and the church; 3) Traffic – In 2006 the church said the limit for usage of the back gate during school would be 15-20% and that is not happening. Dr. Campbell once said up to 50% use that gate.
- Molly Brown, 901 Oak Valley Lane - sees traffic going to school speeding. There are four entrances, and other entrances can be used. She has concerns for safety of children and families.
- Amy Janes, 912 Oak Valley Lane, said the increase in activities at church means traffic all the time.
- Billy Leavell – Thanked the church for working on mowing and garbage collection issues; there is traffic all the time, but they are not asking for gates to be closed all the time, just do better on traffic control, and the expenses of attempts at this time are all on the City.
- David Wall, 891 Robertson Academy Road – traffic speeding is the main problem.
- Peggy Williams, 929 Robertson Academy Road - traffic is cutting more on Robertson Academy Road because of the speed table on Oak Valley Lane.
- Mary Wherry – requests school reduce the number of students dropped off at north porch
- Jimmy Bradshaw – the problem is there is traffic all the time not just 2 time a day, 5 days a week for the school.

A recess of 5 minutes was called at 7:00 pm.

Mr. Tom White, asked for those present in support of the church to raise their hands. He then addressed:

- Legal issues vs. neighborly issues – the church is trying to be a good neighbor.
- The minutes of the December 2006 Conditional Use Permit hearing were passed out (exhibit 1 is his brief) – his client met every condition of the C.U.P.
- Horses – by ordinance the property can only have one horse, but this is not part of the C.U.P.; the church will abide by ordinance.
- Dumpster & mowing – these are not C.U.P. violations, but the issue needs to be addressed as part of an intent to be good neighbors – the waste hauling company has been told if they come before 7:00 am they will be fired; the mowing crew was also told not to start before 7:00 am.
- Traffic: the issue is safety; there are no conditions in the C.U.P. for use of the gates except only for construction traffic (Mr. Lawless clarified that the 2006 C.U.P. update dealt specifically with the building project, not a more extensive C.U.P. item).

Mr. White then addressed the issues:

1 – He has met with his client, and urged that \$2,000 be contributed to help pay for the police patrols this year, and assess what the results are; the church urges the police to write tickets for violations.

2 – The back gates will be closed at night.

3 – The church will fire the garbage contractor if they violate the prescribed times of pickup.

4 – The church has talked to maintenance crews, and warned them not to start work before 7 am.

5 – The members have been warned they cannot park on the roads around the property.

6 – The church will evaluate data regarding traffic drop off points, and in less than 90 days submit a report to the neighbors and the City.

7 – Stuart Gordon will be a contact for the neighbors to call if there are concerns.

Mr. White said the church is not doing these things just to be “legal”; they are committed to the same goals, which includes safety.

Mr. Stuart Gordon, Associate Pastor for First Presbyterian Church, said the church is committed to being good neighbors. The Rec Department will close the back gates on Saturdays during sports season. They will also identify parents who are more likely to use the back gates, and target them to try to get them to be more aware and slow down.

Mr. Bob Murphy, RPM Transportation representative, was present to report on the traffic study done in 2006. He said if the rear gates are closed this would funnel traffic into other areas and create problems.

Mr. Larry Hayes, 928 Oak Valley Lane, said he doesn't see the problems others see on Oak Valley, and he has lived there since 1998. His nine year old rides a bike to school on Oak Valley. They all knew the church was there when they moved in, plus they knew there are other churches and schools nearby, and they are near a major interstate interchange. There is never anything said about all these other churches and schools contributing to traffic problems.

Rebuttal 1 – Mr. Billy Leavell said the Planning Commission in their minutes stated if there are any traffic problems with the church/school then the issue comes back to the Planning Commission.

Mr. Jimmy Bradshaw discussed the Board of Zoning Appeals and Planning Commission cases in 2006 for the church, saying traffic was discussed heavily. They request that the violation please be reduced, as at that time in 2006 the church said that only 15% to 20% would use the rear gates. Ordinance 6-506.4 includes rules describing a “private school” – “ the Board shall make findings to determine that traffic generated by a facility can be safely accommodated on the streets providing access to the site”, and “shall not have an adverse effect on surrounding property values”; they have had an impact on his property values because of traffic.

Rebuttal 2 – Mr. White addressed the issue that some items are legal in nature and some are about being good neighbors. The minutes from the 2006 BZA meeting don't talk about percentages, and this meeting is not for the Planning Commission but the BZA. The conditions set out by the BZA have been met. The church is trying to be good-neighbors, and have addressed areas not required to by the BZA. There is no requirement in the Conditional Use Permit, but the church did comply with the request to have vendors not use back gate. The church is making commitments, including asking that tickets be issued and contributing \$2,000 to help cover the police patrols.

Questions from the Board of Zoning Appeals / Answers from those present –

Matthews/Stewart Gordon - are car tags being considered, to alter drop off patterns for the students? / Not at this time; the school feels the numbers are skewed as early traffic goes through that gate for early care drop off.

Matthews/Stewart Gordon – is the solution for now ticketing by the police? / The school also plans to trace who uses what entrance to help contact them and remind them to obey the traffic laws.

Lawless/Stewart Gordon - how does the drive off Tyne Boulevard work / there are two entrances which merge into one on the campus.

Wasserman commented that the problems are speeding and traffic volume; he suggested that the City put in the next newsletter that tickets are going to issued.

Discussion was held regarding the City's rights in abating a nuisance; the authority with a church or school is the Conditional Use Permit - if any issues are outside the C.U.P. then the BZA can't pursue, but the City can pursue other avenues as nuisance abeyance measures.

Mr. Lawless said the BZA is to be concerned with the level of traffic, as the other items have been dealt with. There has been an offer by Mr. Gordon to meet with neighbors to help with traffic. Discussion was held regarding the right of the BZA to close the rear entrance to the church property; the BZA does not have the right, but the City could. A comment was made

that the matter should be with the City Manager; Mr. Wasserman agreed that the City Manager does have major role in such an issue.

Mr. Lawless suggested that there be a review at the December BZA meeting, to check how things are going, and asked the neighbors how does this suggestion sound. Mr. Bradshaw said that good things seem to be happening, but the neighbors just have been frustrated.

Mr. Wasserman also suggested that such concerns be brought to the attention of the City Manager.

Mr. White requested that a statement be made that there is proof that there is clearly no violation of the C.U.P., and then the Board should encourage all parties to keep working on issues in neighborly manner.

Mr. Wasserman said he was not comfortable with such a global finding, however the BZA group could find that there is no proof that the church violated the four conditions set out in the minutes of December 2006.

On a Motion duly made by Mr. Wasserman and seconded by Ms. Matthews, the following was Passed Unanimously:

“Moved to acknowledge that there has been no proof at this meeting that First Presbyterian Church violated the four conditions of their updated Conditional Use Permit set out in the minutes of this body December 19, 2006; refining – there has been no proof in this meeting that the Church did not remediate the drainage through the detention pond, that it did not adhere to phase one and phase two plans for the square footage involving building, and there was no proof as to the dedication of a right-of-way to allow for a boulevard and additional lane of traffic, having to do with an additional turn right lane on Franklin Road making turns onto Tyne Boulevard, and also have not found that the Church violated the requirement that they restrict construction traffic to the Franklin Road entrance of the property.”

Finding of Fact - each of the following were motions made by Mr. Wasserman, and Seconded by Ms. Matthews, and Unanimously agreed upon:

1 - Pasturing of horses on property owned by the church at 801 Robertson Academy Road – the matter is moot, as the Church has taken steps to alleviate the problem; there was a violation but not a knowing violation. 801 Robertson Academy Road is not part of the Church Conditional Use Permit; therefore it is not part of any Conditional Use Permit review.

2 – Times for mowing and garbage collection - there is no ordinance for this body to act upon, so this matter is not properly in the purview of this body; the church is taking steps to abate any problem.

3 – Traffic and entrance/egress from the rear entrance to the property – The Church has taken steps to remediate the problem, but not yet resolved the issue to the satisfaction of the neighbors; the BZA will reserve action and hold over this item for review to December 15 meeting.

After discussion on a Motion duly made by Mr. Wasserman and Seconded by Ms. Matthews, the following was Unanimously Passed:

“Moved that this review be continued to December, and at the December meeting the Board of Zoning Appeals not only consider what has happened up to this time, but also what occurs between this date and the December meeting; and to encourage both parties to continue to work together to see if they can’t resolve the problem.”

Proper notice of this meeting was sent. This issue will be revisited at the December 15, 2009 meeting.

There being no further business, the meeting adjourned at 8:51 p.m. by the unanimous vote of the Board.

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Chair

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City Recorder