

**TOWN OF ELKTON
BOARD OF ZONING APPEALS
AUGUST 20, 2009
MINUTES**

Present: Sharon Foster, Chair; Ronald Rae;; Patrick Tuer; Jared Roudybush; J. Craig Trostle, Jr., Director, Building & Zoning; Brenda Sexton-Wilson, Esquire, Attorney; Brenda Humphreys, Administrative Assistant

Absent: Robert Olewine

Steno: Kim A. Hurley, Wilcox & Fetzer, Ltd.

Ms. Foster called the meeting to order at 7:00 p.m.

ACTION: Motion was made by Mr. Roudybush to approve the minutes of the July 16, 2009 meeting. Motion was seconded by Mr. Tuer and unanimously approved.

CASE # 1377 – REQUEST OF DWAYNE ERVIN, 408 GRAY MOUNT CIRCLE, ELKTON, MARYLAND FOR A 4’ REAR SETBACK VARIANCE TO ENLARGE AN EXISTING DECK. THIS ACTION CONCERNS PROPERTY LOCATED AT 408 GRAY MOUNT CIRCLE, TAX MAP 312, PARCEL 2241, ZONED R-2

Mr. Dwayne Ervin was sworn in and introduced to the Board. Mr. Ervin stated that the existing deck is very small, 4-5’ x 8’ and is barely large enough for placement of a grill. He stated that he is proposing a 20’ x 12’ deck so that he can place a grill and patio furniture with some usable space.

Ms. Foster asked if there will be just one step of steps off the deck. Mr. Ervin stated that she was correct and that they would be at the same location as the existing steps.

Ms. Foster asked what would be the height of the deck off the ground. Mr. Ervin stated that it will be 4’ to 5’ in height.

Ms. Foster entertained questions from the Board or the audience. There were none.

MOTION: Motion was made by Mr. Rae to approve the 4’ rear setback variance to construct a deck at 408 Gray Mount Circle contingent upon the deck construction being completed with one year of the date the legal opinion is signed. The motion was seconded by Mr. Roudybush and unanimously approved.

CASE # 1378 – REQUEST OF ERICA RINGGOLD, 200 SUBURBAN DRIVE, ELKTON, MARYLAND FOR A 16’ REAR YARD SETBACK VARIANCE TO CONSTRUCT A DECK. THIS ACTION CONCERNS PROPERTY LOCATED AT 200 SUBURBAN DRIVE, TAX MAP 312, PARCEL 2431, ZONED R-3

Mr. John Ringgold, representing Ms. Erica Ringgold, was sworn in and introduced to the Board. Ms. Foster asked if the deck currently at 200 Suburban Drive was the deck for which the variance has been requested. Mr. Ringgold stated that it is the deck. Ms. Foster asked if

the Town had made any inspections. Mr. Ringgold stated that the Town has made no inspections. He added that one of the inspectors had placed a stop work order on the deck. It was determined that a variance would be required to allow the deck to remain at that location. Mr. Ringgold mentioned that the neighbors, from whom he purchased the deck, received a 15' rear setback variance when they placed the deck originally.

Ms. Foster asked if the footers had been inspected when the deck was initially placed. Mr. Ringgold stated that they were not inspected. Ms. Foster asked if the footers would need to be excavated in order to be inspected.

Ms. Foster asked if the inspector which placed the stop work order had asked for the deck to be dismantled in any manner. Mr. Ringgold stated that he was not asked to dismantle the deck. Mr. Trostle mentioned that at least some of the footers would need to be dug up so that the footers can be inspected. There was some discussion regarding whether the steps are part of the variance being requested.

Ms. Foster entertained questions from the audience.

Mr. Don Williams of 205 Friendship Road was sworn in and introduced to the Board. He stated that he was against the approval of the variance for the deck due to the fact that the variance application was applied for after the fact. He pointed out that it is always the homeowner's responsibility to find out if any permits or inspections are required prior to beginning a project. He noted that in this particular case, if the deck is not constructed properly at the new location there could be liability issues that may be a danger to family or friends. Mr. Williams stated that he realizes this may have been an oversight by the homeowner. Mr. Williams added that he is not against a deck being placed on this house but the way structures are placed without permits needs to be stopped. Right now the only thing people who place structure without permits need to do is apply for the permit. He stated that he believes the Town needs to revisit this and possibly put a law in place which fines or the structure dismantled

Ms. Foster asked Mr. Trostle if the Town would require whatever needs to be done for the inspections.

Ms. Foster entertained additional comments. Mr. Rae asked if Mr. Ringgold was requested to dismantle the deck would the deck be reconstructed exactly as it is. Mr. Ringgold stated that he would do whatever is required by the Town. He added that he had been approached by the Homeowner's Association for Chapel Run and his intention was to address the Town regarding the deck when the inspector came by.

Mr. Ringgold stated that it was not his intention to 'try to get something over on the Town'. He noted that the house is on the main street behind Williams Auto mall and can easily be seen. Ms. Foster asked if the Homeowner's Association has a review board that looks at decks, additions, etc. He stated that he is not sure because he is out of town a good deal. He stated that he is willing to do whatever is required by the Board. Mr. Williams interjected that he wanted the applicant to know that his statements were not made toward the applicant personally but he does not agree with the way the process is handled.

MOTION: Motion was made by Mr. Rae to approve the 16' rear setback variance contingent upon the deck being completely dismantled in accordance with the Building Official's office. The motion failed due to lack of a second.

MOTION: Motion was made by Mr. Tuer to approve the 16' rear setback variance for the deck contingent upon any requirements by the Zoning Official and provided the deck construction is completed within one year of the date of the legal opinion. The motion was seconded by Mr. Roudybush with the remaining members voting as follows: Mr. Rae – Nay; Ms. Foster - Yes

CASE # 1379 – REQUEST OF ANDREA COMIEZ, 5 VINCE COURT, ELKTON, MARYLAND FOR A 15' REAR YARD SETBACK VARIANCE TO CONSTRUCT A SCREENED PORCH. THIS ACTION CONCERNS PROPERTY LCOATED AT 5 VINCE COURT, TAX MAP 302, PARCEL 2467, ZONED RO

Ms. Andrea Comiez and Mr. J. D. Abrams were sworn in and introduced to the Board. Ms. Comiez stated that her reasoning for the screened porch is that there is currently a very small area with some sidewalk and since they have a new baby they can bring the baby outside without being in the direct sun.

Ms. Foster asked if her porch would be similar to her neighbor's porch. Ms. Comiez stated that it is almost identical to the one at 3 Vince Court.

Ms. Foster stated that it appears the entire porch being requested by the variance is into the rear setback. Mr. Abrams stated that because of the fact that this property and the property behind them are in two separate zones and therefore a larger setback is required. He noted that probably all the houses on that street have the same restriction.

Ms. Foster asked if the 13' x 15' porch would have only one set of steps coming off the side. Mr. Abrams said that Ms. Foster was correct and that the steps would come off at approximately the middle of the house.

Ms. Foster entertained questions or comments from the Board or the audience. There were none.

MOTION: Motion was made by Mr. Roudybush to approve the 15' rear setback variance contingent upon construction being completed within one year of the date of the legal opinion. The motion was seconded by Mr. Tuer and unanimously approved.

CASE # 1375 – REQUEST OF MCCRONE, INC., 106 E. MAIN STREET, ELKTON, MARYLAND, FOR A SPECIAL EXCEPTION TO ALLOW HOUSING FOR THE ELDERLY OR HANDICAPPED IN THE RO ZONE. THIS ACTION CONCERNS PROPERTY LOCATED AT 149 EAST HIGH STREET, TAX MAP 311, PARCELS 1216, 1217, 1218, 1219 & 1220, ZONED RO

CASE # 1376 – REQUEST OF MCCRONE, INC., 106 E. MAIN STREET, ELKTON, MARYLAND, FOR A 10’ HEIGHT VARIANCE. THIS ACTION CONCERNS PROPERTY LOCATED AT 149 EAST HIGH STREET, TAX MAP 311, PARCELS 1216, 1217, 1218, 1219 & 1220, ZONED RO

Mr. Dwight Thomey, Esquire, Mr. David Holden of the Ingerman Group; Mr. John Fellows of McCrone, Inc.; Mr. Jim Haley, Haley & Donovan; and Mr. John Burkley were sworn in and introduced to the Board.

Mr. Thomey stated that the proposal is to build a 60-unit senior housing building. He stated that the project was submitted tentatively through the State of Maryland and was one of only a few granted through a special funding mechanism which would allow the cost of the housing to be controlled in order to meet an income standard. He introduced the others members of the group and turned the discussion over to Mr. Jim Haley of Haley & Donovan.

Mr. Jim Haley presented a visual tour of the proposed project. He noted that prior to proposing any project a full analysis of the area is completed in order to determine the amenities that exist within a quarter of a mile of the project. He highlighted the positive features of the project with regard to the building, including the fact that it is considered a ‘green’ building (roof & fiber cement siding w/20-25 year warranty), three-story lobby, viewing balcony, brick cladding and veneer, fiberglass windows and landscaping package. Mr. Haley also presented the site plan and the amenities of the building. He also pointed out that there some of the parking for the building is under the building and the remainder is split between on site and offsite. He noted that the building height is 40’ from the eave to the ground. He stated that a ‘rain garden’ has been placed in addition to underground storm water management. There are fitness and community rooms for the use of the residents. There are 54 one (1) bedroom apartments and 6 two (2) bedroom apartments and that they meet the State of Maryland size requirements and are handicapped accessible.

Mr. Thomey stated that amendments were made to the Zoning Ordinance which was approved by both the Planning Commission and Mayor & Commissioners. He reviewed the list of amendments and Mr. Fellows confirmed that the building meets all the current criteria.

Mr. Thomey pointed out that the parking requirements (.85 spaces per unit) were able to be met through an easement on the property across High Street belonging to Ms. Elizabeth Mareska. Fifteen (15) parking spaces will be provided with that easement. Thirty six (36) of the required parking spaces will be provided on site.

Mr. Thomey asked Mr. Burkley, with his background of 24 years in real estate, and experience on both the Board of Zoning Appeals and Board of Commissioners, if he felt this development would interfere with any other development in the area. Mr. Burkley stated that the area is a transitional area and felt it would improve rather than devalue the properties in that area.

Mr. Holden stated that his company has been in business for the past 20 years and specifically in multi family housing. He pointed out that this project will be the fifth one of this type with which he has been involved. In his experience the majority of residents are in their mid 70’s and parking is not a significant need. Mr. Thomey asked if the Ingerman Group would be managing

this project as well. Mr. Holden stated that they would have onsite management and maintenance staff during regular hours and emergency contact after hours.

Mr. Thomey pointed out that they have contacted the Cecil County Department of Aging concerning programs in the area. They will have a service coordinator to benefit residents and others and have requested that the housing project be a regular stop for the bus from the Department of Aging.

Mr. Thomey stated that the reason for the height variance is that the building is slightly less than 50 feet tall but from the street it appears shorter due to the style of the roof. He pointed out that the reason part of the building is not underground is because of the high water table as well as financial issues.

Mr. Thomey summarized the project by saying that the hospital, community college, court house and a few other buildings are approximately the same height and have been granted variances in the past. They believe the project will be an outstanding addition to the community.

Ms. Foster stated that most of her questions have been answered, in particular security and monitoring issues. There will be 24 hour emergency maintenance service for the residents. With reference to the parking it was noted that six spaces will be under the building with two handicapped spaces provided for the building as well. Discussion ensued regarding how parking would be provided if more than .85 people per unit have a vehicle or visitors where would people park for overflow. Mr. Thomey stated that they have an easement on Mrs. Mareska's property that can be used. He pointed out the people can park on the street and that most people who are visiting would be doing so during the evening and weekend when most people are not working.

Ms. Foster asked if the project is being funded solely by grant money. Mr. Thomey stated that it is funded by grant money and lower interest funding (equity by selling federal tax credits) which helps to keep the unit costs down. He pointed out that they also have projects in Bladensburg, MD and Dover, DE, among others.

Ms. Foster asked the process for applying for an apartment. Mr. Holden stated that they have a website set up and they can apply by telephone. Credit and criminal checks would be done as well as income verification prior to lease signing.

Ms. Foster inquired whether the current setbacks would interfere with emergency vehicles. Mr. Fellows stated that there is an access lane on the west side and there is room next to the Slagle property for emergency vehicle access. Ms. Foster asked if Singerly Fire Department had been contacted regarding the water line pressure on High Street. Mr. Fellows stated that a flow test would be performed as part of the redevelopment process.

Ms. Foster asked if any other properties within Town limits had been considered. Mr. Holden stated that there were other properties considered within Town limits and they were not chosen due to location of amenities. Mr. Thomey stated that their hope is that as developments are made of this sort in the downtown area that additional businesses will come. Mr. Holden stated that it is a matter of convenience.

Mr. Thomey presented letters of recommendation from four entities within Town.

Ms. Foster stated that she understood that their intention was to hire locally. Mr. Holden stated that they would be using area subcontractors as much as possible.

Ms. Foster entertained questions from the Board and audience. Mr. Rae asked about how the building is equipped for medical emergencies. Mr. Haley stated that both elevators are equipped for gurneys and there is access on all sides of the building. Mr. Tuer asked if the building is locked after hours. Mr. Haley stated that the building would be locked at all time and available by card access only. He said that there is a fire enunciator panel, Knox Box, magnetic fire doors and cameras for safety.

There was a question posed about the ownership of the parcels. It was determined that although they do not own the parcels currently they either own or have an agreement of sale on all the parcels. Mr. Thomey noted that Parcel 1202, owned by Elizabeth Mareska, has an easement agreement for the additional parking.

Ms. Elizabeth Mareska, Ms. Mary Beth Sniadowski Cole, and Ed Cole were sworn in. Ms. Mareska clarified that the parcels in question (141-149 E. High Street) are being combined as one parcel.

Mr. Ed Cole stated that during his tenure as a County Commissioner in 1994 the County requested an option to buy the properties in question. The owner did not give that option at the time but there was a verbal agreement that the County would be given the option to buy should that time come.

Ms. Mary Beth Sniadowski Cole stated that she has been a pharmacist for 23 years and has worked with over 45,000 patients. She has been very involved with domicile residences and is astute in the field. She noted that there are not enough residences in this area to address this population. She pointed out that everyone in the room will at some time need an alternative domicile residence. In June of 2002 she spoke to the Mayor & Commissioners and they did not choose at that time to provide any additional housing for seniors.

Ms. Cole pointed out that although this project may require variances for height or parking she wished that the Board would focus on providing much needed housing for the seniors within the Town and revitalizing the downtown area. She asked the Board to support the project.

MOTION: Motion was made by Mr. Roudybush to approve the special exception to allow senior housing in the RO zone. The motion was seconded by Mr. Tuer and unanimously approved.

MOTION: Motion was made by Mr. Rae to approve the 10' height variance. The motion was seconded by Mr. Roudybush and unanimously approved.

OLD BUSINESS – None

NEW BUSINESS - None

There being no further business to discuss Ms. Foster adjourned the meeting at 8:40 p.m.

Respectfully submitted,

Brenda Humphreys