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Clayton County
Community Development Department
121 S. McDonough St. Annex 2
Jonesboro, Ga. 30236



PATRICK EJIKE
DIRECTOR

Board of Zoning Appeals – SPECIAL CALL
Meeting Minutes of December 10, 2015
(Note: November 19, 2015 was cancelled due to no quorum)

The Special Call meeting of the Clayton County Board of Zoning Appeals was held this date of December 10, 2015 in the Commissioner' Board Room, Administration Building, 112 Smith Street, Jonesboro, Georgia.

Members present were: Chairman Don McMillian, Jr., Board Member DeMont Davis, Board Member Joe Hamilton and Board Member Keith Parker. Present from Community Development Department were Kimberly Smith, Lenise Lyons and Linda Willis.

Members absent were: Vice Chairman William Hill, and Board Member Frances Solomon. No representation from Legal was present.

The Pledge of Allegiance was said in unison.

The motion to approve the agenda and the withdrawal of case # BZA-15/08-71 was made by Board Member DeMont Davis and seconded by Board Member Keith Parker. The vote was unanimous.

The motion to approve the minutes of October 15, 2015 was made by Board Member DeMont Davis and seconded by Board Member Joe Hamilton. The vote was unanimous.

There were no minutes of November 19, 2015 due to no quorum of Board Members.

Chairman Don McMillian, Jr. stated that there were no persons having business with the Board of Zoning Appeals; no report of Officers and Committees and no old business with the Board of Zoning Appeals.

The Procedures for the Clayton County Board of Zoning Appeals' Public Hearings was given by Ms. Linda Willis.

Chairman Don McMillian, Jr. called for New Business.

1. Case Number: BZA-15/08-71 - WITHDREW

The Applicant, *George Harper-Paramount Engineering*, on behalf of Sovran Southlake Storage Associates, LP is requesting a variance from Article 3, Sec. 3.22 General Business District Standards to exceed the maximum 70% impervious surface requirement. The property is located at **1375 Commerce Road, Morrow, GA** and otherwise known as parcel number 12-081B-B007. The subject property is approximately 4.35 +/- acres and has a General Business District zoning classification

Commissioner District #4 – Michael Edmondson

2. Case Number: BZA-15/10-76

The Applicant, *Mark McCammon*, Paces Contracting Services, LLC on behalf of James R. and Heather Knight, III is requesting a variance from Article 3, Section 3.4 Estate Residential (ER) District, to allow a reduction in the side-yard setback requirement. The subject property is located at **2745 Club Valley Court, Jonesboro, GA** and otherwise known as parcel number 12-011C-A011. The subject property contains approximately 1.13 +/- acres of land and has an Estate Residential (ER) District zoning classification

Commissioner District #4 – Michael Edmondson

The Staff Report for case BZA-15/10-76 was given by Kimberly Smith of Planning and Zoning.

Mrs. Kimberly Smith: The Planning and Zoning Staff recommended **approval** of this request. To give you a little more description of this case, the Applicant is requesting a reduction in the side yard setback. When this house was originally built it had a different setback of 20 feet, and with the new Zoning Ordinance in 2008 the setback was changed to 25 feet. What they are trying to do is expand the house, unfortunately they were not in compliance with the current setbacks. As I stated previously this parcel sets on an acre + of land, it's a large parcel and the surrounding properties are also large parcel.

Chairman Don McMillian, Jr. called for the petitioner to present their case.

The Applicant was represented by Mark McCammon, located at 110 Andrew Drive, Stockbridge, GA.

Mr. Mark McCammon: I am here to represent James and Heather Knight. Kimberly has explained everything I'm trying to do. I will answer any questions

Chairman Don McMillian, Jr. called for any public concerns/comments. There were none.

Chairman Don McMillian, Jr. asked the Board Members if they had any questions/concerns. There were none.

The motion to **approve** BZA-15/10-76 was made by Board Member Joe Hamilton and seconded by Board Member DeMont Davis. The vote was unanimous.

3. Case Number: BZA-15/10-77

The Applicant, *Melanie Chavez*, is requesting a variance from Article 8. Sign Regulation (SS), Section 8.14 to allow for more than 36 square feet of internal signage. The subject property is located at **251 Charles W. Grant Parkway, in Atlanta, GA** and otherwise known as parcel number 13-011-012-001. The subject property contains approximately 16.343 +/- acres of land and it is currently Light Industrial (LI) District.

Commissioner District #2 – Gail Hambrick

The Staff Report for case BZA-15/10-77 was given by Kimberly Smith of Planning and Zoning.

Mrs. Kimberly Smith: The Planning and Zoning Staff recommended **approval** of this request. This particular property is a new Fast Park & Relax property and it is a park and ride establishment. This Applicant came before us previously to increase their signage and inadvertently left their internal signage off the application, so they had to come back before you.

Chairman Don McMillian, Jr. called for the petitioner to present their case.

The Applicant was represented by Marie Faragone, located at 5484 Diamond Creek, Medina, OH, on behalf of Melanie Chavez, Chavez Properties.

Ms. Marie Faragone: I am here to Melanie Chavez, of Chavez Properties. I will answer any questions

Chairman Don McMillian, Jr. called for any public concerns/comments. There were none.

Chairman Don McMillian, Jr. asked the Board Members if they had any questions/concerns. There were none.

The motion to **approve** BZA-15/10-77 was made by Board Member DeMont Davis and seconded by Board Member Keith Parker. The vote was unanimous.

4. Case Number: BZA-15/11-78

The Applicant, *Michael Krusznski*, on behalf of Dale's Crossing is requesting a variance from the recorded final plat to change the exterior finished material for properties located at **3469 Henley Street-12-105D-A053; 3475 Henley Street-12-105D-A054; 3481 Henley Street-12-105D-A055; 3511 Henley Street-12-105D-A060; 3523 Henley Street-12-105D-A062; and 3529 Henley Street-12-105D-63, Rex, GA.** The subject properties is currently zoned Residential (RS-110) District **Commissioner District #1 – Sonna Singleton Gregory**

The Staff Report for case BZA-15/11-78 was given by Kimberly Smith of Planning and Zoning.

Mrs. Kimberly Smith: The property was rezoned back in 2008 under this RS-110 zoning district, prior to it being zoned and built as conservation subdivision. When it changed the requirements changed and that's what we are here for today to get a variance for the exterior finish material. The Planning and Zoning Staff did not make a recommendation, it's at the pleasure of the Board.

Chairman Don McMillian, Jr. called for the petitioner to present their case.

The Applicant was represented by Michael Krusznski, located at 1825 Pennsylvania Avenue, McDonough, GA, on behalf of Dale's Crossing Subdivision.

Mr. Michael Kruznski: Adams Homes purchased lots in Dale's Crossing Subdivision back in 2007 and closed down in 2008. We started building houses in there and at the time they were all brick and vinyl. In 2009 with the downturn in the real estate market we made the decision to close down operations. We continued to maintain our properties and in 2014 we decided to market it and start operation again. We began construction in 2014 with the first houses being finished in early 2015. Our model home and 2 spec home, lot 14 was our first spec home, and it was sold. Both of those were built with brick and vinyl on three (3) sides. The next six (6) was started with the same materials and that is when we were told they should have been fiber cement siding on 3 sides. Everything that we did not have sided we switched and gone with the fiber cement siding. These six are completed homes and we are here hoping we can get a variance on those.

Board Member Joe Hamilton: Were you the original developer? **Mr. Michael Kruznski:** No sir. The developer was a local developer.

Board Member DeMont Davis: What was the initial price you were asking for? **Mr. Michael Kruznski:** When we first opened up in Dale's Crossing the low 150s and now the 160s.

Board Member Joe Hamilton: How many houses are in the subdivision? **Mr. Michael Kruznski:** We own 25 lots total and there is 22 additions lots in the subdivision that are still held by the developer.

Board Member DeMont Davis: In normal operating procedures you start a subdivision at a certain time, then there was the downturn due to the economy, when your building permits carry through that downturn before you started to then come back and reconstruct. Did you not have to go back to check or have to recertify to start construction again? **Mr. Michael Kruznski:** No, other than submitting our building permits for the new projects.

Board Member DeMont Davis: At that time were there any requirement changes? **Mr. Michael Kruznski:** No, not any we were aware of.

Chairman Don McMillian, Jr.: In fact you sold three (3) houses. **Mr. Michael Kruznski:** Yes, two (2) of the homes have COs (Certificate of Occupancy) and one closed, and the model home also has a CO.

Board Member Joe Hamilton: How did this come to your attention? **Mr. Michael Kruznski:** When we called in for our final CO inspections the building inspector informed us at that time the siding material was not in compliance.

Board Member Joe Hamilton: Are you saying it was the County's fault? **Mr. Michael Kruznski:** When

Chairman Don McMillian, Jr.: The others were not picked up on, probably an oversight. **Mr. Michael Kruznski:** When I spoke with Patrick and Robert they said that it slipped through the system. I can certainly sympathize with that. It was not malicious on either side.

Board Member Keith Parker: In retrospect to the potential owners of these properties as far as the vinyl siding, what then will be the compensation for those? **Mr. Michael Kruznski:** Because the vinyl siding they will be less expensive than the homes we are currently selling with the fiber siding.

Board Member DeMont Davis: Will the new ones being built be less expensive? **Mr. Michael Kruznski:** No, the new ones will be more expensive because of the fiber siding material.

Board Member Joe Hamilton: How are your sales? **Mr. Michael Kruznski:** They are good.

Chairman Don McMillian, Jr. called for any public concerns/comments.

1. Sabreen Shabazz Straker, located at 5456 Barrwyn Drive, Rex, GA

The reason I am here today is to speak against the builders Adams Homes in Dales Crossing is because I do believe they have malicious intent. I am one of the potential homeowners for 3511 Henley Street, but I did terminate my contract because of breach of contract and also intimidation from this company. When my husband and I put the contract in for this home, we were told that we would get front brick. We were charge for front brick and in our contract it said front brick. In the end we got this (Showed pictures of model home that they said she was getting). I think this company have a track record of taking advantage of people. I definitely feel that the value of homes that are adjacent according to Section 10.8 (Zoning Ordinance) Development Standard for Variances that the use in value of the area adjacent to the property included in the variance would not be affected in a substantial adverse manner. My closing price for this house was \$187,000 it was supposed to have front brick. This company is dishonest. I have all the emails from Mr. Kruznski who told me basically to go away and terminate your contract. At the end when I had no other recourse but to do that, because there was no way I could spend almost a \$12,000 down payment and pay for a house with front brick and not get it. After I raised my complaints, they then put it in that you could have it as an upgrade for the houses going forward. They are in breach of contract after the

bullying and intimidation that my husband and I endured we terminated our contract. I am asking all four of you, please do not let them take advantage of the citizens of Clayton County.

2. John Christian, located at 288 Galloway Lane, Hampton, GA

I am speaking in reference to the hardi-plank and the vinyl. I was the original General Manager, and as for the as developer it was Southside Developing and GT Communities. Michael called me about this as for as the hardi-plank, because I did the original final plat in the beginning. I told him this was the first I heard of this.

Chairman Don McMillian, Jr. asked if all fronts were brick, if not brick, hardi-plank in the front. **Mr. Kruznski** stated it was hardi-plank in the front.

Board Member DeMont Davis asked if the original six homes were full front brick and is this the model home (indicating to the picture Mrs. Straker had given). **John Christian** said no and his model was not full front brick. He stated we are talking about two different stages. When I first came in 2009 we built a model and specs, then the market went down, we sold the model home and stepped out for a while, but maintained the property. Michael came in five (5) years later and built the second model and some specs.

Board Member DeMont Davis: When you started out with the model home with full brick? **John Christian:** It was not full brick, it was masonry full and shaker siding on the sides.

Board Member DeMont Davis: How many homes did you build? **John Christian:** Probably eight (8).

Board Member DeMont Davis: What was the construction of those? **John Christian:** It was the same style frontage and three (3) side vinyl.

The Board discussed the building material according to the pictures submitted.

John Christian stated that the homes with three (3) vinyl or masonry were charged accordingly.

Board Member DeMont Davis: I am assuming that where it say full front brick, then that's what it means? **Kimberly Smith:** Yes.

3. James Carswell-Real Estate Agent, located at P.O. Box 503, Decatur, GA

I am here representing Mr. Michael Neal, located at 1587 Riverwalk Trail and they were told they would have full front brick. I spoke with Robert (Robert Stalnaker) the zoning person for building and he mentioned to me that the code right now should be full front brick, and for me to come here and express my concerns about the builder building partial brick front homes in Clayton County.

Chairman Don McMillian, Jr. asked Staff if the exterior material for the front should be brick or masonry. **Kimberly Smith:** Brick.

Kimberly Smith: For clarification, the conditions requirements for these particular lots/houses are based on the approved Final Plat under the actual building code. Once the Final Plat is approved, whatever is listed on that Final Plat, it was recorded in the Superior Courthouse, and that's what you have to go by. That is the reason we are here this evening for the conditions that's on those houses at that time, and recorded on the Final Plat.

A discussion occurred as to what conditions is on the Final Plat and the exterior material used during the first stage, and now.

4. LaVonda Gilchrist, located at 199 Milam Drive, Ellenwood, GA

I am a Realtor and I'm here to represent a client that is under contract with Adam Homes. We are here because her contract is for brick at 1629 and they are trying to charge her an additional \$1200 for additional brick that was already quoted in the contract.

Mr. Michael Kruznski: That plan design is a brick front on the first level, and masonry on the second level. We do have an option price to do full brick on both front levels.

Board Member DeMont Davis: When was that option offered, was it prior to or through the transition? **Mr. Michael Kruznski:** Through the transition.

Board Member DeMont Davis: Did that make the potential buyers aware? **Mr. Michael Kruznski:** We communicated that to our Sale Manager which would communicate it to our Sale Agent. I freely admit there were some poor communication that happen. It's regrettable, we made some offers to the buyers, I have not heard back if they approved or not. I am assuming not.

Board Member Keith Parker: Have you made offers to the buyers represented here today? **Mr. Michael Kruznski:** I did not personally, but my Sale Manager did, offering choice of window blinds and garage door opener or a refrigerated as compensation.

Board Member Keith Parker: How were those options offered to the potential buyers? **Mr. Michael Kruznski:** They made phone calls to them this afternoon.

Kimberly Smith: I was not able to find Dales Crossing recorded Final Plat in my files, but I do want to state this particular case is coming before us because these houses were built outside of the requirements of the Final Plat. They would like to get approval for these houses that are already constructed, they are already standing, to be accepted as they are. The Final Plat says they need to have a certain type material, they were not built to those specifications. They are asking for a variance for those specifications that were recorded on the Final Plat. So, that is what we need to make a decision on this evening. We are here also for the hardship that will create for the Applicant, because these houses are already built. It would be a financial hardship for the applicant to remove and replace vinyl siding on the completed homes with cement siding as required by Ordinance.

Board Member Keith Parker: How would that effect property value of the surrounding properties? **Kimberly Smith:** Well vinyl is worth less.

Board Member Keith Parker: So would it be more or less if they take the vinyl off? **Kimberly Smith:** It would increase the value.

Board Member Keith Parker: So what I am hearing is there is a conflict with the lesser value of material used and the price of the homes.

A discussion occurred as to what is actually on the Final Plat verse the code. **Kimberly Smith** stated the Final Plat stipulates that the sides should be of concrete and that the Subdivision Ordinance changed, the Conservation Subdivision Ordinance says vinyl is not allowed.

Lenise Lyons: The issue is not the code. It states on the Agenda they are requesting a variance from the recorded Final Plat. So whenever the code changed is really not the issue. The issue is the Final

Plat which states that the exterior finished material should be of brick and they don't have that. The variance request is based on what's on the originally Final Plat. It is the six (6) homes that are on the Agenda that is the issue here.

John Christian: On the Final Plat is says RS-110-Conservation and apparently the conservation word is the issue. But on the Final Plat there is no wording about no vinyl, and there is no wording about masonry, or hardi-plank sidings. There is wording on the Final Plat about the front façade, which is brick, stone, and some type of masonry product.

Kimberly Smith: What we are trying to do is balance what's on the Final Plat and what's in the Conservation Subdivision Ordinance, which states no vinyl is allowed.

The motion to **table** BZA-15/11-78 until the Board has the opportunity to review the Final Plat and the Conservation Subdivision Ordinance was made by Board Member DeMont Davis. The motion died.

The Board requested to see the Final Plat. Chairman Don McMillian, Jr. called for a recess, until Staff retrieved a copy of the Final Plat.

Chairman Don McMillian called the meeting back to order.

The Chairman asked if there was anyone currently under contract with any of the six (6) homes represented in the variance request. Mrs. Straker stated she was, but terminated their contract due to intimidation.

The motion to **table** BZA-15/11-78 was made by Board Member Joe Hamilton, there was no second. The motion died.

The motion to **deny** BZA-15/11-78 was made by Board Member DeMont Davis and seconded by Board Member Keith Parker. The vote was 3 to 1. (Board Member Joe Hamilton approved).

There being no further business the motion to adjourn was made by Board Member DeMont Davis and seconded by Chairman Don McMillian, Jr. The vote was unanimously.

The meeting was adjourned at 8:15p.m.



Linda Willis, Assisting Secretary
Zoning Board of Appeals
Clayton County, Georgia



Don McMillian, Jr., Chairman
Zoning Board of Appeals
Clayton County, Georgia