



TANEY COUNTY PLANNING COMMISSION

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MINUTES
TANEY COUNTY BOARD OF ADJUSTMENT
WEDNESDAY, MAY 21, 2008, 7:00 P.M.
ASSOCIATE CIRCUIT COURT DIVISION II COURTROOM
TANEY COUNTY COURTHOUSE

Call to Order:

Chairman Dave Clemenson called the meeting to order at 7:00 p.m. A quorum was established with four members present. They were: Dave Clemenson, Carl Pride, Alan Lawson, and Jack Johnston. Staff present: Eddie Coxie, Marla Pierce, Bonita Kisse, Keith Crawford, Dan Nosalek, and Bob Paulson.

A statement explaining the meeting procedures was read and the Taney County Development Guidance Code was placed into evidence as Exhibit A, the staff report as Exhibit B, and the staff files, including all pertinent information as Exhibit C, and the Taney County Board of Adjustment bylaws as Exhibit D. The State Statutes that empower and govern the Board of Adjustment were read. Mr. Clemenson swore each speaker in before the respective hearing.

Public Hearing:

Dean Brown: a request for a variance from the Taney County Planning Commission Decision of February 20, 2008 to grant approval for a 100' cross rather than the requested 200' cross located at 4180 U.S. Hwy. 65 north. Mr. Coxie read the staff report and presented pictures and a video of the site. The request and location was clarified by Mr. Coxie. Mr. Clemenson discussed access to the property. Mr. Brown presented a more detailed site plan and gave a history of the request. He explained why the cross needs to be 200' instead of 100'. Mr. Coxie explained the setback requirements and how they apply to this project. Kerry Brown attorney for Mr. Brown and member of the Board of Directors of the Cross addressed the Board regarding the hardship to the project in making the cross only 100'. The square footage would be cut down to the point of limiting the accommodations at the top of the structure and would not be able to fulfill the needs of the project. He also explained that this property is ideal for this type of project, and would not interfere with any residential properties and not impose any detriment to the public good. In Mr. Brown's opinion this would actually increase property values and would be a benefit to the residents of the area. Richard Ash addressed the Board representing a property owner across the highway. Mr. Ash pointed out that the development across the highway is going to be a single family residential subdivision which Mr. Ash feels this project would be a detriment to the property owners. He pointed out that in his opinion to grant this variance would pose a demonstrable hardship to the property owners of the subdivision in the way of the light and added traffic. Larry Green who lives at 160 and 65, at Deer Mountain Estates, spoke in favor of the project and stated that he and another one of his neighbors are excited

about having this in their neighborhood. Mr. Clemenson asked Mr. Coxie to review the Height Ordinance Amendments. Mr. Coxie stated that after the original requirements were approved it became evident that some revisions should be made in that some instances needed to be made higher. Some of the instances covered slope, green space, stimulation of economic growth, improvement of the community, adequate access, and if the request would fit into the landscape. Mr. Brown addressed undue hardship to the developers and reminded that this is a not for profit venture. This type of project cannot succeed without the extra height according to Mr. Brown. Alan Lawson made a motion to approve the original requested height of 200' with no additional setback requirements. Discussion followed. Seconded by Carl Pride. With no other discussion the vote to approve the appeal was three in favor with Jack Johnston voting no.

S. Charles Liedtke: a request for an appeal of the Taney County Planning Commission decision of February 18, 2008 to approve a photography studio located at 189 Sterling Way as a special use permit. Mr. Liedtke contends that the applicant is not in compliance with the decision of record approved by the Planning Commission including parking and hours of operation. Mr. Coxie read the staff report and presented pictures and a video of the site. Mr. Wellington attorney for the Liedtke's addressed the Board summarizing the situation explaining how the business is not in compliance with neither the restrictive covenants or the Planning Commission Decision of Record. He asked the Board not to allow this business to continue operation full time and revoke the Planning Commission Decision of Record. Mr. Paulson explained what the scope of this Board's decision can be and how and why the Planning Commission made their decision. Photographs were presented of the business showing times and dates of deliveries, and customers at the residence. Mr. Clemenson stated that in understanding Mr. Wellington, it seems he wants the Board to put the Lamberts out of business. Discussion followed. Mr. Coxie gave the Board a brief history of the project and stated that this business was operating before a permit was obtained. Mr. Paulson stated that the Lamberts must comply with not only the County rules but the subdivision rules as well. Mr. Clemenson asked the Lamberts if they wanted to address the Board. They simply stated that the lawsuit doesn't have anything to do with either Planning and Zoning or the private covenants. Mr. Lawson stated that in his opinion this request is hindsight. Mr. Pride explained that the Board cannot control delivery trucks coming into a private residence, and asked why it took them so long to apply for the appeal. Mr. Wellington stated that his clients thought they would give the business the time to comply, but they never did. Mr. Lawson stated that in his opinion because of the lawsuit the Board's hands are tied, and they cannot get the information they need to make a decision. Mr. Paulson stated that the lawsuit is irrelevant to this request. Mr. Pride discussed the fact that in viewing the pictures and reviewing the information there is no sign of a business on the property. After discussion a motion was made by Carl Pride to deny the request. Seconded by Dave Clemenson. Alan Lawson stated that if the business does not comply with the requirements placed on them by the Planning Commission the applicant should make this known to the staff. The vote to deny was unanimous.

Donald Nienaber: a request for a 3' variance for a front porch overhang on a single family residence on Lot 83 Forest Park Estates #2. The structure planned is 45' x 70' making it 10 feet from the front lot line instead of the current 13' requirements. The reason for the request is the existence of a 4' high retaining wall across the rear of the

lot at 53 feet from the front lot line that will allow only a 958 sq. ft. structure with the variance. Mr. Coxie read the staff report and presented pictures and a video of the site. The request was clarified and reported that Forest Park had received a blanket variance on some of the lots. Mr. Nienaber presented a site plan and explained that the utilities were installed in the back of his lot prohibiting the structure from being moved toward the back of the lot. He needs to be able to have a 3' overhang on the porch. There are three lots in the subdivision which have received a variance of this type. With no discussion a motion was made by Alan Lawson to approve the request based upon the decision of record. Seconded by Carl Pride. The vote to approve was unanimous.

Review and Action:

With the correction of the addition of Alan Lawson to the quorum of the minutes of February 2008, a motion was made by Carl Pride to approve. Seconded by Dave Clemenson. The vote to approve the minutes with the change was unanimous.

Old and New Business:

Mr. Coxie reported that at the second June meeting of the Planning Commission they will hear the Height Amendment.

Mr. Clemenson congratulated Mr. Coxie on being named administrator. Mr. Coxie thanked the Board for the good job they do and have done at this meeting.

Adjournment:

With no other business on the agenda for April 16, 2008 a motion was made by Dave Clemenson to adjourn. Seconded by Alan Lawson. The vote to adjourn was unanimous. The meeting adjourned at 8:30 p.m.